

Date: April 10, 2023
To: City of Bayfield Plan Commission
From: Tim Schwecke and Charlie Handy
Subject: City of Bayfield Zoning Code Rewrite
Memo #8 (Draft of Articles 1-4)



Please find attached the initial drafts of Articles 1 through 4, along with a general table of contents. We will review them at one of our upcoming meetings. Below are some key points for discussion.

Article 1 General Provisions

- These provisions are fairly generic.

Article 2 Interpretation, Construction, and Definitions

- These provisions are fairly generic.

Article 3 Administrative Bodies

- The current code refers to an Architectural Review Board. In the proposed draft, this body is referred to as the Historic Preservation Board to avoid any confusion as to its function.
- The proposed draft describes the Plan Commission, Historic Preservation Commission and Zoning Board of Appeals. Chapter 21 of the municipal code <https://ecode360.com/12040450> will be revised to point to this article for the specific details. The consultant will prepare an ordinance to amend this part of the existing municipal code.
- Section 21-3(A) of the current code indicates that the Zoning Board of Appeals elects a chair. That is contrary to state law; the mayor appoints the chair. The Board can appoint other officers it deems necessary.
- Section 21-3(A) of the current code indicates that the Common Council can remove a member of the Zoning Board of Appeals. That is contrary to state law; the mayor may remove following a public hearing.
- Section 21-4(C) of the current code indicates that the mayor must serve as the Plan Commission chair. While that is permissible, do you want to allow more latitude in who serves in that position?
- Section 21-4(D) of the current code indicates that "actions require the affirmative approval of a majority of all of the members of the Commission". That provision is contrary to state law.

Article 4 General Procedural Requirements

- The provisions relating to site visits are new.
- The provisions relating to financial guarantees are new.

Chapter 510 – Zoning

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- Draft 04-10-2023 -

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CHAPTER 510 ZONING

ARTICLE 1 GENERAL PROVISIONS

510.01 Title

This chapter shall be known as “Zoning” and may be referred to herein as “this chapter” or the “City’s zoning regulations.”

510.02 Authority

This chapter is adopted under the authority granted under 62.23, Wis. Stats., as amended, and other provisions referenced in other parts of this chapter.

510.03 Jurisdiction

This chapter applies to the area within the corporate limits of the City of Bayfield, the boundary of which may change over time through annexations and detachments.^[1]

Editorial notes:

[1] An annexation removes land from a town and adds it to a city or village. A detachment removes land from a city or village and adds it to a town or to another city or village.

510.04 Legislative findings

- A. **General findings.** The Common Council makes the following legislative findings:
- (1) The Common Council adopted a comprehensive plan pursuant to § 66.1001, Wis. Stats., and has made various amendments since then.
 - (2) This chapter is intended to be consistent with the overall intent of the City’s comprehensive plan, as may be amended.
- B. **Other findings.** Other legislative findings are included in various articles, divisions, and sections of this chapter as may be appropriate.

510.05 Purpose

- A. **General purpose.** This chapter promotes the public health, safety, and welfare and is intended to:
- (1) implement the goals, objectives, and policies of the City’s comprehensive plan to the greatest extent practicable;
 - (2) encourage the most appropriate use of land throughout the City;
 - (3) conserve the value of buildings;
 - (4) establish clear and consistent standards, regulations, and procedures for the review of proposed development as may be regulated by this chapter; and
 - (5) establish minimum standards for the use or development of land within the City.
- B. **Specific purposes.** Consistent with § 62.23(7), Wis. Stats., this chapter is also intended to:
- (1) secure safety from fire, panic, and other dangers;
 - (2) promote health and general welfare;
 - (3) provide adequate light and air, including access to sunlight for solar collectors and to wind for wind energy systems;

- (4) encourage the protection of groundwater resources;
 - (5) prevent the overcrowding of land;
 - (6) avoid undue concentration of population;
 - (7) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and
 - (8) preserve burial sites, as defined in § 157.70(1)(b), Wis. Stats.
- C. **Other purposes.** Other purposes may be included in various articles, divisions, and sections as may be appropriate.

510.06 Re-enactment and repeal

This chapter carries forward by re-enactment some of the provisions of the regulations governing zoning and related matters which the Common Council adopted under authority of state law prior to the effective date of this chapter. This chapter is not intended to repeal those regulations in their entirety, but rather to re-enact and continue in force such existing provisions so that all rights and liabilities that have accrued there under are preserved and may be enforced, unless explicitly surrendered by specific provisions of this chapter. If a provision in the regulations which were in effect on the date this chapter became effective is not specifically carried forward in this chapter, such provision is repealed. As to the effect of this section on existing land uses refer to Article 15.

510.07 Compliance

- A. **Generally.** Except as specifically provided, the provisions of this chapter apply to all development within the City of Bayfield. No development shall be undertaken without the prior authorizations required by this chapter and other applicable rules and regulations of the City of Bayfield.
- B. **Exception for a previously granted permit or other approval.** If a permit or other approval has been previously granted and the authorized work, in whole or in part, is no longer allowed under the current zoning regulations, the holder of the permit is authorized to establish the use or undertake the authorized work within one year of the date of the approval. If the authorized work does not commence within that time period and continue in good faith to completion, such permit or other approval shall lapse and be null and void without any further action by the City.
- C. **Exception for the establishment of a use, structure, or building not requiring authorization.** If prior to the adoption of this chapter, or amendment thereto, a lawful land use, structure, or building is actively being established that did not require a permit or other approval under the zoning regulations in effect at that time, said work may continue to completion even when such land use, structure, or building (1) now requires a permit or other authorization under this chapter, (2) is being developed contrary to this chapter, or (3) is otherwise prohibited under this chapter. If such work does not continue in good faith to completion, any work must thereafter conform to this chapter.

510.08 Liability

The City of Bayfield and its officials, agencies, employees, agents, and assigns are not liable for any flood damage, sanitation problems, structural damage, or other damages or loss of property value that may occur as a result of reliance upon and conformance with this chapter.

510.09 Severability

- A. If any section, clause, provision, or portion of this chapter is determined to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected by such ruling.

- B. If any application of this chapter to a particular structure or parcel is determined to be unconstitutional or otherwise invalid by a court of competent jurisdiction, such ruling shall not apply to any other structure or parcel not specifically included in the ruling.

510.10 Relationship of this chapter to other regulations

In addition to meeting the requirements contained in this chapter, development must comply with all applicable regulations of federal and state agencies. In all cases, the strictest of the applicable provisions apply.

510.11 Relationship of this chapter to private agreements

This chapter is not intended to repeal, abrogate, annul, impair, or interfere with any easement, covenant, deed restriction, or other private agreement governing land development. However, when this chapter imposes a greater restriction than the aforementioned, the provisions of this chapter apply.

