

**TOWN OF NIAGARA  
MARINETTE COUNTY, WISCONSIN**

**ZONING  
ORDINANCE**

**ADOPTED BY THE TOWN OF NIAGARA BOARD OF SUPERVISORS: NOVEMBER  
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## **SECTION I - TITLE AND AUTHORITY**

### **TITLE**

This Ordinance shall be known, cited and referred to as: THE TOWN OF NIAGARA ZONING ORDINANCE, MARINETTE COUNTY, WISCONSIN.

### **AUTHORITY**

The Town of Niagara pursuant to Section 60.74, 60.75, 60.82, 60.10(2C), 60.62, 61.35, 62.23, and 66.058 of the Wisconsin Statutes, hereby enacts a zoning ordinance to read as follows:

## **SECTION II - PURPOSE, INTENT AND SEPARABILITY**

### **A. PURPOSE**

The purpose of this Ordinance is to promote the health, safety, morals, prosperity, aesthetics and general welfare of this community.

### **B. INTENT**

It is the general intent of this Ordinance to regulate and restrict the use of all structures, lands and water; regulate and restrict lot coverage, population distribution and density, and the size and location of all structures so as to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote and to protect the public health, safety, comfort, convenience and general welfare; to provide adequate light, air, including access to sunlight for solar collectors and to wind for wind energy systems, and open space; to maintain the aesthetic appearances and scenic values of the Town; to prevent the overcrowding of land; to facilitate the adequate provision of transportation, water sewerage, schools, parks and other public requirements; and to foster a more rational pattern of relationship between residential, business, commercial and manufacturing uses for the mutual benefit of all.

### **C. SEPARABILITY**

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

If any application of this Ordinance to a particular structure, land or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land or water not specifically included in said judgment.

## **SECTION III - DEFINITIONS**

### **A. GENERAL**

For the purpose of this Ordinance, words used in the present tense shall include the future; words used in the singular shall include the plural number, and the plural the singular.

The word "shall" is mandatory and not discretionary.

The word "may" is permissive.

The word "lot" shall include the words "piece," "parcel," and "plats," the word "building" includes all other structures of every kind regardless of similarity to building; and the phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for" and "occupied for."

Any words not herein defined shall be construed as defined in other respective state, county and town codes.

## **B. WORDS DEFINED**

Certain words and terms in this Ordinance are to be interpreted as defined herein:

1. **ACCESSORY USE OR BUILDING** - a use or detached structure subordinate to the principal use of a structure, land or water and located on the same lot or parcel serving a purpose customarily incidental to the main use of the principal structure.
2. **AGRICULTURE** - is the use of land for agricultural purposes, including soil tillage for the production of crops, dairying pasturage, agriculture, horticulture, floriculture, viticulture, animal and poultry husbandry and the necessary accessory uses for parking, treating or storing the produce; provided, however that the operation of any such accessory uses shall be secondary to that of the primary agriculture activities occurring thereon.
3. **AIRPORT** - any area of land or water which is used or intended for use for landing and taking off of aircraft, and any appurtenant areas which are used or intended for use for airport buildings or other airport facilities or rights-of-way, including all necessary taxiways, aircraft storage and tie-down areas, hangars and other necessary buildings and open spaces.
4. **ALLEY** - a public or private right-of-way primarily designed to serve as a secondary access to abutting properties.
5. **BASEMENT** - a structure not having at least one wall completely exposed above ground level.
6. **BLOCK** - a tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad right-of-ways, shorelines of waterways or municipal boundary lines.
7. **BOAT LIVERIES** - establishments offering the rental of boats and fishing equipment.
8. **BUILDING** - any structure built, used, designed or intended for the support, shelter, protection, or enclosure of persons, animals, chattels, or property of any kind, and which is permanently affixed to the land. When a building is divided into separate parts by

unpierced fire or party walls extending continuously from the ground through all stories to and above the roof, each part shall be deemed a separate building.

9. BUILDING HEIGHT - the vertical distance measured from the average elevation of the finished lot grade at the front of the building to the highest point of a ceiling in the case of a flat roof; to the decline of a mansard roof and to the average height between the eaves and the ridge of a gable, hip or gambrel roof.
10. CAMPING TRAILER - a vehicle with a collapsible or folding structure designed for human habitation and towed upon a highway by a motor vehicle. This would include pop-up camping trailers.
11. CLINIC, MEDICAL OR DENTAL - an organization of specializing physicians or dentists, or both, who have their offices in a common building. A clinic shall not include in-patient care.
12. CLUB - an association of persons for some common purpose but not including groups organized primarily to render a service which is customarily carried on as a business. All organizations shall be recognized clubs or fraternities.
13. COMMERCIAL FEEDLOTS - an agriculture enterprise where livestock are purchased and raised and then sold to a buyer, feedlot or slaughterhouse.
14. CONDITIONAL USE - uses of a special nature as to make impractical their predetermination as a principal use in a respective zone district.

CONDOMINIUM PLATS - Condominium Plat shall be submitted to the Town for review and approval on the same basis as a Town Subdivision.

15. CORNER SIDE - a yard extending along a side lot line from front yard to rear yard when said side lot line is adjacent with a street right-of-way line.
16. DWELLING - a building, or portion thereof, excluding a mobile home, designed or used exclusively for residential occupancy, including single family dwellings, two-family dwellings, and multiple family dwellings, but not including hotels and motels.
17. DWELLING UNIT - means any structure, or that part of a structure, which is used or intended to be used as a home, residence or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others.
18. DWELLING, SINGLE-FAMILY - a building designed for and occupied exclusively by one family.
19. DWELLING, TWO-FAMILY - a building designed for and occupied exclusively by two families.

20. DWELLING, MULTIPLE-FAMILY - a building used and designed as a residence for three or more families including tenement houses, row houses, apartment houses, and apartment hotels.
21. ESTABLISHED BUSINESS - a place of business carrying on operations, the ownership and management of which are separate and distinct from those of any other place of business located on the same zoning lot.
22. FAMILY - a person or group of persons living together as a single housekeeping unit.
23. FARM - any parcel of land which is used for gain in the raising of agricultural products, livestock, poultry, and dairy products.
24. FINAL PLAT - The map of record of a subdivision, and any accompanying material.
25. FISH HATCHERIES - establishments devoted to hatching, raising, or rearing fish.
26. FOOTPRINT – The footprint of a dwelling or structure means the outer most parameter of the foundation for the building or structure that is at ground level.
27. FOREST INDUSTRIES - the cutting and storing of forest products, the operation of portable sawmills and planers, the production of maple syrup and sugar.
28. FOREST PRODUCTS - products obtained from stands of forest trees which have been either naturally or artificially established.
29. FOUNDATION - a permanent base for a dwelling consisting of a concrete slab, a concrete foundation wall, a masonry foundation wall, or wood foundation designed and constructed in accordance with the National Forest Products Association Standards "All-weather Wood Foundation System, Design, Fabrication, Installation Manual."
30. FRONTAGE, ZONING LOT - the length of all the property of such zoning lot fronting on a street, measured between side lot lines.
31. FRONTAGE - the length of all property fronting on one side of a street between two nearest intersecting streets, measured along the line of the street, or if dead ended, then all property abutting on one side between an intersecting street and the dead end of the street.
32. FUR FARM - agricultural operation where the major income is derived from the selling or sale of fur bearing animals and/or pelts.
33. GRADE - the average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.
34. GARAGE, PRIVATE - an accessory to the main building which provides for the storage of motor vehicles and accessories.



35. GARAGE, PUBLIC AND PRIVATE - any building or premises, other than a private garage, where motor vehicles are equipped, repaired, serviced, hired, sold, or stored.
36. HOUSEHOLD OCCUPATION - a gainful occupation conducted by a member of the family within his/her place of residence, where the space used is incidental to residential use, where the floor area does not exceed twenty percent of the total floor area. A household occupation includes such things as babysitting, millinery, dressmaking, canning, laundering, and crafts.
37. HUNTING & FISHING CABINS - buildings used only during hunting and fishing seasons as a base for hunting, fishing, and outdoor recreation.
38. LAND DIVISION - The division of a lot or parcel of land for the purpose of transfer of ownership or building development.
39. Light and Heavy Industry- Light industry is usually less capital intensive than heavy industry and is more consumer-oriented than business-oriented. Light industry facilities typically have less environmental impact than those associated with heavy industry. Environmental impact shall be a key factor in determining if the request is to be light industry or heavy industry. Only light industry is to be located near a residential area. Heavy industry is intended to be located in the City of Niagara Industrial Park as defined in the Comprehensive Plan.
40. LOT - a parcel of land having a width and depth sufficient to provide the space necessary for one (1) principal building and its accessory building together with the open spaces required by this ordinance and abutting on a public or private street.
41. LOT OF RECORD - a lot which is part of a subdivision, the plat of which has been recorded in the office of the Register of Deeds of Marinette County; or a parcel of land, the deed to which was recorded in the office of said Register of Deeds prior to the adoption of this ordinance, and certified survey maps approved and recorded in the Register of Deeds Office of Marinette County.
42. LOT, ZONING - a single tract of land located within a single block, which (at the time of filing for a building permit) is designated by its owner or developer as a tract to be used, developed or built upon as a unit, under single ownership or control. Therefore, a "zoning lot or lots" may or may not coincide with a lot of record.
43. LOT, CORNER - a lot located at the intersection of two (2) streets, the interior angle of such intersection not exceeding 135 degrees.
44. LOT LINES AND AREA - the boundaries of a parcel of land including the street right-of-way lines and the total area lying within such boundaries.
45. LOT, WIDTH OF - the horizontal distance between the side lot lines of a lot at the rear line of the required front yard.

