



Buffalo County Zoning Department

Annual Report

2018

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Zoning Committee

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Zoning is the most common method of land use control used by local governments. Zoning refers to the use of the public regulatory power, or police power, to specify how land may be used and developed.

The intent of zoning is to balance individual property rights with the rights of the general public to ensure a healthy, safe and orderly living environment. State statutes provide authority and procedures for zoning to protect public health, safety, and general well-being.

Zoning Department – Summary.

The mission of the Zoning Department is to administer and enforce the ordinances adopted by Buffalo County with the goal of protecting and enhancing the health, safety and well-being of the citizens. Regulated, planned and orderly development succeeds in protecting and preserving the natural features and natural resources of the County as well as protecting property values and economic stability.

The Zoning Department is responsible for the administration of ten distinct ordinances which establish the parameters for land use and development within all unincorporated areas of the County. The principal ordinance is the Buffalo County Zoning Ordinance which establishes the various zoning districts and the types and density of development that is permitted within each district.

State statutes mandate that counties are responsible for the adoption and enforcement of both Floodplain and Shoreland Zoning Ordinances, areas where development has local as well as more far reaching influences. The State imposes an additional (unfunded) mandate that requires all counties to adopt and administer code requirements for sanitary systems. The Buffalo County oversees new installations and the on-going maintenance of some 4,105 Private Onsite Wastewater Treatment Systems (POWTS) located in the County.

One of the larger responsibilities of a zoning department is to administer the county's Board of Adjustments (BOA). The BOA acts in the same manner as a court of law and has the responsibility of being the decision making entity with regard to more controversial and higher impact land uses. The BOA conducts public hearings and tenders decisions regarding; Conditional Use Permit, Variance, Special Exception, and Administrative Appeal Applications. The Department provides detailed staff reports evaluating all aspects of petitions that come before the Board. Reports define implications, potential impacts and identifies conflicts with existing or planned development. In addition, the BOA is provided a suggested list of conditions to be placed on the proposed developments to minimize or prevent any potential negative impacts. Staff guidance is intended to assure that all property owners, existing land uses, natural resources and natural features are identified and effectively protected.

YEAR IN REVIEW – 2018

ZONING ORDINANCE COMPREHENSIVE REVISION

The process of the complete revision of the Buffalo County Zoning Ordinance began in June of 2015. The revision progression into 2018 began with the second round of **Town group meetings**, held in January and February, were conducted to inform and gather community input on the ordinance revision. In response to public input, a second round of edits to the Ordinance was completed and a third draft of the Ordinance was posted and mailed to all Towns for review. In a continued effort to engage the community and gather input, two **open houses** were held in March; at the Marten Center in Mondovi and at the Courthouse in Alma.

The official **public hearing** pertaining to the ordinance revision was held on April 5th. The working group's primary goals for the revision process were to be inclusive, transparent, and ,to fully engage all parties and stakeholders early in the revision process, to alleviate any late claims that anyone was 'not made aware'. On several occasions the ordinance revision was front page news in the local papers and meetings were widely advertised in all three county newspapers. Evidence that the goals of public engagement were achieved was made evident at the public hearing where only seven individuals chose to offer comment.

A similarly widely noticed **special meeting of the Board of Supervisors** was held on April 9th to present the comprehensive revision, chapter by chapter, to the Board members. This meeting was convened to offer ample opportunity for Board review and discussion prior to the Ordinance advancing for approval at a regular monthly meeting where time constraints would not allow a thorough evaluation.

The final draft of the Ordinance was on the **Zoning Committee's** agenda for review and action at their April 16th meeting. This was the 28th monthly meeting of the Committee and working group dedicated to the evolution of the Buffalo County Zoning Ordinance. The Committee voted unanimously to adopt the Ordinance and to send it to the Board of Supervisors for final approval.