510.12 Additional local regulations

In addition to meeting the regulations contained in this chapter, development must comply with all applicable regulations in the municipal code, including the following and any amendments thereto:

- (1) Chapter 126 – Animals
- (2) Chapter 140 – Blasting and Rock Crushing
- (3) Chapter 146 – Lawns, Natural Plantings, Brush and Weeds
- (4) Chapter 152 – Building Construction
- (5) Chapter 160 – Bulkhead Lines
- (6) Chapter 184 – Coin-Operated Devices
- (7) Chapter 190 – Construction Site Erosion Control
- (8) Chapter 206 – Driveways and Culverts
- (9) Chapter 244 – Hazardous Materials
- (10) Chapter 254 – Intoxicating Liquor and Fermented Malt Beverages
- (11) Chapter 268 – Licenses and Permits
- (12) Chapter 284 -- Noise
- (13) Chapter 289 -- Nuisances
- (14) Chapter 302 – Pawnbrokers and Secondhand Dealers
- (15) Chapter 314 – Property Maintenance
- (16) Chapter 474 – Subdivision of Land

In all cases, the strictest of the applicable provisions shall apply.

510.13 No defense to nuisance action

Compliance with the standards and requirements in this chapter does not constitute an absolute defense to an action to abate a public or private nuisance.

510.14 Applicability to public entities

This chapter applies to all publicly-owned land to the fullest extent allowed by state and federal law. When a public entity undertakes any development that is exempted by state or federal law from this chapter, in whole or in part, it is strongly encouraged to meet the provisions of this chapter.

510.15 Relief from other provisions

Nothing in these provisions shall relieve any person from satisfying any condition or requirement associated with a previous approval issued under this chapter, or any local, state, or federal law or requirement.

510.16 Applicability to projects under the purview of the Public Service Commission

This chapter applies to projects under the purview of the Wisconsin Public Service Commission (PSC) to the fullest extent allowed by state law.^[1] The Plan Commission and/or the Common Council may submit a written request to the PSC outlining those standards and/or requirements of this chapter that the PSC should impose as conditions of project approval, if approval is to be granted.

Editorial notes:

[1] See § 196.491(3)(i), Wis. Stats., and also American Transmission Co., LLC v. Dane County, 2009 WI App. 126

510.17 Repeal of conflicting provisions

All other ordinances or parts of ordinances of the City that are inconsistent or conflicting with this chapter, to the extent of the inconsistency only, are repealed.

510.18 Copyright protection

This chapter contains images that are copyright protected and are denoted as such. All such images are used with permission of the copyright holder for the exclusive purposes of this chapter. Any images subject to copyright protection may be reproduced as part of this chapter and are subject to the open records law of Wisconsin, but may not be used in other works without the permission of the copyright holder.

510.19 through 510.49 reserved

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ARTICLE 2 INTERPRETATION, CONSTRUCTION AND DEFINITIONS

510.50 General rules

- A. **Generally.** In the interpretation and application of this chapter, all provisions shall be liberally construed in favor of the City so the true intent and meaning of this chapter is carried out as set forth in § 510.05.
- B. **Minimum requirements.** The interpretation and application of any provision of this chapter shall be held to be the minimum requirement adopted for the promotion of the public health, safety, and general welfare and not be deemed a limitation or repeal of any other power granted by state statute.

510.51 Interpretation

In the event a question arises concerning any provision or the application of any provision of this chapter, interpretations shall be issued consistent with Article 5.

510.52 Delegation of authority

If a provision in this chapter states that an elected official, department supervisor, or some other employee is to perform some act, such individual may designate, delegate, or authorize a subordinate to perform the act unless state law or the provision clearly specifies otherwise.

510.53 Internal conflicts

More specific provisions of this chapter shall be followed in lieu of more general provisions unless the context otherwise requires. Additionally, the most restrictive provisions shall apply.

510.54 Website

The City may create and maintain a website to share the key aspects of this chapter, including the zoning map, in an interactive platform. If there is any discrepancy between such website and this chapter, this chapter controls.

510.55 Use of graphics, illustrations, headings, references, and editorial notes

- A. **Purpose.** Graphics, illustrations, headings, references, statutory citations, editorial notes, and advisory notes are included to improve the readability of this chapter and increase reader comprehension. Specifically, graphics and illustrations are included to help the reader visualize the meaning of the text. Headings and subheadings generally state the content of that section and are intended to help the reader quickly find information. References are included when the section is related to a state or local law or another section in this chapter. These are included to help the reader understand the relationship among various provisions. Editorial notes are included to supplement and/or further clarify a sentence or provision but are not part of this chapter. Advisory notes are included to provide additional information which is not part of this chapter.
- B. **Interpretation.** A graphic, illustration, heading, reference, statutory citation, editorial note, or advisory note shall not govern, limit, modify, or in any manner affect the scope, meaning, or intent of any provision.
- C. **Effect of deficiency.** Because the text controls, no provision shall be held invalid by reason of any deficiency in any graphic, illustration, heading, reference, statutory citation, editorial note, or advisory note.

510.56 Reference to state and federal law

If a provision in this chapter references a specific state or federal law, such reference shall be interpreted to mean the most current version of the referenced section at the time the reference is applied. If a referenced section is repealed and replaced by another section with comparable subject matter, the replacement section shall control. If a referenced section is repealed and not replaced, the repealed section shall control if it is determined by the city attorney that the City has the authority to apply the repealed language.

510.57 Interpretation of boundaries and designations for zoning districts

- A. **Boundary line interpretations.** Interpretations regarding boundaries of zoning districts shall be made in accordance with the following rules:
- (1) **Political boundaries.** Boundaries shown as following, or approximately following, any political boundary shall be construed as following such line.
 - (2) **Section lines.** Boundaries shown as following, or approximately following, a section line, half-section line, or quarter-section line shall be construed as following such line.
 - (3) **Centerlines.** Boundaries shown as following, or approximately following, any railroad, alley, road, street, highway, or similar feature shall be construed as following the centerline of such feature.
 - (4) **Property lines.** Boundaries shown as following, or approximately following, any platted lot line or other property line shall be construed as following such line. In the event adjoining property owners transfer land as allowed by state law and both of the original lots were in different zoning districts, the zoning district boundary line can only be changed with a revision of the zoning map as set forth in Article 5.
 - (5) **Natural boundaries.** Boundaries shown as following, or approximately following, any natural feature such as a stream, river, other bodies of water, or topographical features, such as a watershed boundary, shall be construed as following such natural feature as verified by field inspection when necessary.

In the event there is a question as to the location of a zoning district boundary, the Plan Commission shall review such matter at a regular or special meeting and render a decision.