46. MOBILE HOMES/MANUFACTURED HOMES - shall comply with Wisconsin State Statutes definition.
47. MOBILE HOME PARKS - shall comply with Wisconsin State Statutes definition.
48. MOTOR HOME - a motor vehicle designed to be operated upon a highway for use as temporary or recreational dwelling and having the same internal characteristics and equipment as a mobile home. This would include buses or vans equipped as living units.
49. MOTOR VEHICLE - any passenger vehicle, truck, truck trailer, trailer, or semi-trailer propelled or drawn by mechanical power.
50. NON-CONFORMING USE - any use of land, building, or structure, lawful at the time of the enactment of this ordinance, which does not comply with all of the regulations of this ordinance or of any amendment thereto governing use for the zoning district in which such use is located.
51. PARKING SPACE/parking lot - a graded and surfaced area of not less than two hundred square feet in area, either enclosed or open, for the parking of motor vehicles, having adequate ingress and egress to a public street or alley.
52. PRELIMINARY PLAT - A map showing the salient features of a proposed subdivision, submitted to the Planning Commission for purpose of preliminary consideration. A regular planning Commission shall be had for review.
53. PRIVATE SUMMER COTTAGES & SERVICE BUILDINGS - buildings designed for summer seasonal occupancy only and normally used by the owners together with additional structures to house materials and services.
54. PRIVATE SEWAGE SYSTEM - in this Ordinance, "private sewage system" means a sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located in the same parcel as the structure. This term also means an alternative sewage system approved by the Wisconsin Department of Industry and Human Relations including a substitute for the septic tank or absorption field, a holding tank, a system serving more than one structure, or a system located on a different parcel than the structure. A private sewage system may be owned by the property owner or by a special purpose district.
55. PROFESSIONAL OFFICE - the office of a doctor, practitioner, dentist, minister, architect, landscape architect, professional engineer, lawyer, author, musician, or other recognized profession. When established in a residential district, a professional office shall be incidental to the residential occupation; the office shall not exceed one-half (1/2) the area of only one (1) floor of the residence and only one (1) resident person is employed.
56. RECREATION CAMPS & RESORTS - areas of land improved with buildings or tents and sanitary facilities used for occupancy during a part of the year only.

57. RECREATIONAL MOBILE HOME - a mobile home is mobile as defined in Wisconsin State Statutes definitions that is not greater than 35 feet in length, not greater than 8 feet in width, and primarily used by the owner as a recreational, not residential vehicle.
58. RECREATIONAL PARK TRAILER – a recreational vehicle that is primarily designed to provide temporary living quarters for recreation, camping and seasonal use. Built on a single chassis mounted on wheels which has the gross trailer area not exceeding 400 square feet in the set-up mode and is certified by the manufacturer as complying with ANSI A119.5.
59. RENTAL CABINS OR COTTAGES - buildings designed for seasonal use and occupancy by persons other than the owners upon periodical payment.
60. ROADSIDE STAND - a structure not permanently fixed to the ground that is readily removable in its entirety; covered or uncovered and not wholly enclosed, and used solely for the sale of farm products produced on the premises. No such roadside stand shall be more than 300 square feet in ground area and limited to the 10 feet maximum height.
61. SETBACK - a minimum horizontal distance between the front line of a building or structure and the front line of a building or structure and the front property line.
62. STOCKFARM - an agricultural operation, usually non-dairying nature where livestock are raised to the required age or weight for slaughterhouse purpose or for sale to commercial feedlots.
63. STORY - that part of a building, except a mezzanine, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the space between the floor and the ceiling next above it.
64. STREET - a public or private right-of-way which affords a primary means of vehicular access to abutting property, whether designated as a street, avenue, highway, road, boulevard, land, throughway, or however otherwise designated, but does not include driveways to buildings.
65. STRUCTURE - anything constructed or erected, the use of which requires a permanent location on the ground or attached to something having permanent location on the ground.
66. STRUCTURAL ALTERATION - any change, other than incidental repairs which would prolong the life of the supporting members of a building, such as the addition, removal, or alteration of bearing walls, columns, beams, girders, or foundations.
67. SUBDIVISION - A division of a lot, contiguous parcels or tract of land for the purpose of sale or of building development.

68. TIME SHARE - Means a time-share estate or time-share easement. See State Statue 707 for more definitions.
69. TRAPPER'S CABINS - buildings used as a base for operating one or more trap lines.
70. USE, PRINCIPAL - the main use of land or buildings as distinguished from a subordinate or accessory use. A "principal use" may be "permitted," "conditional," or "non-conforming."
71. YARD - open space on the same lot with a building or structure, unoccupied and unobstructed from the ground upward, except for vegetation. A "yard" extends along a lot line, and to a depth or width specified in the yard requirements for the zoning the lot is located in.
72. YARD, FRONT - a yard extending along the full length of the front lot line between the side lot lines.
73. YARD, REAR - a yard extending along the full length of the rear lot line between the side lot lines.
74. YARD, SIDE - a yard extending along a side lot line from the front yard to the rear yard.

## **SECTION IV - GENERAL PROVISIONS**

### **A. JURISDICTION**

The jurisdiction of this Ordinance shall include all lands and water within the Town of Niagara.

### **B. EXISTING ORDINANCE**

Restriction or requirements with respect to buildings or land or both which appear in other ordinances of the Town of Niagara or are established by Federal, State, and County laws, and which are greater than those set forth herein, shall take precedence over those herein. Otherwise, provisions of this Ordinance shall apply.

### **C. BUILDING & USES**

1. The use of buildings hereafter erected, enlarged, converted, structurally altered, rebuilt or moved; and existing land shall be used for purposes as specified in this ordinance. Furthermore, land and building uses shall be in compliance with the regulations as established herein for each district.
2. All principal structures shall be located on a lot; and only one principal structure shall be located, erected, or moved onto a lot.
3. Permitted, Permitted Accessory Uses, and Conditional Uses are limited to the uses indicated for the respective zone districts. Additional uses shall be allowed upon written recommendation and approval by the Town Plan Commission.

4. Where an accessory is part of the main building or is substantially attached thereto, the side and rear yard requirements for the main buildings shall be applied to the accessory buildings.
5. Where a building permit for a building or structure has been issued in accordance with the law prior to the effective date of this Ordinance and provided that construction is begun within six (6) months of such effective date and diligently prosecuted to completion, the said building or structure may be completed in accordance with the approved plans on the basis of which the building permit has been issued.

#### **D. AREA REGULATIONS**

1. Minimum Lot Size:
  - R1 Residential District Two (2) acres
  - R2 Residential District Two (2) acres
  - B1 Business District Two (2) acres
  - A1 Agricultural District Five (5) acres
  - F1 Forestry District Ten (10) acres
  - Campground or Mobile Home Park (in the district permitted) Ten (10) acres
2. Minimum lot Width: 200 Feet at the front lot line of any building, or structure for all districts. Lots on water shall comply with Marinette county Shore-land zoning

#### **E. HEIGHT REGULATIONS**

1. Except as otherwise provided in this ordinance, the height of any building hereafter erected, converted, enlarged or structurally altered shall be in compliance with the regulations established herein for the district in which such building is located.
2. All structures - 35 feet maximum, exceptions listed below
3. Accessory farm buildings, belfries, chimneys, cooling towers, elevator bulkheads, fire towers, monuments, silos, scenery lofts, tanks, water towers, wind generators, ornamental towers, spires, wireless television or broadcasting poles and lines, microwave radio relay structures and necessary mechanical appurtenances are hereby exempted from the height regulations of this Ordinance.
4. Churches, schools, hospitals, sanitariums, and other public and quasi-public buildings may be erected to a height not exceeding 60 feet provided the front, side and rear yards required in the district in which such building is to be located are each increased at least one (1) foot for each foot of additional building height above the height limit otherwise established for the district in which such building is to be located.
5. Residences may be increased in height by not more than 10 feet when all yards and other required open spaces are increased by one (1) foot for each foot by which such building exceeds the height limit of the district in which it is located.