On July 9th Buffalo County hosted a **seminar/discussion** on the zoning options for Towns following a comprehensive zoning ordinance revision. The seminar presenters were Rebecca Roberts, UW Extension, and Zoning Administrators from three surrounding counties. It is only at the time of a comprehensive revision that Towns have the ability to opt out of county zoning. It is clear that a great majority of Towns in Buffalo County support and appreciate the Town/County zoning relationship. Most Towns have indicated approval of the revised ordinance and acknowledge that the comprehensive revision was long overdue.

On **July 23, 2018**, the comprehensive revision of The Buffalo County Zoning Ordinance was **adopted by the Board** of Supervisors thereby retiring the original ordinance, established 53 year prior in 1965. Replacing it is a more contemporary, thorough, forward looking and precise document to guide land use and development in Buffalo County.

Comprehensive Land Use Plan

State Statute lists five County ordinances that must be consistent with a County's Comprehensive Plan, one of those is the Zoning Ordinance.

Buffalo County adopted its first Comprehensive Plan in 2013. Within the Land Use element of that plan are listed the following objectives:

1. Address minimum lot sizes.
2. Address housing in steep soils.
3. Address Building on blufflands along the Mississippi River corridor-Bluffland Ordinance.
4. Address age of mobile homes being moved into the County.
5. Address driveways that are too steep for emergency vehicles.
6. Promote preservation of farmland.
7. Promote Right to Farm law.

The new zoning ordinance thoroughly and meticulously addresses each of these land use issues and is therefore consistent with the Comprehensive Plan, of real significance in legal challenges.

Town Zoning District Maps:

All seventeen Towns completed several drafts of their zoning district's map which delineates the location of zoning districts a Town has selected to regulate land use. Town zoning maps are entirely the product of each individual Town. With some Towns challenged to complete their zoning maps a final clause in the Ordinance was included to allow a 90 day grace period for finalizing maps. Ultimately nine Towns chose to adopt

Agriculture/Natural Resource 40 (ANR-40) as the predominant zoning district, thereby qualifying those Towns land owners to participate in the Farmland Preservation Program.

Farmland Preservation Zoning

Upon adoption of the new Ordinance, application was made with the State (DATCP) to certify the new A/NR40 zoning district as a Farmland Preservation Zoning District thereby allowing land owners to participate in the Farmland Preservation Program. The Findings of Fact and Conclusion of Law certifying the ANR40 district was signed and approved December of 2018 with certification effective through 2028.



The objective and intent of both the ANR-40 zoning district and the Farmland Preservation Plan is to protect and preserve agricultural and natural resource lands in Buffalo County, in particular those lands found to have the best or ‘prime’ agricultural soils. The protection of prime farmland encourages and acts to preserve the local agricultural economy. The ANR-40 zoning district was planned to restrict land uses that may conflict with traditional agricultural practices and thereby positively affect the long term sustainability of agriculture in Buffalo County.

Landowners in the ANR-40 zoning district are eligible to receive a tax credit of \$7.50 per acre of land in exchange for keeping land in agricultural use and meeting State conservation standards. There is no cap on the amount of acreage enrolled and land enrolled in Managed Forest Law (MFL) is eligible for the tax credit. Participation is on an annual renewal basis with no long term contracts required. The nine Towns certified to participate in the Farmland Preservation Program include: Alma, Belvidere, Cross, Dover, Glencoe, Modena, Mondovi, Naples and Nelson.

Zoning Permit Application Fees

According to recent Finance Committee guidance, the Department has established the objective of recovering 50% of its annual operating budget thru the collection of user/permit application fees. An analysis of WI County zoning permit fees established that the Department’s fee structure was about 20% below the average of the 35 counties reviewed. A resolution was adopted to adjust all zoning and special use application fees and to establish those new fees as necessitated by the zoning ordinance revision.