- B. **Street abandonment.** In the event a public road, street, or alley is officially vacated or abandoned, the zoning provisions applicable to the land to which it reverted shall apply to such vacated or abandoned road, street, or alley, unless otherwise provided by City action.

510.58 General rules of interpretation

In the construction of this chapter, the following shall be observed, unless such construction would be inconsistent with the text or with the manifest intent of this chapter:

- (1) **Gender.** Words of the masculine gender include the feminine and neuter, and vice versa.
- (2) **Singular and plural words.** Words in the singular include the plural and words in the plural include the singular.
- (3) **Tense.** Words in the present tense include the past and future tense, and the future tense includes the present tense.
- (4) **“Must”, “shall” and “will”.** The words “must”, “shall” and “will” imply a mandatory condition.
- (5) **“May” or “should”.** The words “may” and “should” imply a permissive condition.
- (6) **“Includes” or “including”.** The words “includes” or “including” do not limit a provision to the specific example(s) listed, but are intended to extend their meaning to all other instances or circumstances of like kind or character.
- (7) **“Such as”.** The phrase “such as” does not limit a provision to the specific example(s) listed, but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- (8) **Conjunctions.** When used at the end of a series, the word “and” indicates that all listed items apply. When the word “or” is used at the end of a series, it indicates that one or more of the listed items apply.

510.59 Computation of time

When a time period is specified in this chapter, the first day of the period shall be the first day after the event that triggered the time clock to start. If the last day of the time period is a Saturday, Sunday, or a legal holiday recognized by the state of Wisconsin, that day is excluded and the time period is extended to the next business day.

510.60 Land use descriptions

For the purpose of chapter, land uses that are permissible in one or more of the zoning districts are described as set forth in Appendix B. For organizational purposes, similar land uses are grouped together to form a series. The first 16 series are for principal land uses, accessory land uses are found in Series 17, and temporary land uses are found in Series 18.

510.61 General definitions

- A. **Words and phrases not defined.** Unless specifically defined in this section, words and phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.
- B. **Words and phrases defined.** For the purpose of this chapter, certain words and phrases are defined in Appendix E and shall have the meaning ascribed to them, except where the context clearly indicates a different meaning.

510.62 through 510.99 reserved

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ARTICLE 3 ADMINISTRATIVE BODIES

DIVISION 1 PLAN COMMISSION

510.100 Establishment

A Plan Commission is established pursuant to § 62.23(1) Wis. Stats., to undertake the responsibilities as defined in this chapter and as allowed by state law.

510.101 Authority

- A. **Generally.** The Plan Commission shall have such powers as may be necessary to enable it to perform its functions and promote the proper planning for the City of Bayfield, whether enumerated in this section or not.^[1]
- B. **Staff.** The Plan Commission may employ, or contract for the services of, such professional planning technicians and staff as are considered necessary for the discharge of the duties and responsibilities of the commission, provided such expense does not exceed the appropriation that may be made for the commission by the Common Council for such purpose.^[2]
- C. **Comprehensive plan.** The Plan Commission may by resolution recommend to the Common Council the adoption of or amendment to an adopted comprehensive plan.^[3]
- D. **Development review.** The Plan Commission must render decisions and recommendations relating to development applications required by this chapter.
- E. **Amendments to this chapter.** The Plan Commission may recommend amendments to this chapter.^[5]
- F. **Official map.** The Plan Commission may recommend amendments to the City's official map adopted pursuant to § 62.23(6), Wis. Stats.^{[4] [5]}
- G. **Recommendations upon referral.** Upon referral by the Common Council or other public body or officer of the City having final authority thereon, the Plan Commission must review and make a report with any recommendations on (1) the location and architectural design of any public building; (2) the location of any statue or other memorial; (3) the location, acceptance, extension, alteration, vacation, abandonment, change of use, sale, acquisition of land for or lease of land for any street, alley or other public way, park, playground, airport, area for parking vehicles, or other memorial or public grounds; (4) the location, extension, abandonment or authorization for any public utility whether publicly or privately owned; (5) all plats of lands in the City or within the territory over which the City is given platting jurisdiction by ch. 236, Wis. Stats.; (6) the location, character and extent or acquisition, leasing or sale of lands for public or semipublic housing, slum clearance, relief of congestion, or vacation camps for children; and (7) the amendment or repeal of this chapter. Unless such report is made within 30 days, or such longer period as may be stipulated by the Common Council, the council or other public body or officer, may take final action without it.^[6]
- H. **Miscellaneous powers.** The Plan Commission may make reports and recommendations relating to the planning and development of the City to public officials and agencies; public utility companies; civic, educational, professional and other organizations; and citizens. It may recommend to the mayor or Common Council, programs for public improvements and the financing thereof. All public officials shall, upon request, furnish to the commission, within a reasonable time, such available information as it may require for its work.^[7]

Editorial notes:

[1] See § 62.23(4), Wis. Stats.

[2] See § 62.23(1)(e), Wis. Stats.

[3] See § 62.23(2), Wis. Stats.

[4] See § 62.23(6)(c), Wis. Stats.

[5] Commentary: An official map depicts existing and planned public infrastructure and facilities, including planned streets.

[6] See § 62.23(5), Wis. Stats.

[7] See § 62.23(4), Wis. Stats.

510.102 Composition and appointment of members

- A. **Number and appointment.** The Plan Commission shall consist of 7 members. The mayor shall appoint all members during the month of April for terms that expire in April or at any other time if a vacancy occurs before the end of a person's term. The mayor may appoint himself or herself to the commission and may appoint other City-elected or appointed officials, except that the commission shall always have at least four citizen members who are not city officials.
- B. **Terms.** Each citizen member of the Plan Commission shall be appointed to a 3-year term.^[1] The term of any city-elected or appointed official shall coincide with his or her term. The term of the mayor, if serving, shall coincide with his or her elected term.
- C. **Considerations in making citizen appointments.** Citizen members of the Plan Commission must be residents of the City of Bayfield and must be persons of recognized experience and qualifications.^[2] To the extent possible, citizen members should represent different experiences and qualifications. A city employee must not serve on the commission.
- D. **Vacancies.** Vacancies on the Plan Commission must be filled for the unexpired term of any member whose term becomes vacant.
- E. **Conditions for removal.** A citizen member must be removed from the Plan Commission and the member's office declared vacant when the member moves outside of the city. If the mayor or a city-elected or appointed official resigns or is removed from his or her office, his or her term on the commission shall automatically terminate.

Editorial notes:

[1] See § 62.23(1)(d), Wis. Stats.

[2] See § 62.23(1)(a), Wis. Stats.