#### **F. MINIMUM LOT FRONTAGE**

1. There shall be a minimum width of thirty (30) feet in all districts, except all lots on water shall have a minimum of 200 feet of water frontage and a setback of 75 feet. All other district requirements shall apply.

## **G. PARKING STANDARDS**

1. Parking areas may be located in any yard space but shall not be closer than 10 feet to any street line. No parking space or area shall be permitted within 5 feet of a property line in a side yard.
2. Each parking space shall be no less than 200 square feet exclusive of the space required for ingress and egress. Minimum width of the parking space shall be 10 feet.
3. Where parking facilities are permitted on land other than the zoning lot on which the building or use served is located, such facilities shall be in the same possession as the zoning lot occupied by the building or use to which the parking facilities are accessory.
4. Where a building permit has been issued prior to the effective date of this ordinance, and provided that construction is begun within six (6) months of such effective date and diligently prosecuted to completion, parking and loading facilities in the amounts required for the issuance of said Building Permit may be provided in lieu of any different amounts required by this Ordinance.
5. When the intensity of use of any building, structure or premises shall be increased through the addition of dwelling units, gross floor area, seating capacity or other units of measurement specified herein for the required parking or loading facilities, then parking and loading facilities as required herein shall be provided for each increase in intensity of use.
6. None of the off-street parking facilities as required in this Ordinance shall be required for any existing building or use, unless said building or use shall be enlarged, in which case, the provisions of this Ordinance shall apply only to the enlarged portion of the building or use.
7. Minimum Parking Standards
  - a. Single-Family Dwellings - 2 spaces for each dwelling unit
  - b. Two-Family Dwellings - 1 1/2 spaces for each dwelling unit
  - c. Multi-Family Dwellings - 1 1/2 spaces for each dwelling unit
  - d. Uses Not Listed - For uses not listed, the plan commission shall determine the number of parking spaces to be required after considering, but not limited to the following: the amount of floor space, number of employees, the traffic generation potential, and the number of spaces required for uses that are specified.

## **H. OFF-STREET LOADING**

1. In all districts, loading areas shall be provided so that all vehicles loading, maneuvering or unloading are completely off the public ways and so that all vehicles need not back into or from any public way.

## **I. SETBACK REQUIREMENTS FROM STATE TRUNK HIGHWAYS, FEDERAL HIGHWAYS, COUNTY ROADS, TOWN ROADS, AND LOT LINES**

### **Building Setback - Lots**

1. Side yard/Rear yard
  - a. Principal Structure, one-story - 20 feet minimum each side
  - b. Principal Structure, two story - 20 feet minimum each side
  - c. Accessory Building, - 20 feet minimum each side.
  - d. No permanent structures or items shall be placed in the 20 feet lot setback areas. Exceptions are shrubs and lot line fences are permitted.

### **Building Setback (Whichever is greater shall apply)**

1. State & Federal
  - a. 110 feet from centerline
  - b. 50 feet from right-of-way
2. County
  - a. 75 feet from centerline
  - b. 42 feet from right-of-way
3. Town Road
  - a. 63 feet from centerline
  - b. 30 feet from right-of-way

## **J. VISUAL CLEARANCE TRIANGLE**

1. Definition: A triangular space that permits an unobstructed view at the intersection of highways, streets with other highways, streets or roads, private driveways, at the intersection of highways, or streets with railroads.
2. In each quadrant of every public street intersection, there shall be a visual clearance triangle bounded by the street centerlines in both directions and a line connecting points on them.
  - a. 300 feet from a Class A State and Federal highway intersection and 120 feet minimum on side road.
  - b. 100 feet from a Class B County highway intersection
  - c. 100 feet from a Class C Town highway intersection.
  - d. On railroad rights-of-way, three hundred thirty (330) feet from the center of the highway along the center of the railroad right-of-way.
  - e. 25 feet on Town street intersections
  - f. 15 feet on private driveway intersections
  - g. 10 feet on ally intersections
3. Objects permitted within highway setback lines and visual clearances triangle include:
  - b. Open fences, highway and street signs, telephone and power transmission poles, and power lines.
  - c. Field crops, shrubbery and trees, except that no trees, shrubbery or crops may be planted within a visual clearance triangle so as to obstruct the view.
  - d. Use of public highway right-of-way by plowing, cultivating and growing of field crops shall be in accordance with §86.021 Wisc. Stats.

- e. Planting of trees and shrubs on a highway right-of-way shall be in accordance with §86.0
  - f. Within the triangle, no obstructions such as structures, parking or vegetation shall be allowed between two and one half (2.5) feet and ten (10) feet above the elevation of the roadway.
4. Permits are required from road class ownership plus a town permit is required for all ownerships.
  5. Visual triangles must be in compliance with Town of Niagara, Marinette County and the State of Wisconsin laws.

**K. CONVERTED VEHICLES**

1. The use of vehicles, such as, but not limited to vans, semi-trailers, school buses, railroad cars, motor homes, and recreational mobile homes, as dwellings is strictly prohibited.

**L. FOUNDATION REQUIREMENT**

1. Every building intended for human habitation or occupancy shall be on a permanent foundation as specified under Section III B 28.

**M. LIGHTED SIGNS/OUTDOOR LIGHTING/SIGNS**

1. No lighted signs shall be permitted within the R1 District.
2. No strobe or pulsating lights shall be permitted in any district.
3. No sign or lighting shall be permitted which will create a traffic hazard, adversely affect neighboring land use, or affect the public health safety or general welfare.
4. Signs on Marinette County roads shall comply with Marinette County laws and require a permit from Marinette County and a permit from the Town of Niagara.
5. Signs on State and Federal highways shall comply with state laws and require a permit from the Department of Transportation or the states designated agency, and a permit from the Town of Niagara and Marinette County are required.
6. Town of Niagara roads requirements are:
  - a. Only traffic signs or signs approved by state or county shall be permitted in a Visual Triangle of any class road in the town.
  - b. A permit shall be required for any permanent sign along a town road. Garage sale signs are exempt as long as they do not exceed a ten- day period and do not exceed four square feet in size.
  - c. No signs are permitted in the town road right of way except garage sale signs. All other signs shall be on private property.
  - d. “On Premises” signs shall comply with Marinette County laws.
  - e. “Off premises” Permanent Signs shall not exceed four square feet.
  - f. “Off premises signs are not permitted in a R1 district.

Permanent signs installed prior to June 1, 2011, may be permitted as long as they meet the requirements of the visual triangle and do not pose a traffic hazard as determined by the Zoning Administrator.

**N. BUILDING SIZE REQUIREMENTS**

1. R1 Residential District
  - a. 20 foot minimum continuous width



- b. 1000 square foot minimum footprint dwelling unit, exclusive of garage and porches
- 2. R2 Residential District
  - a. 14 foot minimum continuous width
  - b. 720 square foot minimum footprint dwelling unit, exclusive of garage and porches
- 3. B1 Business District
  - a. 500 square foot minimum footprint dwelling unit, exclusive of garage and porches shall be required for a business structure and a dwelling unit.
  - b. A dwelling unit is not mandatory but optional in a B1 district, and only one dwelling unit per business parcel shall be had.
- 4. A1 Agricultural District
  - a. 500 square foot minimum dwelling unit, exclusive of garage and porches
- 5. F1 Forestry District
  - a. 500 square foot minimum dwelling unit exclusive of garage and porches. Dwelling unit may not be used as a residence and owner must show proof of residency outside of forestry district.
- 6. Any type of Dwelling unit or structure used to sleep in shall conform to the minimum size requirement of the district it is in
- 7. Accessory buildings and structures
  - a. There is no minimum size for an accessory building or structure.
  - b. There is no maximum size for an accessory building or structure except that all accessory buildings or structures require a building permit and must comply with height requirements of the ordinance.

**O. SEWAGE SYSTEM REQUIREMENT**

- 1. Every building intended for human habitation or occupancy shall be provided with a properly functioning private sewage system as defined by Wisconsin Statutes, for the treatment of domestic waste and have a valid sanitary permit in accordance with the Marinette County Private Sewage System Ordinance.

**P. PUBLIC GATHERING ORDINANCE**

- 1. The Public Gathering Ordinance, a separate Ordinance and document, shall be included in this Zoning Ordinance and will comply with all aspects of this Ordinance, its implementation, and enforcement. The Zoning Administrator shall oversee its implementation and enforcement.

**Q. RECREATIONAL PARK TRAILERS**

- 1. Recreational Park Trailers as defined by ANSI Standard A119.5 shall only be permitted in a mobile home park.

**R. WASTE**

No industrial waste, foundry sand, commercial waste, municipal waste, municipal treatment plant sludge, residential waste or byproducts, biological waste, radiological waste, or demolition waste may be buried, spread, dumped or used for construction purposes in any district in the Town of Niagara. No waste herein defined shall be permitted in the Town of Niagara except the refuse transfer station that presently exists, or unless permitted and approved by the Wisconsin Department of Natural Resources under NR538, NR 204, NR 214, NR518, Marinette County

ordinances, and any other Wisconsin State laws covering said waste. All waste shall require a town permit and fee. A Citation shall be written for non compliance.