UNIFORM ADDRESSING ORDINANCE REVISION

With the County moving forward with the intent to replace its thirty year old address signs it became the Zoning Committee's next task to replace the existing one page addressing ordinance with a comprehensive ordinance that alleviates some of the shortcomings of the County's grid style addressing system. The working group on the ordinance revision consisted of individuals from five departments in county government: Zoning Department, GIS Department, Administration, Emergency Management, and Law Enforcement/E911. The group convened at five monthly meeting to review, discuss and finalize the ordinance.

The addressing ordinance revision accomplished the following goals:

1. Meets the objectives as stated in the Comprehensive Land Use Plan: ***“Establish a Sustainable Rural Addressing Program”*** with the program designed to ***“Identify short comings in the current addressing program and develop long term maintenance measures to ensure the future success of the system.”***
2. States unequivocally that the overriding purpose of an addressing system is to provide the means for the most rapid location of those in need of emergency and first responder services.
3. Defines the system used and the step by step process of assigning address numbers.
4. The larger addressing and emergency response issues were identified as; multiple dwellings on private driveways, and Town roads having identical names. To alleviate these situations the working group chose to require that all private drives having three or more principal structures to be named and signed, with addresses corresponding to the named private drive. Regarding Town roads with identical names, the Town road with the fewest addresses is required to be renamed thus requiring the fewest address changes. Driveways over ½ mile in length and serving two dwellings must also be named and signed.
5. Defines address and road sign specifications, installation procedures, and road naming criteria.

Two related resolutions were sent to the County Board and adopted. One resolution was to approve the expenditure of CAPX funds to the install all the initially required private drive signs and Town road signs where exact duplicates exist. Approximately 70 private drives will be named and signed and approximately 18 Town roads will be renamed and signed. An additional resolution established the application/user fee for new private drive signs, as may be required with future development.



PERMITTED DEVELOPMENT.

In 2018 a total of 307 applications/permits for development were processed by the Zoning Department. Zoning Permits issued are itemized as follows:

Dwellings	35
Accessory Structures	25
Additions	10
Commercial / Ind.	16
Land Alterations	3
Tourist Rm House	5
Driveways	10
Ag Structures	24

The **Agricultural Structures** permit category saw a nearly 50% decline in activity from the previous year. Permits for Ag structures in the 2-4,000 sq. ft. category increased slightly while all other sectors, in particular structures over 4,000 sq. ft., saw a sharp decline. In 2017 thirteen permits were issued for poultry barn construction while only one poultry barn was permitted in 2018. The decline is attributed to a labor shortage in the processing sector with a subsequent curtailing of the rate of expansion recently observed. In addition, with historically low crop and dairy prices, the need and ability for expansion in the agricultural sector has been understandably reduced.



In contrast, 2018 saw the largest number of **commercial permits** issued since tracking was initiated. The increase in the commercial sector was primarily due to activity in the wireless communication sector.

Bug Tussel Wireless, in conjunction with AT&T, is rapidly advancing with the end goal of establishing an extensive communications network in Buffalo County. Bug Tussel, a wireless internet provider out of Green Bay, WI, is the entity responsible for the construction of the communication tower network. AT&T is the primary driver of the project and was awarded the federal contract to create 'FirstNet', a first responder network that will allow for inter-agency communications in emergency situations. The federal goal is to have the network cover 95% of rural areas. It is understood that AT&T will be collocating mobile cellular communications equipment on each Bug Tussel tower for commercial cell coverage as well.

The tower network is quickly developing with the construction of some towers complete and an additional seven towers in various stages of permitting and development. The process extending from leasing sites, to construction, to finally going on line is lengthy. Post construction it can take up to 18 months to gain final FCC and FAA clearance to operate.

Tourist Rooming House permits also saw the largest annual number issued due to home owners increased interest in participating in the short term rental sector of the tourism industry.

In addition to Zoning Permits, 68 **Sanitary Permits** were processed and issued for the construction of sanitary systems. This is a 25% reduction from the year previous, due largely to inclement weather and installers being over extended with other development projects.