510.103 Officers

- A. **Chairperson.** The mayor shall appoint the chairperson, which shall serve a one-year term, with no limit on consecutive terms.
- B. **Vice-Chairperson.** The commission shall appoint a vice-chairperson by majority vote at its meeting in May. The term of the vice-chairperson is one year, with no limit on consecutive terms.
- C. **Recording secretary.** The city clerk, or designee, shall serve as the recording secretary. (verify) If the recording secretary is absent at a meeting, the chairperson shall appoint a temporary secretary for that meeting.

510.104 Commission procedures

The Plan Commission may adopt rules of procedure to carry out its purposes. Such rules must conform to this chapter, other city regulations, and state law and be filed in the office of the city clerk.^[1] The rules in the current edition of Robert's Rules of Order Newly Revised shall govern the Plan Commission in all cases to which they are applicable and in which they are not inconsistent with these bylaws and any special rules of order the commission may adopt. (yes/no?)

Editorial notes:

[1] See § 62.23(2), Wis. Stats.

510.105 Meetings

- A. **Open meetings.** Meetings of the Plan Commission are open to the public unless conducted in closed session as authorized by state law.
- B. **Location.** Meetings, except for site visits described in Article 4, shall be conducted in the city hall or in such other public place as may be selected by the commission.
- C. **Schedule.** The Plan Commission must establish a regular schedule of meetings. Other meeting may be held at the call of the chairperson and at such other times as the commission may determine.
- D. **Presiding officer.** If the chairperson is absent for a meeting, the vice-chairperson shall run the meeting. If both the chairperson and vice-chairperson are absent, the recording secretary shall call the meeting to order and the commission shall appoint a chair for that meeting.

- E. **Minutes.** The Plan Commission must 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 shall be immediately filed in the office of the board and shall be a public record.

510.106 Voting and quorum

- A. **Requirements for quorum.** A quorum of the Plan Commission consists of 4 voting members. If there is not a quorum, the meeting must be adjourned and the meeting minutes should reflect that a quorum was not present and the meeting was adjourned.
- B. **Requirements for voting.** Unless otherwise prescribed by state law, a decision of the Plan Commission must be approved by a majority vote of the members present at a meeting in which a quorum is in attendance and voting. (verify with PC)
- C. **Disqualification or voluntary abstention.** A member of the Plan Commission must abstain from voting on a particular issue or be disqualified by majority vote of the remaining members present when (1) the member has a direct financial interest in the outcome of the matter at issue; (2) the member has such close personal ties to the applicant, the project, or to a party opposing the application that the member cannot reasonably be expected to exercise sound judgment in the public interest; (3) the member would violate the code of ethics set forth in ch. 19 Wis. Stats., or any ethics code as may be adopted by the city; (4) participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or (5) another law precludes participation. If a member abstains or is disqualified, he or she may participate in the meeting as a member of the public.

510.107 Compensation

Citizen members of the Plan Commission shall be compensated as determined by the Common Council by ordinance or resolution. (verify with PC)

510.108 Official oath

Citizen members of the Plan Commission must take the official oath as required by § 19.01, Wis. Stats. The city clerk must keep a copy of such oaths.

510.109 through 510.119 reserved

DIVISION 2 HISTORIC PRESERVATION COMMISSION

510.120 Establishment

A Historic Preservation Commission is established to undertake the responsibilities as defined in this chapter and as allowed by state law.

510.121 Authority

- A. **Historic districts.** The Historic Preservation Commission has the power to recommend designation of historic districts consistent with the requirements in Article 5.
- B. **Historic structures and sites.** The Historic Preservation Commission has the power to designate historic structures and sites consistent with the requirements in Article 5.
- C. **Certification of appropriateness.** The Historic Preservation Commission has the power to act on requests for work related to a historic structure or site consistent with the requirements in Article 5.

- D. **Recognition of historic districts, structures, and sites.** The Historic Preservation Commission may establish a plaques program to recognize the designation of a historic district, structure, or site. The plaque should state the accepted name of the historic property, the date of its construction of significance, and other information deemed proper by the commission. Such plaque should be placed as to be easily visible to passing pedestrians.
- E. **Funding.** The Historic Preservation Commission may receive and solicit funds for the purpose of historic preservation in the City. Such funds must be placed in a special city account, managed by the city treasurer, for such purpose.
- F. **Amendments to this chapter.** The Historic Preservation Commission may recommend amendments to this chapter.

510.122 General duties

- A. **Education and outreach.** The Historic Preservation Commission should inform city residents about the historical heritage of the City and the need and desirability of having a historic preservation program in the City, including how it enhances the quality of life.
- B. **Cooperation.** The Historic Preservation Commission may cooperate with the State of Wisconsin historic preservation officer and the state historic preservation review board in attempting to include such properties hereunder designated as landmarks or landmark sites, or historic districts in the National Register of Historic Places and the state register of historic places.

510.123 Composition and appointment of members

- A. **Number and appointment.** The Historic Preservation Commission shall consist of 7 members of which 5 are citizen members, one is an alderperson, and one is Plan Commission member. The mayor shall appoint all members, subject to confirmation by the Common Council, during the month of April for terms that expire in April or at any other time if a vacancy occurs before the end of a person's term.
- B. **Terms.** Citizen members on the Historic Preservation Commission are appointed to staggered 3-year terms. The term of the alderperson shall be for one year and can be reappointed for consecutive terms without limitation.
- C. **Considerations in making citizen appointments.** Citizen members must reside in the City of Bayfield or own an established business in the city. A city employee must not serve on the commission. Each member must have a demonstrated interest in historic preservation. To the extent possible, citizen members should include a person with land within a historic district, if one has been established, a registered architect, a historian, and a licensed real estate broker.
- D. **Vacancies.** Vacancies on the Historic Preservation Commission must be filled for the unexpired term of any member whose term becomes vacant.
- E. **Conditions for removal.** A citizen member must be removed from the Historic Preservation Commission and the member's office declared vacant when the member moves outside of the city or no longer has an established business in the city. If the alderperson resigns or is removed from his or her office, his or her term on the commission shall automatically terminate.

510.124 Officers

The Historic Preservation Commission shall elect a chairperson, vice-chairperson, and recording secretary by majority vote at their meeting in May of each year. The commission may designate other such officers deemed necessary.

510.125 Commission procedures

The Historic Preservation Commission may adopt rules of procedure to carry out its purposes. Such rules must conform to this chapter, other city regulations, and state law and be filed in the office of the city clerk. **The rules in the current edition of Robert's Rules of Order Newly Revised shall govern the commission in all cases to**

which they are applicable and in which they are not inconsistent with these bylaws and any special rules of order the commission may adopt. (yes/no?)