#### **S. USES**

1. A “use” not listed in the districts must first be adopted into the zoning ordinance and the district before the “use” may be applied for in said district.
2. The Zoning Ordinance shall first be amended to include such a use in the district before a public hearing can take place to hear said use request.

#### **T. GARBAGE**

No household garbage or rubbish shall be permitted to be discarded in the Town of Niagara be it private, town or county land. All household garbage and trash temporarily stored outside for disposal shall be in a container with a sealable cover to prevent animal access and distribution by wind.

Enforcement and fines

The fine for violating this ordinance shall be in compliance with Section XV C. in the Zoning Ordinance enforced by the Citation Ordinance.

#### **U. Land Division Regulations**

Purpose: The purpose of this section is to promote the orderly layout and use of land, public health, safety and general welfare of the residents and land owners of the Town of Niagara, to further the orderly layout and use of land, to ensure adequate water supply, and to secure safety from fire, panic, and other dangers.

This section shall apply to:

The act of dividing a lot, parcel or tract which existed on the effective date of this chapter where the act of subdividing creates 3 or more new lots, parcels or tracts within a 3 year period.

Approval process

Preliminary Plat: The applicant shall submit a preliminary plat map based upon a survey by a land surveyor registered in Wisconsin, and an application prepared on a form provided by the Town. Upon receipt of the preliminary plat, the Planning Commission at a regular Planning Commission meeting shall review the map for compliance with the Zoning Ordinance. The Planning Commission shall hold a regular meeting within thirty (30) days of being presented a preliminary plat. The Commission shall give its recommendation concerning the preliminary plat to the Town Board and applicant within 60 days of receipt of the preliminary plat. The applicant shall be given an opportunity to modify the preliminary plat to address any concerns noted by the Plan Commission and resubmit the revised preliminary plat before it is presented to the Town board.

Final Plat

Upon approval of the preliminary plat by the Town Board, the subdivider or agent shall prepare a Final Plat for approval of the Town Board.

#### **V. Condominium or Time Share Plat**

Condominium or Time Share plats shall require a Conditional Use Permit and met the requirements of this ordinance, any applicable County Ordinance and state statues 236, 703,

and 707. The information submitted to the Town shall be in the same format as a submittal for a land division. The Town will follow the conditional use permit procedure for review and approval of the request.

## **SECTION V - ESTABLISHMENT OF ZONES**

### **A. FOR THE PURPOSE OF THIS ORDINANCE, THE TOWN OF NIAGARA, MARINETTE COUNTY, WISCONSIN, IS HEREBY DIVIDED INTO THE FOLLOWING ZONING DISTRICTS.**

- R1 Residential District
- R2 Residential District
- A1 Agricultural District
- B1 Business District
- F1 Forestry District

### **B. ZONING MAPS**

The location and boundaries of the districts established by this Ordinance are set forth on the zoning map entitled "Zoning District Map for the Town of Niagara, Marinette County, Wisconsin, which is incorporated herein and hereby made a part of this Ordinance. The said map, together with everything shown thereon and all amendments thereto, shall be as much a part of this Ordinance as though fully set forth and described herein.

### **C. ZONE BOUNDARIES**

The following rules shall apply with respect to the boundaries of the various districts as shown on the Zoning District Map.

1. District boundary lines are the center lines of highways, streets, alleys, and pavements; or right-of-way lines of railroads, toll roads, and expressways; or section, division of section, tract and lot lines; or such lines extended, unless otherwise indicated.
2. Where a district boundary line divides a lot in single ownership on the effective date of this Ordinance, the Board of Adjustment, after due hearing may extend the regulation for either portion of such lot.

## **SECTION VI - R1 RESIDENTIAL DISTRICT**

### **A. PURPOSE**

The primary purpose of this district is to provide for a quiet, pleasant, and relatively spacious living area for planned sub-divisions and residential growth in areas adjacent to the City, protected from traffic hazards and the intrusion of incompatible land uses.

The following regulations shall apply in R1 Districts in addition to regulations in Section IV:

### **B. PERMITTED USES**

1. Single-family dwellings
2. Public recreational and community center buildings and grounds
3. Transmission lines, substations, telephone and telegraph lines, and public utility installments

**C. PERMITTED ACCESSORY USES**

1. Private garages, carports, and driveways
2. Home occupations
3. Tool houses, sheds and other similar buildings used for the storage of common supplies
4. Professional offices
5. Swimming pools, satellite dishes

**D. CONDITIONAL USES**

1. Cemeteries
2. Fire stations, police stations, post offices, and other municipal facilities necessary for town operation
3. Public, parochial and private, elementary, middle, and high schools
4. Churches, chapels, temples, synagogues, rectories, parsonages, and parish houses
5. Public parks, playgrounds, and athletic fields

**E. LOT REQUIREMENTS WITHOUT PUBLIC SEWERS**

1. Refer to Section IV D, F

**F. HEIGHT REGULATIONS**

1. Refer to Section IV E

**G. BUILDING SETBACKS**

1. Refer to Section IV I

**H. BUILDING SIZE**

1. Refer to Section IV N

**I. ACCESSORY BUILDING**

1. Refer to Section IV C, E, & I

**J. PARKING**

1. Refer to Section IV G

**K. SEWAGE SYSTEM REQUIREMENT**

1. Refer to Section IV O

**L. PERMANENT FOUNDATION REQUIREMENT**

1. Every building intended for human habitation or occupancy shall be on a permanent foundation as defined in Section III B 28.

**SECTION VII - R2 RESIDENTIAL DISTRICT**

**A. PURPOSE**

The R2 Residential District is intended to provide for a quiet, pleasant, and relatively spacious living area protected from traffic hazards and the intrusion of incompatible land uses. The intent is to provide for rural residential development and for recreational residential development and in areas that do not infringe on agricultural uses.

#### **B. PERMITTED USES**

1. Single-family dwellings
2. Two-family dwellings
3. Transmission lines, substations, telephone and telegraph lines, and public utility installments
4. Agriculture, dairying, floriculture, forestry, general farming, grazing, greenhouses, hatcheries, horticulture, livestock raising, nurseries, orchards, paddocks, pasturage, poultry raising, riding academies and stables, truck farming, game farms, wildlife sanctuaries and game preserves
5. Mobile homes

#### **C. PERMITTED ACCESSORY USE**

1. Private garages, carports and driveways
2. Home occupations
3. Tool houses, sheds and other similar buildings used for the storage of common supplies
4. Roadside stands, provided the structure does not cover more than 300 square feet in ground area and does not exceed 10 feet in height
5. Professional offices
6. Swimming pools, satellite dishes

#### **D. CONDITIONAL USES**

2. Cemeteries
3. Fire stations, police stations, post offices, and other municipal facilities necessary for town operation
4. Churches, chapels, temples, synagogues, rectories, parsonages, and parish houses
5. Public parks, playgrounds, and athletic fields

#### **E. LOT REQUIREMENTS**

1. Refer to Section IV D, F

#### **F. HEIGHT REGULATIONS**

1. Refer to Section IV E

#### **G. BUILDING SETBACKS**

1. Refer to Section IV I

#### **H. BUILDING SIZE**

1. Refer to Section IV N

#### **I. ACCESSORY BUILDING**

1. Refer to Section IV C, E, I

**J. PARKING**

1. Refer to Section IV G

**K. SEWAGE SYSTEM REQUIREMENT**

1. Refer to Section IV O

**L. PERMANENT FOUNDATION REQUIREMENT**

1. Every building intended for human habitation or occupancy shall be on a permanent foundation as defined in Section III B 28.

**SECTION VIII - A1 AGRICULTURAL DISTRICT**

**A. PURPOSE**

The purposes of the A1 District are to: (1) preserve productive agricultural land for food and fiber production, (2) preserve productive farms by preventing land use conflicts between incompatible uses and controlling public services, (3) maintain a viable agricultural base to support agricultural processing and service industries, (4) prevent conflicts between incompatible uses, (5) reduce costs of providing services to scattered, non-farm uses, (6) pace and shape urban growth

The A1 District is generally intended to apply to lands in productive farm operations including: (1) lands historically exhibiting high crop yield or capable of such yields, (2) lands which have been demonstrated to be productive for dairying, livestock raising, and grazing, (3) other lands which are integral parts of such farm operations, (4) land used for the production of specialty crops such as cranberries, mint, sod, fruits, and vegetables. As a matter of policy, it is hereby determined that the highest and best use of these lands is agricultural.