SANITARY ORDINANCE

Maintenance / Enforcement. Wis. Admin. Code requires that every Private On-Site Wastewater Treatment System (POWTS) be pumped/inspected by a certified contractor a minimum of once every three years. In the spring of every year the Department mails maintenance notices to 1/3 of the total sanitary system owners in the County. It is through the State mandated inspection/pumping requirement that failing and noncompliant sanitary systems are identified. Once identified the Department begins the process of enforcement to bring those systems into compliance or cause them to be replaced. It is reasonable to assume that there are numerous noncompliant sanitary systems in the County which may be a threat to groundwater resources. The ultimate goal of the maintenance program is to have all systems in the County compliant, and effectively treating all wastewater generated from all sources outside of municipal treatment systems. The image below is just one example of the many noncompliant ‘systems’ found in the county.



POWTS Inventory. Wis. Admin. Code required all counties to complete an inventory of all POWTS located within its jurisdiction in 2017. With completion of the inventory Buffalo County added 542 systems to its POWTS inventory and to its mandated three year maintenance cycle. All 3,858 sanitary systems (excluding

holding tanks) are now on the three year maintenance / noticing cycle, as well as the three year assessment fee cycle, generating \$57,870 in revenue every three years.

WI Fund. In 2017 the Department assisted five households in applying for financial assistance through the WI Fund. The Fund provides grant money to qualifying low-income applicants for the replacement of POWTS determined to be failing systems in that they are a contamination threat to surface and groundwater resources. The five applicants qualified for a total of \$17,760 in financial assistance. Since its inception in 1990 the Fund has granted some \$787,000 to 292 Buffalo County households to help cover the cost of replacing failing sanitary systems.

BOARD OF ADJUSTMENTS.

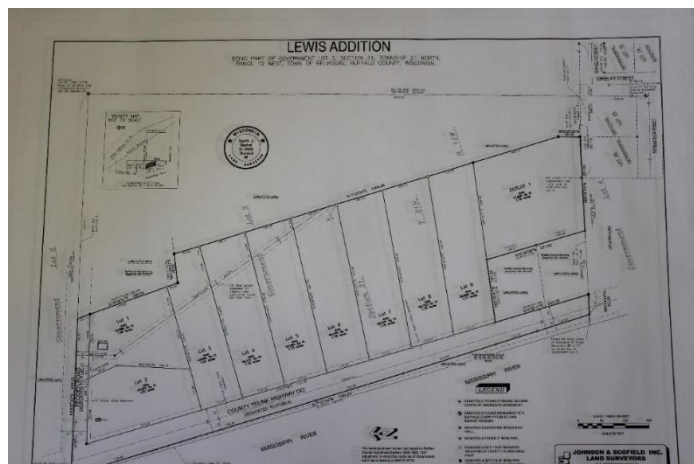
Mr. Dale Klopp, Chair Mr. Ron Kazmierczak Mr. Barry Drazkowski

The Board of Adjustment convened for five public hearings in 2018 to rule on the following special use applications.

- Mobile Communications Towers: Bug Tussel Wireless was granted Conditional Use Permits (CUP) to erect two towers, one located in the Town of Maxville and one in the Town of Buffalo (subsequently withdrawn).
- Steep Soils Overlay Development: CUP granted for construction of a dwelling located on slopes of 20-30% and for a land disturbance over one acre in area, Town of Maxville.
- Salvage Yard Expansion: CUP granted to allow the expansion of an existing permitted salvage yard located in the Town of Milton.
- Variance to allow a parcel with a duplex to be split resulting in a 0 foot structure setback instead of the required 10'. Also to allow a lot area less than the minimum of 24,000 sq. ft. and less than the minimum lot width of 100', Town of Buffalo.
- Variance to allow the construction of a livestock confinement structure to be located less than the minimum setback of 200' from a residential lot, Town of Glencoe.
- Variance to allow the construction of a livestock confinement structure to be located less than the minimum setback of 200' from a residential lot, and to allow the structure to be located less than the required setback of 75' from the ordinary high water mark of navigable water of the State, Town of Cross.
- Variance to allow an accessory dwelling in the Residential Zoning District to be greater in area than the allowed maximum of 1,000 square feet.