510.126 Meetings

- A. **Open meetings.** Meetings of the Historic Preservation Commission are open to the public unless conducted in closed session as authorized by state law.^[1]
- B. **Location.** Meetings, except for site visits described in Article 4, shall be conducted in the city hall or in such other public place as may be selected by the board.
- C. **Schedule.** The Historic Preservation Commission must establish a regular schedule of meetings. Other meeting may be held at the call of the chairperson and at such other times as the commission may determine.
- D. **Presiding officer.** If the chairperson is absent for a meeting, the vice-chairperson shall run the meeting. If both the chairperson and vice-chairperson are absent, the recording secretary shall call the meeting to order and the commission shall appoint a chair for that meeting.
- E. **Minutes.** The Historic Preservation Commission must 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 shall be immediately filed in the office of the board and shall be a public record.

510.127 Voting and quorum

- A. **Requirements for quorum.** A quorum of the Historic Preservation Commission consists of 4 voting members. If there is not a quorum, the meeting must be adjourned and the meeting minutes should reflect that a quorum was not present and the meeting was adjourned.
- B. **Requirements for voting.** Unless otherwise specifically stated, a decision of the Historic Preservation Commission must be approved by a majority vote of the members present at a meeting in which a quorum is in attendance and voting.
- C. **Disqualification or voluntary abstention.** A member of the Historic Preservation Commission must abstain from voting on a particular issue or be disqualified by majority vote of the remaining members present when (1) the member has a direct financial interest in the outcome of the matter at issue; (2) the member has such close personal ties to the applicant, the project, or to a party opposing the application that the member cannot reasonably be expected to exercise sound judgment in the public interest; (3) the member would violate the code of ethics set forth in ch. 19 Wis. Stats., or any ethics code as may be adopted by the city; (4) participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or (5) another law precludes participation. If a member abstains or is disqualified, he or she may participate in the meeting as a member of the public.

510.128 Compensation

Citizen members of the Historic Preservation Commission shall be compensated as determined by the Common Council by ordinance or resolution.

510.129 Official oath

Citizen members of the Historic Preservation Commission must take the official oath as required by § 19.01, Wis. Stats. The city clerk shall keep a copy of such oaths.

510.130 through 510.149 reserved

DIVISION 3 ZONING BOARD OF APPEALS

510.150 Establishment

A Zoning Board of Appeals is established pursuant to § 62.23(7)(e), Wis. Stats., to undertake the responsibilities as defined in this chapter and as allowed by state law.

510.151 Authority

- A. **Administrative appeals.** The Zoning Board of Appeals shall hear and decide administrative appeals consistent with the requirements in Article 5 where it is alleged that the zoning administrator erred in the administration of the zoning code. In exercising these powers, the board may compel the administrative official to act as required or reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination being appealed and may make such order, requirement, decision, or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken.^[1]
- B. **Variations.** The Zoning Board of Appeals shall hear and decide variations consistent with the requirements in Article 5.^[2]
- C. **Amendments to this chapter.** The Zoning Board of Appeals may recommend amendments to this chapter.
- D. **Employees.** The Zoning Board of Appeals may employ a secretary and other employees.^[3]

Editorial notes:

- [1] See § 62.23(7)(e)(4), Wis. Stats.
- [2] See § 62.23(7)(e)(7)(b), Wis. Stats.
- [3] See § 62.23(7)(e)(2), Wis. Stats.

510.152 Authority of chairperson

The chairperson of the Zoning Board of Appeals or acting chairperson may administer oaths and compel the attendance of witnesses.^[1] The chairperson may request the attendance of the zoning administrator and the building inspector.

Editorial notes:

- [1] See § 62.23(7)(e)(3), Wis. Stats.

510.153 Composition and appointment of members

- A. **Number and appointment.** The Zoning Board of Appeals shall consist of 5 regular members as appointed by the mayor, subject to confirmation by the Common Council.^[1]
- B. **Alternates.** The mayor shall appoint 2 alternates to the Zoning Board of Appeals, subject to the confirmation of the Common Council, for staggered 3-year terms and annually appoint one of them as the first alternate and the other as the second alternate.^[2]
- C. **Terms.** Each regular member on the Zoning Board of Appeals shall be appointed to hold office for a period of 3 years.^[3]
- D. **Considerations in making appointments.** Regular members and alternate members of the Zoning Board of Appeals must reside in the City of Bayfield. A city employee shall not serve as a regular member or as an alternate.
- E. **Vacancies.** Vacancies on the Zoning Board of Appeals shall be filled for the unexpired term of any member or alternate whose term becomes vacant.
- F. **Conditions for removal.** The mayor may remove a regular member or an alternate from the Zoning Board of Appeals for cause upon written charges and after a public hearing.^[4]

Editorial notes:

- [1] See § 62.23(7)(e)(2), Wis. Stats.
- [2] See § 62.23(7)(e)(2), Wis. Stats.

[3] See § 62.23(7)(e)(2), Wis. Stats.

[4] See § 62.23(7)(e)(2), Wis. Stats.

510.154 Officers

- A. **Chairperson.** The mayor shall appoint one of the regular members as the chairperson of the Zoning Board of Appeals.^[1]
- B. **Other.** The board may designate other officers deemed necessary.

Editorial notes:

[1] See § 62.23(7)(e)(2), Wis. Stats.

510.155 Board procedures

The Zoning Board of Appeals may adopt rules of procedure to carry out its purposes. Such rules must conform to this chapter, other city regulations, and state law and be filed in the office of the city clerk. The rules in the current edition of Robert's Rules of Order Newly Revised shall govern the Plan Commission in all cases to which they are applicable and in which they are not inconsistent with these bylaws and any special rules of order the commission may adopt. (yes/no?)

510.156 Recording secretary

The city clerk shall serve as the recording secretary for the Zoning Board of Appeals; but shall not participate in any deliberations or any vote.

510.157 Meetings

- A. **Open meetings.** Meetings of the Zoning Board of Appeals are open to the public unless conducted in closed session as authorized by state law.^[1]
- B. **Location.** Meetings, except for site visits described in Article 4, shall be conducted in the city hall or in such other public place as may be selected by the board.
- C. **Schedule.** The Zoning Board of Appeals shall establish a regular schedule of meetings. Other meeting may be held at the call of the chairperson and at such other times as the board may determine.
- D. **Presiding officer.** If the chairperson is absent for a meeting, the recording secretary shall call the meeting to order and the board shall appoint a chair for that meeting.
- E. **Minutes.** The Zoning Board of Appeals must 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 shall be immediately filed in the office of the board and shall be a public record.^[2]

Editorial notes:

[1] See § 62.23(7)(e)(3), Wis. Stats.

[2] See § 62.23(7)(e)(3), Wis. Stats.