**B. PERMITTED USES**

1. Agriculture, dairying, floriculture, forestry, general farming, grazing, greenhouses, hatcheries, horticulture, livestock raising, nurseries, orchards, paddocks, pasturage, poultry raising, riding academies and stables, truck farming, game farms, wildlife sanctuaries and game preserves
2. Agricultural warehouses
3. Commercial feed lots and stock farms
4. Farm ponds
5. Transmission lines, substations, telephone and telegraph lines, public utility installations, radio and television stations and towers, and railroad right-of-way
6. Mobile homes, single-family, and two-family dwellings

**C. PERMITTED ACCESSORY USES**

1. Same as R2 District

**D. CONDITIONAL USES**

1. Stockyards and fur farms

2. Artificial lakes
3. Colleges, universities, schools (elementary, middle, and high), hospitals, sanitariums, churches and other religious institutions
4. Airfields, airports, and heliports
5. Cemeteries
6. Quarries and gravel pits
7. Mobile home parks
8. Campgrounds
9. Public parks, public recreation sites and golf courses
10. Park units as defined by ANSI Standard A119.5, in a mobile home park
11. Public Gatherings
12. Novelty shops, concession stands, and food sales. Must meet State Statute and all local ordinances

#### **E. LOT REQUIREMENTS**

1. Refer to Section IV D, F

#### **F. HEIGHT REGULATIONS**

1. Refer to Section IV E

#### **G. BUILDING SETBACKS**

1. Refer to Section IV I

#### **H. BUILDING SIZE**

1. Refer to Section IV N

#### **I. ACCESSORY BUILDING**

1. Refer to Section IV C, E, & I

#### **J. PARKING**

1. Refer to Section IV G

#### **K. SEWAGE SYSTEM REQUIREMENT**

1. Refer to Section IV O

#### **L. PERMANENT FOUNDATION REQUIREMENT**

1. Every building intended for human habitation or occupancy shall be on a permanent foundation as defined in Section III B 28.

### **SECTION IX - B1 BUSINESS DISTRICT**

#### **A. PURPOSE**

The purpose of the B1 District is to accommodate certain limited sales and service facilities adjacent to residential areas which constitute a convenience to residents in the neighborhood and be compatible with residential uses, and to accommodate large scale commercial development by providing areas adjacent to major highways for the location of commercial

establishments which require extensive land area for open storage and display of merchandise and equipment, require year-round roads, or which serve the traveling public.

## **B. PERMITTED USES**

1. All businesses existing at the passage of this Ordinance
2. Building permits may be granted for expansion of uses that have been permitted, as long as all items of Section IV - General Provisions are complied with.
3. One (1) Single family dwelling unit per parcel.
4. All other uses are conditional

## **C. CONDITIONAL USES**

1. Light Industry to include, Saw mills, Wood Grinding/Chipping, Machine shops, Excavating Companies, Freight hauling companies, Waste disposal, Gravel or mineral excavating, Gas Stations, Well Drilling business, Animal boarding, Animal farms, Auto and truck paint shops, Decal auto shops, Salvage yards, Food processing, Cell towers, Rafting Companies, Gas Stations, Well Drilling business, Nursing homes, Elderly housing, Public Rifle Range, Child Care facilities, Lumber Construction company's, Tool & Die shops, Medical office and minor surgery buildings.

Retail uses to include Taxidermy, Computer business, Auto sales, Auto repair, Lawn & Sports equipment, golf course, Flower shops, Restaurants, Banquet hall, Insurance Agencies, Taverns, Veterinarian business, Food Marts Car washes, Grocery stores. Tree farms, Funeral homes, Book stores, Law offices, Child Care facilities, Churches, Gun Smiths, Gun Stores, Storage buildings, Tanners, Barber Shop, Beauty Salons, Tack Shops, Bike shops, Physical fitness centers, Boat dealers and repair, Catering business, Banks, Liquor stores, Bakery's, Motels, Hotels, rental cabins, theaters, on premises signs, carnival rides, zip lines, public gatherings, sports fields, parking lots, campgrounds, mobile home parks, annual events or gatherings related to business, tractor pulls, mud runs, motor cycle races, ATV rides or events; snowmobile rides or events ; equine rides or events; outdoor storage of boats, campers, dumping stations for recreational vehicles, sporting good stores; Water sports sales and service; white water rafting, tubing, kayaking, motorized river tours, obstacle course, climbing, paintball, snowshoeing, x-country skiing, standup paddle boarding training and events, fishing, retail sales of sporting good equipment; and other Recreational Activities defined in statute 895.52.

All property (parcels) must be deemed adequate in acreage for each use added to the parcel, prior to being granted a conditional use permit.

## **D. CONDITIONAL USE STANDARDS**

1. The proposed use must be compatible with adjacent and surrounding land use
2. It is the policy of the Town Board to locate large-scale commercial development that generates significant volume of traffic in terms of count and tonnage, adjacent to a Federal Highway or adjacent to other year-round roads that are able to support such traffic without damage
3. The proposed use must demonstrate that it will not generate traffic that will seriously damage, destroy, or injure the permanence of the road upon which it is located



4. Purpose of Light Industry - Light Industry use is intended to provide for the orderly development of manufacturing or industrial operations, which on the basis of actual physical and operational characteristics would not be detrimental to the surrounding area or to the Town as a whole by reason of smoke, noise, dust, odor, traffic, physical appearance, or other similar factors, and to establish such regulatory controls as will reasonably ensure compatibility with the surrounding area in this respect.

#### **E. LARGE SCALE COMMERCIAL**

Large-scale commercial development shall go to the City of Niagara Industrial Park as stated in the Comprehensive plan. The decision for which “use” shall go to the city industrial park shall be made by a Planning Commission recommendation with the approval of the Town Board.

#### **F. PERMITTED ACCESSORY USES**

1. Storage buildings
2. Car ports
3. Driveways
4. Parking lots
5. Office buildings

#### **G. LOT REQUIREMENTS**

1. Refer to Section IV D, F

#### **H. HEIGHT REGULATIONS**

1. Refer to Section IV E

#### **I. BUILDING SETBACKS**

1. Refer to Section IV I

#### **J. BUILDING SIZE**

1. Refer to Section IV N

#### **K. ACCESSORY BUILDING**

1. Refer to Section IV C, E, & I

#### **L. PARKING**

1. Refer to Section IV G & H

#### **M. SEWAGE SYSTEM REQUIREMENT**

1. Refer to Wisconsin State Statutes, the Marinette County Sewage System code and Section IV O

#### **N. PERMANENT FOUNDATION REQUIREMENT**

1. Every building intended for human habitation or occupancy shall be on a permanent foundation as defined in Section III B 28.

#### **SECTION X - F1 FORESTRY DISTRICT**

## **A. PURPOSE**

The primary purpose of this district is to preserve, protect, enhance and restore significant woodlands so that such areas continue to furnish recurring forest crops for commercial use, provide for recreational use and wildlife habitat, and prevent water pollution.

The district is not intended for year-long permanent dwelling units and for other permanent uses that would require municipal and governmental services such as school busing, mail carriers and year-round roads. This district is intended to compliment the Forestry District contained in the Marinette County Zoning Ordinance. Every building, intended for human habitation or occupancy shall be provided with a properly functioning private sewage system for treatment and disposal of domestic waste, or privy and shall comply with the Marinette County private sewage system ordinance and Chapter ILHR 83 of the Wisconsin Administrative Code.

## **B. PERMITTED USES**

1. Production of forest products
2. Fish hatcheries and fisheries
3. Game, bird, fur, and animal farms duly licensed by the Wisconsin DNR as described in the Wisconsin State Statutes
4. Growing of cranberries
5. Production of agricultural crops when the land on which these crops are grown is part of a farm located in an unrestricted or agricultural district
6. Harvesting of any wild crop, such as marsh hay, ferns, moss, berries, tree fruits and seeds
7. Hunting, trapping, and fishing cabins
8. Private summer cottages and service buildings

## **C. PERMITTED ACCESSORY USES**

1. Private garages, carports and driveways
2. Toolhouses, sheds and other similar buildings used for storage of common supplies

## **D. CONDITIONAL USES**

1. Public and private parks, clubs, playgrounds, campgrounds, and golf grounds
2. Recreational camps and resorts
3. Mines, quarries, and gravel pits
4. Hydro-electric dams, power plants, flowage areas, transmission lines and substations, telephone and telegraph lines and offices
5. Forest industries

## **E. LOT REQUIREMENTS**

1. Refer to Section IV D, F

## **F. HEIGHT REGULATIONS**

1. Refer to Section IV E

## **G. BUILDING SETBACKS**

1. Refer to Section IV I

**H. BUILDING SIZE**

1. Refer to Section IV N

**I. ACCESSORY BUILDING**

1. Refer to Section IV C, E, & I

**J. PARKING**

1. Refer to Section IV G & H

**K. SEWAGE SYSTEM REQUIREMENT**

1. Shall comply with Section IV O, the Marinette County private sewage system ordinance and Chapter ILHR 83 of the Wisconsin Administrative Code.