NOTEWORTHY

The first new **subdivision plat** in several years was submitted for review and approval by the Department and the Zoning Committee. The plat was reviewed for; floodplain and shoreland zoning, suitable soils for sanitary systems, approved driveway access, lot performance standards, and proper monumentation. The Final Plat was approved by resolution by the County Board providing nine new lots for development in the Indian Point- Martin Addition area of the Town of Belvidere, the most rapidly developing residential area in the County.



In the same Indian Point area the first known impact to a **native burial mound** occurred in the course of a home construction. Alerted by the Corps of Engineers, the WI Historical Society halted all work on the dwelling and ordered a damage assessment of the site by a qualified archeologist. Only minor archeologic fragments were recovered in repairing and restoring the mounds, which are suspected to have been looted at some point in the past. An archeologist was required to be on site whenever any additional earth disturbing activity was taking place. The significant effects of the mound disturbance included a considerable additional expenditure and a several month delay in project completion. The Department is working with the WI Historical Society to obtain complete documentation of all known and potential native burial sites in Buffalo County.

The State requires that every new dwelling be inspected and meet the standards of the **Uniform Dwelling Code**. The County contracts this service out to Weber Inspections with oversight by the Zoning Department. Upon request by the contractor to increase inspection and permit fees, the Department conducted a surrounding county comparable fee analysis. A resolution was drafted to affect the fee schedule increase which was approved by Committee and the County Board. It is of note that a licensed inspector must maintain four

licenses in: general construction, electrical, plumbing and HVAC and will typically make seven separate trips to a new dwelling construction site to perform all inspections required.

STRATEGIC PLANNING

Short Term Goals – Calendar Year 2019

- Complete training of Zoning Specialist (3rd hire in less than 5 years) so that individual is fully functioning by June 1.
- Initiate and complete notifications and oversight of Uniform Addressing Ordinance requirements for naming and signing private drives with three or more principal structures, and for renaming and addressing those Town roads with identical names.
- Comprehensive Shoreland Zoning Ordinance Revision. With the passage of several legislative amendments; Acts 44, 167, and 391 which limit county authority, the State has directed that all counties complete a comprehensive revision of their shoreland zoning ordinance to be in compliance with Ch. NR115 and Wis. Stats. 59.692.
- Initiate enforcement actions that have been on hold due to the demands of the comprehensive ordinance revision and the addressing ordinance revision.

Long Term Goals – 2019 – 2021

- Comprehensive revision of the Sanitary Ordinance.
- Comprehensive revision of the Subdivision Ordinance.
- Comprehensive revision of the Floodplain Ordinance.
- Develop Sediment and Erosion Control Ordinance.
- Develop Wetlands Protection Ordinance.
- Edit and reorganization of the Department's digital files and records.
- Inventory of all nonconforming structures located in floodplain zoning.

- Digitize all Department paper files and records. This is anticipated to be a multi-year process with the end result being full public access via the Zoning Department webpage.

\$\$\$ 2018 BUDGET \$\$\$

The Zoning Department ended the year under budget by \$9,838 which was returned to the general fund. The under budget amount resulted from Department revenue being \$7,998 over the projected amount and expenses being \$1,840 less than projected.