510.158 Voting and quorum

- A. **Requirements for quorum.** A quorum consists of 3 voting members. If there is not a quorum, the meeting must be adjourned and the meeting minutes should reflect that a quorum was not present and the meeting was adjourned.
- B. **Requirements for voting.** A decision of the Zoning Board of Appeals shall be by majority vote of the members present at a meeting in which a quorum is in attendance and voting.^[1]
- C. **Disqualification or voluntary abstention.** A member of the Zoning Board of Appeals must abstain from voting on a particular issue or be disqualified by majority vote of the remaining members present when (1) the member has a direct financial interest in the outcome of the matter at issue; (2) the member has such close personal ties to the applicant, the project, or to a party opposing the application that the member cannot reasonably be expected to exercise sound judgment in the public interest; (3) the member would violate the code of ethics set forth in ch. 19. Wis. Stats., or any ethics code as may be

adopted by the city, (4) participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or (5) another law precludes participation. If a member abstains or is disqualified, he or she may participate in the meeting as a member of the public.

- D. **Voting by alternates.** The first alternate may vote only when one of the regular members of the Zoning Board of Appeals is absent or is not able to vote on a pending matter. The second alternate may vote only when the first alternate is absent or is not able to vote or when more than one regular member is absent or is not able to vote.^[2]

Editorial notes:

[1] See § 62.23(7)(e)(3m), Wis. Stats.

[2] See § 62.23(7)(e)(2), Wis. Stats.

510.159 Role of an alternate in meetings

An alternate that is not otherwise voting on a matter on the agenda, may fully participate in the deliberations by asking questions and sharing their perspective.

510.160 Compensation

The members of the Zoning Board of Appeals shall be compensated as determined by the Common Council by ordinance.^[1]

Editorial notes:

[1] See § 62.23(7)(e)(3m), Wis. Stats.

510.161 Official oath

Members of the Zoning Board of Appeals must take the official oath as required by § 19.01, Wis. Stats. The city clerk shall keep a copy of such oaths.

510.162 through 510.169 reserved

DIVISION 4 ZONING ADMINISTRATOR

510.170 Establishment

The position of zoning administrator is established to undertake the responsibilities as defined in this chapter and state law.

510.171 Authority

The zoning administrator shall administer, supervise, and enforce the provisions of this chapter and in furtherance of those duties shall have the authority to:

- (1) meet with applicants to advise them of the requirements of this chapter;
- (2) issue administrative permits;
- (3) revoke or modify any administratively-issued permit or interpretation with reasonable cause;
- (4) keep a written record of permits issued, interpretations made, inspections, work approved, enforcement activities, and other similar official actions;
- (5) prepare staff reports consistent with this chapter and make recommendations as may be required or deemed appropriate;
- (6) work with the city clerk in the preparation of meeting agendas for the Plan Commission, Historic Preservation Commission, and Zoning Board of Appeals;

- (7) develop, amend, and utilize application forms, checklists, and other forms he or she deems appropriate to administer the development review processes set forth in this chapter;
- (8) recommend amendments to this chapter and to other chapters of the municipal code of the City of Bayfield relating to land use and development;
- (9) undertake enforcement proceedings as may be requested;
- (10) notify the regional office of the Wisconsin Department of Natural Resources of any violations of the floodplain regulations;
- (11) inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred; and
- (12) undertake any other activity not enumerated in this section but necessary to administer and enforce this chapter or any other section of the municipal code of the City of Bayfield as may be appropriate.

510.172 Conflict of interest

The zoning administrator must not perform work on a proposed or approved development project in which he or she has a direct financial interest in the outcome of the matter at issue or otherwise has a conflict of interest.

510.173 through 510.199 reserved

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ARTICLE 4 GENERAL PROCEDURAL REQUIREMENTS

DIVISION 1 GENERALLY

510.200 Legislative findings

The Common Council makes the following legislative findings:

- (1) Development review procedures should be easily understood and well-structured, and only involve those steps and requirements that are needed to properly review the application. Excessive procedural requirements add unnecessary costs to development projects.
- (2) The general public, property owners in the area, and affected agencies have a right to know about proposed development projects and have meaningful participation in the review process to the extent allowed or required by this chapter.
- (3) Enforcing the rules and regulations contained in this chapter is an important function of government.

510.201 Purpose

The development review requirements and procedures in this chapter are intended to:

- (1) provide efficient and timely review of applications and ensure fairness and due process,
- (2) ensure that applications are reviewed consistently by establishing criteria in making recommendations and final decisions, and
- (3) ensure complete and timely compliance.

510.202 Authority to file an application

Unless otherwise specified in this chapter, the owner of the property or a person having the power of attorney for the property owner must sign the application submitted for review. A person signing an application under the authority of a power of attorney must include a copy of the power of attorney with the application.

510.203 Permission to enter subject property

Submission of an application as may be required in this chapter authorizes city officials and employees, or other designated agents to enter the subject property to verify information in the application and to conduct other site investigations as may be necessary to review the application. This does not authorize any individual to enter any building on the subject property in the absence of the property owner or his or her authorized agent. Failure to allow access to the subject property is sufficient grounds to deny the application.

510.204 Burden of proof

- A. **Application review process.** During the application review process, the applicant has the burden of proof to show that the application should be approved based on the decision criteria relating to that application.
- B. **Appeal of an administrative decision.** During an administrative appeal proceeding, the petitioner has the burden of proof to show that such decision is not consistent with this chapter.
- C. **Enforcement proceedings.** During an enforcement proceeding, the zoning administrator or administrative unit taking enforcement action has the burden of proof to show that the action or development is in violation of this chapter.

510.205 Effect of an outstanding violation

If the zoning administrator determines that a parcel is in violation of this chapter, no permit or approval of any kind shall be granted under this chapter that would benefit such parcel, except to correct the violation or as may be required by state law.

510.206 Effect of an outstanding obligation

No permit or approval of any kind shall be granted under this chapter that would benefit a parcel for which taxes, assessments, special assessments, or other required payments are delinquent and unpaid.

510.207 Concurrent review

To the extent possible, a development project requiring multiple reviews should be done concurrently. When one approval is a condition precedent to approval of another application, the approvals must be issued in the requisite order.

510.208 Application fees and other charges

- A. **Assessment of fees.** From time to time, the Common Council may by resolution establish application fees and other charges it deems necessary in the administration of this chapter.
- B. **After the fact fees.** The Common Council may establish an "after-the-fact" fee for any procedure it deems appropriate. Payment of such fees does not release the applicant from full compliance with this chapter nor from prosecution for a violation of this chapter.
- C. **Timing for payment.** Application fees must be paid at the time the application is submitted for review.
- D. **Refunds.** Application fees are nonrefundable, except when city staff accepts the payment in error.

510.209 Charge back of professional service fees

An applicant must comply with § [REDACTED] of the municipal code with regard to professional service fees.