**L. PERMANENT FOUNDATION REQUIREMENT**

1. Every building intended for human habitation or occupancy shall be on a permanent foundation as defined in Section III B 28.

**SECTION XI - NON CONFORMING USES, STRUCTURES, AND LOTS**

**A. PURPOSE**

Zoning regulations are generally prospective, that is, they apply to uses of land proposed to be established after the regulations go into effect. Section XII provides rules for a variety of situations in which uses were established, lots were created, buildings were constructed, etc. prior to the enactment of zoning. After the enactment, questions arise as to continuance, change in use, expansion, etc.

**B. BUILDING UNDER CONSTRUCTION**

Buildings or structures on which construction was started on for which a construction contract was entered into before the effective date of this ordinance may be constructed notwithstanding this ordinance, provided that the construction was legal and had received any necessary permits under any ordinances in effect on the date the construction project commenced.

**C. PREEXISTING STRUCTURES: DIMENSIONAL NONCONFORMANCE**

Buildings which were constructed prior to the effective date of this ordinance, which are conforming to the ordinances to use, but do not conform as to dimensional rules (setbacks, height, yard spaces, separations, etc.) and which are proposed to be altered are subject to the following requirements:

1. Repairs and improvements of a maintenance nature are allowed
2. Alterations, additions, and expansions which change the exterior dimensions of the structure or building and which conform to the dimensional rules of this ordinance are allowed
3. Alterations, additions and expansions which change the exterior dimensions of the structure or building, and which do not conform to this ordinance, but which do not increase the

dimensional nonconformity beyond that which existed before the work commenced, are allowed provided that they do not exceed 60 percent of full market value of the structure or building over the life of the building or structure

4. No alterations, additions or expansions may occur which will increase the dimensional nonconformity

#### **D. PREEXISTING USES AND STRUCTURES: USE NONCONFORMANCE**

Land uses or uses of structures which were established prior to the effective date of this ordinance which are nonconforming as to use may be continued provided that:

1. If a nonconforming use is discontinued or terminated for a period of 12 months, any future use of the property shall be in conformity with this ordinance
2. A nonconforming use may be changed to another nonconforming use only as a conditional use. A nonconforming use which is changed to a conforming use shall not revert back to nonconforming
3. The construction or establishment of a new structure to accommodate a nonconforming use shall occur only as a conditional use
4. Nonconforming uses shall also be governed by Section XII E

#### **E. PREEXISTING STRUCTURES AND USES: OTHER STANDARDS AND REQUIREMENTS**

1. When a structure which is nonconforming as to dimensional standards or a structure containing a nonconforming use is damaged by fire, explosion, act of God or public enemy to the extent of more than 60 percent of its current full market value, it shall not be restored except as a conditional use. In addition to the standards generally required for a conditional use, the Board shall also consider the hardship to the applicant and feasibility of requiring that restoration conform to this ordinance.

#### **F. EXISTING SUBSTANDARD LOTS**

1. A lot which does not contain sufficient area to conform to the dimensional requirements of the Ordinance, but which is a least 100 feet wide and 7,200 square feet in areas, may be used as a single-family building site provided that the use is permitted in the zoning district, provided that the lot is of record in the County Register of Deeds office prior to the effective date of this Ordinance; provided that the lot is in separate ownership from abutting lands, provided that the lot is in compliance with Marinette County Private Sewage System Ordinance and the State of Wisconsin Administrative Code.
2. If two or more substandard contiguous lots have the same ownership as of the effective date of this Ordinance, the lots involved shall be considered to be an individual parcel for the purpose of this Ordinance.
3. Substandard lots granted permits under this Section shall be required to meet the setback and other yard requirements of this Ordinance. A building permit for the improvement of a lot with lesser dimensions and requisites than those stated above shall be issued only after a variance by the Board of Appeals.

### **SECTION XII - ADMINISTRATION AND FEES**

## **A. PURPOSE**

This section of the Ordinance shall set forth the requirements to adequately provide and develop the proper administration and enforcement of this Ordinance.

## **B. GENERAL**

1. This Ordinance shall provide for the position of Zoning Administrator, Zoning Board of Appeals, and Town Plan Commission.
2. This section shall provide the authority and necessary requirements for issuance of land use permits, variances, appeals, amendments, conditional uses, fees, and penalties.

## **C. ZONING ADMINISTRATOR**

1. The Town Board of Niagara shall review and appoint a Zoning Administrator annually. It will be the primary responsibility of the Zoning Administrator to administer and enforce this Ordinance with the assistance of such other persons as the Town Board may direct. The Town of Niagara Zoning Administrator shall have the following responsibilities and duties:
  - a. Issue all land use permits and make and maintain records thereof.
  - b. Issue all rezoning certificates and make and maintain records thereof.
  - c. Conduct inspections of buildings, structures, and use of land to determine compliance with the terms of this Ordinance
  - d. Provide and maintain a public information bureau relative to all matters arising out of this Ordinance
  - e. Forward to the Town of Niagara Plan Commission all applications for conditional uses and for amendments to this Ordinance that are initially filed with the Office of the Zoning Administrator
  - f. Forward to the Zoning Board of Appeals applications of appeals, variances, or other matters on which the Zoning Board of Appeals is required to pass under this Ordinance
  - g. Maintain permanent and current records of this Ordinance including, but not limited to: all maps, amendments, conditional uses, variances, appeals, and applications thereof
  - h. Initiate, direct, and review, periodically, a study of the provisions of this Ordinance, and to make reports of its recommendations to the Town Plan Commission
  - i. If the Zoning Administrator shall find that any of the provisions of this Ordinance are being violated, he/she shall advise such party and also notify the Town Board of such violation

### **j. Policy/Procedures**

It shall be the responsibility of the Zoning Administrator to oversee and enforce all Town of Niagara ordinances and adhere to the procedures herein described. The Zoning Administrator shall be responsible to the Town Board.

#### Monthly Reports

Monthly reports shall be turned in to the Town Clerk and the Plan Commission chairperson prior to the monthly town board meeting. Monthly reports shall contain the following information:

- 1) A list of all violations old and new
- 2) Status reports stating the progress of each violation
- 3) A list of all the permits submitted, their types, and their dollar valuation

- 4) A statement of any administrative concerns or recommendations for zoning improvements if applicable
- 5) A summary statement of any correspondence

#### Violations

Upon being made aware of a possible violation, the following process shall be followed.

##### *Public Health Issue*

Determine if there is a violation and if said violation constitutes a public health concern. Should it be a health concern, it must be verified immediately and the property owner notified verbally to cease immediately and correct the situation. A “Citation” may be issued and all agencies necessary to respond to the issue shall be notified.

##### *Not a Public Health Issue*

If it is not a public health concern, the FIRST NOTICE process shall be implemented in five (5) days from being informed and the following process shall apply:

##### FIRST NOTICE

- 1) A verbal notice shall be given to the property owner including Form #10 using regular mail
- 2) Follow up with inspection in ten (10) consecutive days, including weekends and holidays, to verify compliance. If not in compliance, go to a SECOND NOTICE.

##### SECOND NOTICE

- 1) Issue Form #11, an “advisory form” by certified mail.
- 2) Notify landowner that a site visit will be conducted in ten (10) days and if not in compliance a “Citation” will be issued.
- 3) An extension of not more than thirty (30) days from the follow up date in the first notice may be granted by the Zoning Administrator if substantial progress can be documented.
- 4) If still not on compliance, a “Citation” shall be issued using Form #12. At this time the Town Board chairman and the Plan Commission chairman shall be notified of an impending problem.

##### THIRD NOTICE

- 1) A “Citation” shall be issued as a third notice. Refer to the “Citation Ordinance” for implementation.
- 2) After review by the Planning Commission, the Zoning Administrator shall contact the Clerk of the Municipal Court System for the Town of Niagara for a court date.

##### EXTENSIONS

The Zoning Administrator may bring to the Plan Commission a request for extension of time to bring the violation into compliance. No extension may exceed sixty (60) days.

#### Compensation

The Zoning Administrator shall be compensated for any loss of wages, mileage, meals, office supplies, phone calls, books, maps, or tuition fees.

#### Legal Authority

The Zoning Administrator has the authority to write “Citations.” The Zoning Administrator shall have the authority to seek legal counsel after presenting his findings

to the Planning Committee for review, the Plan Commission making their recommendations to the Town Board, and the Town Board acting on said recommendation.

#### Notification of Violations

- 1) All notices sent to property owners in violation are considered an official notice when sent by certified mail.
- 2) All notices will be sent by the Zoning Administrator and include the applicable forms.
- 3) The Town Board and Plan Commission chairperson shall be immediately notified of any emergencies or urgent issues.

#### Certificate of Occupancy

A certificate of occupancy shall be used and granted only if all county, state, and town ordinances and permits are in compliance. No new building of any type, including non-dwellings, or addition thereof may be occupied without this certificate.