Revenue History:

2014 --- \$47,225
 2015 --- \$59,170
 2016 --- \$85,480
 2017 --- \$77,130
 2018 --- \$88,224

2018 Zoning Department Budget

Revenues		Budgeted	Actual	Difference
	County (Tax) Levy	142,222.00	142,222.00	0.00
	Zoning Permit Fees	25,000.00	27,345.00	2,345.00
	Conditional Use Permit Fee	3,500.00	4,150.00	650.00
	Variance Request Fee	900.00	2,050.00	1,150.00
	Maintenance Tracking Fees	17,725.00	17,725.00	0.00
	Uniform Dwelling Code Permit	700.00	775.00	75.00
	Sanitary Program	28,000.00	30,725.00	2,725.00
	Driveway Access Permits	1,200.00	1,255.00	55.00
	Uniform Numbering/Addressing Permits	3,500.00	3,890.00	390.00
	Zoning Miscellaneous Revenue	0.00	608.50	608.50
	Total Revenues	222,747.00	230,745.50	7,998.50
Expenditures				
	Salaries	137,913.00	142,187.24	-4,274.24
	Per Diem	3,200.00	2,770.00	430.00
	Fringe Benefits	61,749.00	56,485.00	5,264.00
	Contractual Services	1,000.00	1,624.50	-624.50
	Telephone	25.00	0.00	25.00
	Vehicle Repair & Maintenance	750.00	1,340.46	-590.46
	Office Supplies	250.00	121.45	128.55
	Postage	2,000.00	1,909.06	90.94
	Office Stationary & Forms	75.00	0.00	75.00
	Office Equipment	400.00	400.00	0.00
	Computer Expenses & Supplies	250.00	0.00	250.00
	Publications, Subscriptions, Books	250.00	149.42	100.58
	Advertising & Printing	1,500.00	1,580.04	-80.04

Photocopies	150.00	+38.46	188.46
Membership Dues & Licenses	300.00	130.00	170.00
Registration Fees & Tuition	100.00	0.00	100.00
Employee Education & Training	1,540.00	863.62	676.38
Mileage	100.00	0.00	100.00
Board Mileage	1,000.00	898.92	101.08
Meals	125.00	26.43	98.57
Lodging	720.00	328.00	392.00
Other Supplies & Expense	200.00	7.99	192.01
Field Small Tools	350.00	302.95	47.05
Sign Parts & Supplies	1,200.00	1,919.98	-719.98
Sanitary Permit Review – Remittance to State	7,500.00	7,900.00	-400.00
Total Expenses	222,747.00	220,606.60	1,840.40
Ending Budget Balance (balance back to general fund)			9,838.90

Zoning Permit Activity in 2018

	# of Permits	Total Revenue
New Single Family Dwellings	35	8,450.
Additions	10	1,060.
Commercial /Industrial	16	6,140.
Accessory Structure	25	3,420.
Agricultural Structure – 150 – 1,000 sq. ft.	3	175.
Agricultural Structure – 1,001 – 2,000 sq. ft.	6	630.
Agricultural Structure – 2,001 – 4,000 sq. ft.	10	2,240.
Agricultural Structure - > 4,000 sq. ft.	5	2,100.
Tourist Rooming House	5	530.
Substantial Land Alteration	3	630.
Change of Use	1	75.
After-the-Fact Fee	2	720.
Plat Review	1	1,175.
Total	122	27,345

Driveway Permits

	# of Permits	Total Revenue
Driveway Permits Issued	10	1,255.

Sanitary Permits

	# of Permits	Total Revenue
State Permits	68	25,325.
County Permits		
Non-plumbing	8	1,050.
Soil & Site Evaluations	58	4,350.
Maintenance – Tracking Fees		17,725.

	Totals	134
		48,450.

Address Numbers Issued

	# of Permits	Total Revenue
New Address	35	3,740.
Replacement Sign	3	150.
	Totals	38
		3,890.

Unified Dwelling Code (UDC) Administrative Fee

	# of Permits	Total Revenue
Uniform Dwelling Code Fees	31	775.

Conditional Use Permits

	# of Permits	Total Revenue
Conditional Use Permits	4	4,150.

Variances

	# of Permits	Total Revenue
Variances	4	2,050.