510.210 Non-confidentiality of submitted information

All written information that an applicant submits during a pre-submittal meeting or at any point in the review process is considered part of the public record subject to disclosure under state and local law.

510.211 Nature of staff comments

Any statements and recommendations that are made by the zoning administrator, city staff and officials, and other representatives prior to or during the application review process are not binding on the decision-making body responsible for making the final decision.

510.212 Withdrawal of application

- A. **Timing of withdrawal.** An applicant may withdraw an application anytime after submittal, but prior to a final decision.
- B. **Effect of withdrawal.** A request to withdraw an application terminates the review process and no decision shall be rendered.
- C. **Retention of application materials.** A withdrawn application and related review documents should be kept as a permanent public record.

510.213 Appeals

If a development project is approved under this chapter, the applicant may, upon receipt of the decision notice and satisfaction of all precedent conditions of approval, commence the work as authorized under the approval with the understanding that an aggrieved person may file an appeal with the appropriate review body. Prior to the end of the appeal period, all such work proceeds at the risk of the applicant. Similarly, any work that is done while an appeal is pending is done at the risk of the applicant.

510.214 Revocation or modification of an approval

If a development project is approved under this chapter, the review authority granting final approval may revoke or modify an approval if it is determined that information in the application or otherwise provided by the applicant or the applicant's agent was incomplete, false, misleading, or inaccurate and such information would have altered its decision to approve the application or the conditions of approval which were or were not imposed.

510.215 Application review schedule

The zoning administrator shall make the current review schedules available to the public and may post them on the City's website.

510.216 Application forms

The zoning administrator should prepare application forms and may amend them from time to time.

510.217 Other approvals

It is the responsibility of those undertaking development projects within the City to obtain all applicable permits and other approvals as may be required by the City of Bayfield, Bayfield County, and federal and state authorities as may be required.

510.218 Building permit

A building permit for the construction of a new building or the expansion of an existing building shall not be issued until such time as a zoning permit has been issued or a written determination is made that one is not required.

510.219 through 510.229 reserved**DIVISION 2
NOTICE REQUIREMENTS****510.230 Generally**

The type of notice that is given for each of the various procedures outlined in this article is dictated by the nature of the decision. Administrative decisions, such as a zoning permit, involve very little discretion. Either the proposed development meets the standards in this chapter or it does not. In contrast, there are other decisions that involve more discretion and judgment based on particular circumstances. The review of a conditional use application, for example, involves discretion on the part of those involved in making recommendations and a final determination whether the application should be approved or not. As a general rule, notice for an application is not given for administrative decisions. More notice is given when a proposed action could potentially affect other parties, including nearby property owners, other governmental bodies, and the general public. This division describes the different types of notice and related requirements.

510.231 Cost to provide notice

The City pays the costs related to the provision of notice required under this division, unless otherwise specified in the adopted fee schedule.

510.232 Public notice

- A. **Generally.** When required, the official responsible for processing the application shall place public notice in the official newspaper as set forth in this section.
- B. **Time requirements.** A class 1 notice must be published one time at least 7 days before the meeting or hearing. A class 2 notice must be published once each week for 2 consecutive weeks, the last one occurring at least 7 days before the meeting or hearing.^[1]
- C. **Content.** The notice shall include the information listed in Exhibit 4-1.

Editorial notes:

[1] See §§ 985.01(1m) and 985.07, Wis. Stats.

510.233 Property owner notice

- A. **Generally.** When required, the zoning administrator must mail a notice to property owners within 250 feet of the subject property involved in the application as set forth in this section. In the event an outlot associated with a certified survey map or subdivision is located within the 250-foot area and lot owners within the certified survey map or subdivision have a property interest in the outlot, each of those property owners must also receive the notice.
- B. **Additional notice.** When the applicant also owns the land adjoining the subject property involved in the application, the administrator must mail a notice to those property owners within 250 feet of such property.
- C. **Time requirements.** The notice must be mailed by regular mail at least 10 business days prior to the date of the meeting at which the matter will be considered.
- D. **Content.** The notice must include the information listed in Exhibit 4-1.
- E. **Source of names and addresses.** The names and addresses of property owners are those listed on the tax records maintained by Bayfield County.
- F. **Failure to receive notice.** The failure of a person to receive notice as described in this section does not invalidate or otherwise have any effect upon a public hearing or other action taken on the application.
- G. **Affidavit of mailing.** The person sending the notices should prepare an affidavit of mailing to certify that notice was provided as described in this section. Such affidavit must be kept as a public record.

510.234 Distribution list notice ^[1]

- A. **Establishment of distribution list.** The city clerk shall maintain a list of persons who submit a written request to receive notice of any proposed regulation or amendment thereof that may affect the allowable use of the person's property.
- B. **When notice is required.** The body conducting the public hearing shall send a notice, which contains a copy of the proposed regulation or amendment, to each person on the distribution list whose property, the allowable use of which may be affected by the proposed regulation or amendment.
- C. **Method of distribution of notices.** The notice shall be by mail or in any reasonable form that is agreed to by the person and the city clerk.
- D. **Establishment of charges.** The Common Council may from time to time adopt a resolution establishing a processing fee that shall be charged to each person on the list who is sent a notice. The amount of such fee shall not exceed the approximate cost of providing the notice to the person.
- E. **Effect of failure to send notice.** An ordinance or amendment shall take effect if the body conducting the meeting fails to send the notice as required by this section.

Editorial notes:

[1] See § 62.23(7)(d)(4), Wis. Stats.

510.235 Meeting agenda notice

When required, the body responsible for acting on the application must place the item on its meeting agenda.

510.236 Content of required notice

Notices must include the information listed in Exhibit 4-1.

Exhibit 4-1. Content of notice

	Public Notice (§ 510.232)	Property Owner Notice (§ 510.233)	Distribution List Notice (§ 510.234)
Applicant name	X	X	X
Subject property address or other description by which the public can locate the subject property	X	X	X
Nature of the application	X	X	X
A description of the proposed project	X	X	X
Name of body or official who will consider the application	X	X	X
Date, time and location of the public hearing	X	X	X
Location where the public can view the application	X	X	X
The criteria that will be used to evaluate the proposal	X	X	-
General location map (or available from the city clerk during normal office hours)	X	X	-

Key: An "X" means that the indicated information is required; a dash "-" means that the indicated information is not required

1. If the proposed amendment would have the effect of changing the allowable use of any property, the notice must include either a map showing the property affected by the amendment or a description of the property affected by the amendment and a statement that a map may be obtained from the city clerk.

510.237 through 510.249 reserved

**DIVISION 3
PUBLIC HEARINGS**

510.250 Legislative findings

The Common Council makes the following legislative findings relating to public hearings:

- (1) Public hearings should be conducted in an orderly, timely, and efficient manner.
- (2) Public input is important and should be encouraged.