#### Documentation

Upon notification of a violation, the Zoning Administrator shall keep a summary of all written and verbal correspondence, all notices sent, and all documents necessary to attend court if necessary.

#### Court Cases

The Zoning Administrator shall confirm arrangements with the town attorney and the County Clerk of Courts and other regulatory personnel or witnesses thereof for the court appearance.

#### Fees

All fees and payments thereof shall be paid to the Town Clerk who shall submit a copy of the receipt to the Zoning Administrator prior to issuing any permit. The Town Clerk shall send out all bills and payments due the Town.

#### Budget

The Zoning Administrator shall provide an itemized budget to the Town Clerk in time for the annual budget. Categories shall include, but not be limited to, meals, mileage, office supplies, legal fees, documents, education, phone expenses, and office equipment.

#### Forms

The following form types are approved and shall be used where applicable: Variances, Temporary Uses, Citations, Certificate of Occupancy, Driveways, Conditional Use, Fire Numbers, Building Permits

### **D. BOARD OF APPEALS**

#### 1. Membership, terms of office, and voting

- a. A Board of Appeals is hereby established. The Board of Appeals shall consist of five members appointed by the Town Board for three (3) years, except that of those first appointed, one shall serve for one (1) year, two for two (2) years, and two for three (3) years. The members shall serve with compensation as set by the Town Board and shall be removable by the Town Board for cause upon written charges and after public hearing. The Board of Appeals shall designate one of the members, chairman of the Board of Appeals. The Town Board shall appoint an alternate member for a term of three (3) years, who shall act with full power, only when a member of the Board of Appeals is absent or refuses to vote because of interest. Vacancies shall be filled for the unexpired

terms of members whose terms become vacant. The Board of Appeals may employ a secretary and other employees, with approval of the Town Board.

- b. The Board of Appeals shall adopt rules for its government and procedure. Meetings of the Board of Appeals shall be held at the call of the Chairman of the Board of Appeals and at such other times as the Board of Appeals may determine. The Chairman, or in his absence the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.
- c. The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which be immediately filed in the office of the Board of Appeals and shall be a public record.
- d. Statements of the facts found by the Board shall be included in the minutes of each case heard or considered by it. The reason for recommending or denying a exception as provided in the Ordinance shall also appear in the minutes. In every instance, a statement of facts upon which such recommendations are based shall appear in the minutes.
- e. The concurring vote of four (4) members of the Board shall be necessary to correct an error, grant a variance, make an interpretation; and permit a utility, temporary, unclassified, or substituted use.

2. Powers: The Zoning Board of Appeals shall have the following powers:

- a. Errors: To hear and decide appeals when it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator or Plan Commission
- b. Variances: To hear and grant appeals for variances as will not be contrary to the public interest, when owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit and purposes of this Ordinance shall be observed and the public safety, welfare, and justice secured. Use variances shall not be granted.
- c. Interpretations: To hear and decide applications for interpretations of the zoning regulations and the boundaries of the zoning districts after the Plan Commission has made a review and recommendation.
- f. Permits: The Board may reverse, affirm wholly, or partly modify the requirements appeals form, and may issue or direct the issue of a permit.
- g. Assistance: The Board may request assistance from other town officers, departments, commissions, and boards.
- h. Oaths: The Chairman may administer oaths and compel the attendance of witnesses.
- i. Conditions: In exercising the foregoing powers, the Board of Appeals may in appropriate cases establish suitable conditions and safeguards in harmony with the general purpose and intent of this Ordinance.

3. Appeals

- a. Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the Town of Niagara affected by any decision of the Town Plan Commission or Town Zoning Administrator. Such an appeal shall be made within thirty (30) days of decision



- b. The Zoning Administrator or Town Plan Commission shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken. The Board of Appeals shall fix a reasonable time for the hearing of appeals.
- c. At least fifteen (15) days notice of the time and place of said hearing shall be given by posting of a notice to that effect in three (3) public places in the Town of Niagara, which notice shall, in addition to specifying the time and place, state the grounds for the appeal as stated in the Notice of Appeal.
- d. Due notice of the hearing shall be given to parties of interest as follows: R1 District shall follow State regulations, all other districts shall be one-half mile and include all adjoining properties to the property in appeal. The Board shall reach a decision within thirty (30) days from the filing of the appeal.

#### 4. Variances

- a. Application: An application for a variance shall be filed with the Town Plan Commission. The application shall contain such information as the Board of Appeals by rule may require. Due notice of the hearing shall be given to parties of interest as follows: R1 District shall follow State regulations, all other districts shall be one-half mile and include all adjoining properties to the property in appeal. The Board shall reach a decision within thirty (30) days from the filing of the appeal. Notice of the time and place of such public hearing shall be published as provided in the State law on planning and zoning and applicable to the Town of Niagara.
- b. Findings: No variance to the provisions of this Ordinance shall be granted by the Board unless it finds beyond a reasonable doubt that all the following facts and conditions exist and so indicated such in the minutes of its proceedings.
  - 1) Preservations of Intent: No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use, or conditional use in that particular district.
  - 2) Exceptional Circumstances: There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties of uses in the same districts, and the granting of the variance should not be of so general or recurrent nature as to suggest that the Zoning Ordinance should be changed.
  - 3) Economic Hardship and Self-Imposed Hardship Not Grounds for Variance: No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.
  - 4) Preservation Property Rights: The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
  - 5) Absence of Detriment: No variance shall be granted that will create substantial detriment to adjacent property or that will materially impair or be contrary to the purpose and spirit of this ordinance or the public interest.
  - 6) Expiration: Variances, substitutions or use permits granted by the Board shall expire within six (6) months unless substantial work has commenced pursuant to such grant.

- 7) Review by Court of Record: Any person or persons aggrieved by any decision of the Zoning Board of Appeals may present to the court of record a petition duly verified setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Zoning Board of Appeals.

## **E. TOWN PLAN COMMISSION**

1. The Town Plan Commission shall be the authorized planning agency and shall perform the duties of the Town Plan Commission as set forth in Section 62.23 of the Wisconsin Statutes.
  - a. Jurisdiction: The Town of Niagara Plan Commission shall carry out the following duties under this Ordinance:
    - 1) Review all applications for conditional uses and amendments to this Ordinance and report said findings and recommendations to the Town Board in the manner designated by this Ordinance for amendments and conditional uses.
    - 2) Receive from the Zoning Administrator his recommendations as related to the effectiveness of this Ordinance and report his conclusion and recommendations to the Niagara Town Board.
    - 3) Hear and decide matters upon which it is required to pass under this Ordinance.
  - b. Substitution: To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the Plan Commission has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.
  - c. Temporary Uses: To hear and grant applications for temporary uses in any district provided that such uses are of a temporary nature, do not involve the erection of a substantial structure, and are compatible with the neighboring uses, and provided that the Plan Commission has made a review and recommendation. The permit shall be temporary, revocable, and subject to any conditions required by the Board of Zoning Appeals, and shall be issued for a period not to exceed 12 months. Compliance with all other provisions of this Ordinance shall be required.
  - d. Meetings
    - 1) All meetings of the Town Plan Commission shall be held at the call of the Chairman of the Commission and at such times as the Commission may determine.
    - 2) The Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall also keep records of its hearings and other official actions.
  - e. Decisions: All actions of the Town Plan Commission shall require the vote of a majority of the members of the Commission.
  - f. Membership
    - 1) The Town Plan Commission shall consist of five (5) members appointed by the Niagara Town Board.
    - 2) Town Plan Commission shall consist of not more than one (1) member of the Zoning Board of Appeals; and not more than two (2) members of the Niagara Town Board. The remaining Plan Commission members shall be additional citizens of the Town of Niagara.

- 3) The term shall be three (3) years, except that of those first appointed; one (1) shall serve for one (1) year; two (2) for two years; and two (2) for three (3) years.
- 4) The Town Plan Commission members shall be removable by the Town Board of Niagara for cause, upon written charges.
- 5) Vacancies shall be filled for the unexpired terms of members. The Town Board shall appoint personnel to fill the vacancies.

## **F. BUILDING PERMIT**

1. No building, or addition thereto, constructed after the effective date of this ordinance, and no addition to a previously existing building shall be constructed until a building permit has been issued by the Town Zoning Administrator. Every building permit shall state that the use complies with the provisions of this Ordinance.
2. Application for said building permit shall be made in writing to the Niagara Town Zoning Administrator by the landowner or his authorized agent and shall include the following, where applicable.
  - a. A copy of the plat, certified survey map, tax receipt, or registered deed of the proposed building site.
  - b. A plat, in duplicate, drawn at a minimum scale of one inch to 100 feet showing the ground area, height, and bulk of building or structure, the building lines, in relation to lot lines, the use to be made of the building or land; and such other information as may be required by the Town Plan Commission and Zoning Administrator for the proper enforcement of this Ordinance.
  - c. Proposed sewage disposal plan if municipal sewerage service is not available. This plan shall include a copy of the permit issued by the Marinette County Zoning Administrator for the installation of an on-site soil absorption sanitary sewage disposal system, or other appropriate means of waste disposal.
  - d. Proposed water supply plan if municipal water service is not available. This plan shall be in accordance with Chapter NR 112 of the Wisconsin Administrative Code.
  - e. Additional information as may be required by the Town Planning Commission and Zoning Administrator.
3. A building permit shall be granted or denied in writing by the Zoning Administrator within 30 days. The permit shall expire within six (6) months unless substantial work has commenced. Any permit issued in conflict with the provisions of this Ordinance shall be null and void.
4. Uses not requiring a building permit: No building permit shall be required for any of the following uses:
  - a. Building permits will not be necessary for structural repairs or remodeling to the existing structure, provided said repairs or remodeling comply with this ordinance.
  - b. All additions, new structures, or buildings must comply with this ordinance or other applicable regulations.

## **G. AMENDMENTS**

1. Authority: The Niagara Town Board may, from time to time, in the manner hereafter set forth, amend the regulations imposed in the districts and amend district boundary lines, provided that all amendatory ordinances adopted under the authority of this section, due allowance shall be made for the intent purpose of said changes as per Section I of this Ordinance.
2. Initiation: Amendments may be proposed by a governmental body, interested person, or organization.
3. Application: An application for an amendment shall be filed with the Town Plan Commission in such form and accompanied by such information as required by the Town Plan Commission. Said application shall be reviewed and written recommendation submitted thereon, to the Town Board.
4. Hearing Notices: The Town Board shall hold a public hearing on each application for an amendment. Time, place, and purpose of the hearing shall be submitted and provided in the State law on planning and zoning and applicable to the Town of Niagara. Due notice of the hearing shall be given to parties of interest as follows: R1 District shall follow State regulations; all other districts shall be one-half mile and include all adjoining properties to the property in appeal. The Board shall reach a decision within thirty (30) days from the filing of the appeal.
5. Town Plan Commission Finding and Recommendations:
  - a. The Town Plan Commission shall make written findings of fact and shall submit the same, together with its recommendations to the Town Board prior to the public hearing.
  - b. Where the purpose and effect of the proposed amendment is to change the zoning classification of particular property, the Town Plan Commission Board shall make findings based upon evidence presented to it in each specific case with respect to the following matters:
    - 1) Existing uses or property within the general area of the property in question.
    - 2) Zoning classification of property within the general area of the property in question.
    - 3) Suitability of the property in question to the uses permitted under the existing zoning classification.
    - 4) Trend of development, if any, in the general area of the property in question, including changes, if any, which have taken place in its present zoning classification.
    - 5) The Plan Commission may recommend the adoption of an amendment changing the zoning classification of the property in question to any higher classification than that requested by the applicant.
    - 6) The Plan Commission shall not recommend the adoption of a proposed amendment unless it finds that the adoption of such amendment is in the public interest and is not solely for the interest of the applicant.
6. Town Board Action:
  - a. The Town Board shall not act upon a proposed amendment to this Ordinance until it shall have a written report and recommendation from the Town Plan Commission on the proposed amendment.

- b. The Town Board may grant or deny any application for an amendment, provided however, that in the event of a written protest against any proposed amendment to this ordinance, be duly signed and acknowledged by owners of 20 percent or more, either of the areas of the land included in such proposed change, or by the owners of 20 percent or more of the land immediately adjacent, extending one-half mile therefrom, or by the owners of 20 percent or more of the land directly opposite thereto extending one-half mile from the street frontage of such opposite land. Such changes or amendments shall not become effective except by the favorable vote of the full Town Board membership.
- c. An application for a proposed amendment will be acted upon finally by the Town Board within 90 days of the date upon which such application is received by the Town Board.

## **H. CONDITIONAL USE**

- 1. Permit: The Town Board may authorize the Zoning Administrator to issue a conditional use permit for conditional uses after review and a public hearing, provided that such conditional uses and structures are in accordance with the purpose and intent of this Ordinance and found to be not hazardous, harmful, offensive, or otherwise adverse to the environment or the value of the neighborhood or the community.
- 2. Initiation: Any person having a freehold interest in land, or a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest or an exclusive possessory interest, and which is specifically enforceable; may file an application to use such land for one or more of the conditional uses provided for in this Ordinance in the zoning district in which the land is located or additional uses shall be allowed upon written recommendations and approval by the Town Plan Commission.
- 3. Application: The application for a conditional use shall be filed with the Niagara Town Plan Commission on a form so prescribed by the Town of Niagara and shall include the following:
  - a. Names and addresses of the applicant, owner of the site, architect, professional engineer, and all opposite and abutting property owners of record.
  - b. Address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
  - c. Plat of survey showing all of the information required under Section XII F Building Permit and existing and proposed landscaping and/or copy of registered deed.
  - d. A statement, in writing, by the applicant and adequate evidence showing that the proposed conditional use will conform to the standards set forth in the respective zone districts. Such application shall be reviewed by the Town Plan Commission and a written recommendation submitted to the Town Board.
  - e. Additional information as may be required by the Town Plan Commission and Zoning Administrator.
  - f. It is in the applicants' best interest to attend or they may designate a representative to act on their behalf.
- 4. Plan Commission Review and Recommendation: The Plan Commission may conduct a site to review the site for existing and proposed structures, and shall review architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and

circulation, drainage, sewage and water systems, the proposed operation and shall review the proposed use for compliance with all other provisions of this Ordinance.

5. Public Hearing on Application: Upon receipt in proper form of the written recommendation referred to in Section XII H 3, the Plan Commission shall hold at least one (1) public hearing on the proposed conditional use. Due notice of the hearing shall be given to parties of interest as follows: R1 District shall follow State regulations, a class two notice, all other districts shall require a class II notice, plus notices be sent one-half mile and include all adjoining properties to the property in appeal. Notices shall be sent by the Town Clerk by certified letter, or the equivalent thereof, so there is a receipt from the property owner of the notice sent. Copies of the receipts shall be kept by the town clerk and Zoning Administrator. The Zoning Administrator shall prepare the advertisement for the paper and submit to the Town Clerk. The public hearing shall be within (45) days of the filing of the application. The Planning Committee shall make a recommendation within (30) days of the public hearing. An application for a proposed conditional use will be acted upon within thirty (30) days of the date upon which such application is received by the Town Board. The public hearing and the special town board meeting to act on said request may be held on the same day and time, but must be advertised as such. The Plan Commission shall then provide a written report and recommendation to the Town Board within thirty (30) days of the public hearing. The report may contain stipulations of additional conditions such as those noted in Section XII H 6 and signature guarantees that such conditions will be complied with.
6. Conditions such as landscaping, architectural design, type of construction, construction commencement and completion date, sureties, lighting, fencing, location, size and number of signs, water supply and waste disposal systems, higher performance standards, street dedication, certified survey maps, flood proofing, ground cover, diversions, silting basins, terraces, stream bank protection, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or additional parking may be recommended by the Plan Commission and may be required by the Town Board upon its finding that these are necessary to fulfill the purpose and intent of this Ordinance. In all cases in which conditional uses are granted, the Town Board shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.
7. Compliance with all other provisions of this Ordinance, such as lot width and area, yards, height, parking, loading, traffic, highway access, and performance standards, shall be required of all conditional uses. Variances shall only be granted as provided in Section XII D 4.

## **I. FEES**

1. The fees schedule shall be set by the Town Board as needed. All fees shall be paid to the Town Treasurer.

2. Failure to secure the necessary permits prior to commencing construction or to the use of any structure or land shall constitute a violation of this Ordinance and the fees for the required permits shall be twice those as shown in Section XII I 1.

### **SECTION XIII - ENFORCEMENT**

It shall be the duty of the Zoning Administrator to enforce the provisions of this Ordinance.

No structure of any kind, including buildings, shall hereafter be erected, moved, or structurally altered until a building permit has been applied for and issued.

### **SECTION XIV - VIOLATIONS AND PENALTIES**

- A. Any building or structure hereafter erected, moved, or structurally altered or any use hereafter established in violation of any of the provisions of this ordinance shall be deemed an unlawful building, structure or use. The Zoning Administrator shall promptly report all such violations to the Town Board which shall bring action to enjoin the erection, moving, or structural alteration of such building or the establishment of such use or to cause such building, structure or use to be vacated or removed.
- B. The first notice of any violation given by the Zoning Administrator shall constitute a warning. Refusal to comply shall then be processed according to Section XIV C.
- C. Any person, firm or corporation who violates, disobeys, neglects, omits or refuses to comply with, or who resists the enforcement of any of the provisions of this ordinance may also be required, upon conviction, to forfeit \$100.00 for each offense, together with the costs of prosecution. Each day that a violation continues to exist shall constitute a separate offense.