510.251 General requirements

- A. Meetings to be public.** All public hearings shall be conducted in the city hall or in such other public place as may be selected by the body conducting the hearing.
- B. Notice of meetings.** Notice of public hearings shall be given as provided for in Division 2 of this article.

510.252 General procedure

The presiding officer conducting the public hearing may follow the following procedure listed in this section as a general guideline. For matters of little complexity or controversy, the presiding officer may adjust the procedures as appropriate.

1. Announce the purpose and subject of the public hearing.
2. Determine whether public notice as required by this chapter has been provided. If notice has not been provided, the hearing shall be postponed until such time as proper notice has been provided.
3. Ask if any member of the body conducting the public hearing has a conflict of interest in regard to the matter being discussed and excuse those who do.
4. Ask if any member of the body conducting the public hearing believes another member has a conflict of interest in regard to the matter being discussed. If so, and following a discussion of the alleged conflict of interest, the members (except the member with the alleged conflict) shall determine by vote whether a reasonable person may conclude that the member has a conflict of interest and should be removed from the pending decision.
5. Ask the applicant to describe the proposal.
6. Ask the staff to present a staff report, if required.
7. Allow members of the body conducting the public hearing to direct questions to the applicant and staff, if present.
8. Ask for statements from the public.
9. Read aloud written comments which were submitted when the individual submitting the comments is not in attendance.
10. Call for discussion of the members of the body conducting the public hearing during which time they may ask questions of a member of the public, the applicant, and the staff, if present.
11. Ask the applicant if he or she wishes to (1) respond to any comment made by an individual during the proceeding, (2) submit additional information, (3) amend the application, or (4) request a continuance.
12. Announce that the body will not accept any additional comment from the applicant or any member of the public once the public hearing is closed.
13. Ask for a motion and second to close the public hearing.

510.253 Continuances

- A. **Prior to start of public hearing.** In the event the applicant or the applicant's agent is not present for the public hearing, the body conducting the public hearing may authorize a continuance.
- B. **During a public hearing.** Prior to the close of the public hearing, the applicant may request a continuance and the body conducting the public hearing may agree to the continuance upon a showing of good cause. Likewise, the body conducting the public hearing may ask the applicant for a continuance, but the applicant is not required to grant such request. If the applicant does not grant a continuance, the body shall act on the information at its disposal.
- C. **Effect.** A continuance stops the time clock, if any, for making a decision.
- D. **Notice requirements.** A public hearing may be continued to a later date without again providing public notice, provided the location, date, and time for the continued hearing are announced at the time of the continuance.

510.254 Public comment

- A. **Time limitations on public comment.** The presiding officer may impose a time limit on members of the public who wish to address the body conducting the public hearing to assure completion of the agenda in a timely manner. Under no circumstance shall such time limit be less than 3 minutes.

- B. **Written comment.** Prior to the close of the public hearing, members of the public may submit written comments to the body conducting the public hearing. Such documents must be retained and made part of the public record for the proceeding. If a person submits written comments, a member of the reviewing authority should read the comments into the record and for the benefit of all attending.

510.255 through 510.269 reserved

DIVISION 4 SITE VISITS

510.270 Authorization

The Historic Preservation Commission, Zoning Board of Appeals, Plan Commission, and Common Council may conduct a site visit to inspect a property as it relates to a pending development application.

510.271 Open meeting requirements

A site visit is a public meeting and must comply with Wisconsin's open meeting requirements and the requirements of the Americans with Disabilities Act (ADA). Any person who would like to attend a site visit should notify the city clerk in advance of the date. The city clerk will follow established procedures in complying with such request.

510.272 Rules of conduct

- A. **Participation.** To ensure everyone hears what is being said during a site visit, participants should stay together as they tour the subject property.
- B. **Comments.** No recommendations can be offered, and no decisions can be made during a site visit.
- C. **Quorum required.** A site visit must be attended by a quorum of the review authority.
- D. **Overview of site visit.** When the review authority reconvenes their meeting or public hearing, the presiding officer should initiate a discussion of the members to document the major points that were discussed and/or observations made on the site visit.

510.273 Site visit during a public hearing

If a site visit is conducted as part of a public hearing, discussion is strictly limited to points of clarification, such as (1) the location of features (e.g., property boundary lines), (2) placement of proposed improvements, (3) features to be retained or removed as part of the proposed project, and the like. The merits of the proposal must not be discussed during the site visit.

510.274 Site visit not part of a public hearing

If a site visit is not part of a public hearing, the petitioner and Plan Commission members may engage in a general discussion related to the pending application. Such discussion should however be limited to what is observed during the tour as it relates to the proposed project.

510.275 through 510.279 reserved

DIVISION 5 FINANCIAL GUARANTEES

510.280 Performance bond

For the purpose of this chapter, a performance bond is not an acceptable financial guarantee.

510.281 Letter of credit

- A. **Form.** The letter of credit must be irrevocable and in a form acceptable to the city attorney.
- B. **Amount.** The amount of the letter of credit shall conform to the amount established in this chapter. If an amount is not specified in this chapter, the Common Council shall establish the amount.
- C. **Acceptance required.** A letter of credit is not accepted by the City until formal action by the Common Council upon the recommendation of the city attorney.
- D. **Minimum requirements for issuer.** The bank, savings and loan, or other financial institution issuing the letter of credit must be authorized to do business in the state of Wisconsin and have a financial standing acceptable to the city attorney.
- E. **Obligation of private party.** The provision of a letter of credit does not remove the burden of performing the work the letter of credit is intended to guarantee.

510.282 Cash deposit

- A. **Generally.** If a cash deposit is provided under this chapter, the City is not obligated to pay interest thereon. Any such cash deposit shall remain in the custody of the city treasurer.
- B. **Amount.** The amount of the cash deposit shall conform to the amount established in this chapter. If an amount is not specified in this chapter, the Common Council shall establish the amount.
- C. **Acceptance required.** A cash bond is not accepted by the City until formal action by the Common Council.
- D. **Obligation of private party.** The provision of a cash deposit does not remove the burden of performing the work the cash deposit is intended to guarantee.
- E. **Administrative fee.** When a cash deposit is offered as a financial guarantee, the City may charge a fee for the additional work required of the city clerk and city treasurer to monitor and handle the cash deposit. The amount of such fee shall be set by the Common Council from time-to-time by resolution.

510.283 Insufficient funds

If the City exercises its right to use a financial guarantee and the cost of performing the authorized work exceeds the amount of the financial guarantee, the City must send a bill to the property owner for the outstanding balance. If the property owner does not pay such costs within 30 days after billing, such costs constitute a special charge under § 66.0628, Wis. Stats., or as otherwise authorized by state law.

510.284 through 510.299 reserved

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