

Date: October 20, 2023
To: City of Bayfield Plan Commission
From: Tim Schwecke and Charlie Handy
Subject: City of Bayfield Zoning Code Rewrite
Memo #16 (Various articles in zoning code)



Please find attached a number of new/updated articles for the zoning code project.

Article 3 – Administrative Bodies This is the third draft. The only section with revisions is 510.123. In addition, there was no clear consensus on subsection 510.121 (E).

Article 4 – Administrative Bodies This is the third draft. All the revisions in the last draft have been incorporated. It does not contain any new revisions.

Article 6 – Zoning Districts and Land Use This is the first draft. In particular review the descriptions of the base zoning districts in s. 510-941 and the overlay districts in s. 510-942.

Article 17 – Landscaping The Plan Commission reviewed the initial draft and asked the consultant team to prepare a slimmed-down version to only address parking lots. The new draft only requires landscaping in and around the parking lot. Depending on the proximity of the parking lot to the street or residential properties, additional perimeter screening may be required.

Appendix E – Mapping requirements This is the first draft and indicates what kind of information needs to be submitted with various types of development applications.

Attachments:

1. Article 3, October 20, 2023
2. Article 4, October 20, 2023
3. Article 6, October 20, 2023
4. Article 17, October 20, 2023
5. Appendix E, October 20, 2023

- DRAFT 10-20-2023 -

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 to include the mayor and other City elected or appointed officials, except that the commission shall always have at least 4 citizen member who are not City officials. 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.
- 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.
- 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 serve as the chairperson of the commission.
- 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. 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]

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.
- 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 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.

510.108 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. (discussed 4-12-2023 with no consensus)
- 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; at least 5 are citizen members, at least one is an alderperson, and at least one is a Plan Commission member (who may also be an alderperson). 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. 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.

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 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.

510.129 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.

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. In the event, the city clerk also serves as the zoning administrator, the board shall appoint a board member to serve as the recording secretary for that meeting.

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 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.

510.161 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

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 may 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 may 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; there is no decision.
- 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 will 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 may 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 hearing notice

- A. **Generally.** When required in Article 5, the official responsible for processing the application will place public hearing notice in the official newspaper as set forth in this section.
- B. **Time requirements.** A class 1 public hearing notice must be published one time at least 7 days before the meeting or hearing. A class 2 public hearing 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 must 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 in Article 5, 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 will 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 must 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 will 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 is be charged to each person on the list who is sent a notice. The amount of such fee must not exceed the approximate cost of providing the notice to the person.
- E. **Effect of failure to send notice.** An ordinance or amendment will 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 Hearing 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	-
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 must 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 will 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 must 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) will 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 they want 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 will 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. The time limit may not 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 must conform to the amount established in this chapter. If an amount is not specified in this chapter, the Common Council will 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 will remain in the custody of the city treasurer.
- B. **Amount.** The amount of the cash deposit must conform to the amount established in this chapter. If an amount is not specified in this chapter, the Common Council will 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 may 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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**ARTICLE 6
ZONING DISTRICTS AND LAND USE**

Divisions

- | |
|---|
| <ol style="list-style-type: none"> 1. General provisions 2. Zoning map 3. Zoning districts 4. Allowable land uses |
|---|

**DIVISION 1
GENERAL PROVISIONS**

510.940 Legislative findings

The Common Council makes the following legislative findings:

- (1) The use of land in the City has a direct bearing on the public health, safety, and welfare.
- (2) Standards are needed to ensure that new development is done in a coordinated manner.
- (3) The provisions in this article are adopted consistent with state statutes.
- (4) Each parcel of land in the City is intended to have a zoning designation.
- (5) In some instances, state and federal law limit the City's ability to regulate certain land uses.

510.941 Purpose

This article promotes the public health, safety, and welfare and is intended to:

- (1) promote a sound development pattern by separating the City into various districts where each has uniformly applicable development standards;
- (2) separate incompatible land uses to the greatest extent possible;
- (3) encourage the most appropriate use of land throughout the City;
- (4) regulate and control the erection, construction, reconstruction, alteration, repair, and use of buildings, structures, and land;
- (5) provide for a variety of housing options;
- (6) allow different, but compatible land uses (i.e., mixed uses), to occur in specified areas of the City;
- (7) avoid, or, as a less preferred alternate, minimize congestion; and
- (8) avoid, or, as a less preferred alternate, minimize environmental degradation.

510.902 through 510.919 reserved

DIVISION 2 ZONING MAP

510.920 Title

The map that depicts the location of the various zoning districts must be titled "Zoning Map - City of Bayfield."

510.921 Official zoning map

The city clerk must maintain one paper copy of the zoning map as the official map bearing the signature of the mayor and as attested by the city clerk. If there is a discrepancy between this zoning map and other maps as may be made available, the map maintained by the city clerk is controlling in all instances.

510.922 Availability

The zoning map maintained by the city clerk must be available for public inspection upon request. The city clerk and zoning administrator may post the zoning map on the city's website and otherwise make and distribute copies in a manner deemed appropriate.

510.923 Preparation of a new official map

In the event the zoning map maintained by the city clerk is damaged, lost, or destroyed, and after each amendment, the zoning administrator must prepare a new zoning map and submit it to the mayor and city clerk for signature.

510.924 History of amendment

The zoning map maintained by the city clerk may contain a descriptive history of recent amendments that have been made, indicating the ordinance number and date of action.

510.925 Archive of superseded maps

The city clerk should maintain a permanent archive of superseded zoning maps that are created after January 1, 2024.

510.926 Amendment

The procedure and requirements to amend the zoning map are described in Article 5.

510.927 through 510.939 reserved

DIVISION 3 ZONING DISTRICTS

510.940 Generally

The City is divided into a number of base zoning districts so that each parcel of land is located in at least one district and potentially more than one district. For each of these districts, appropriate types of land uses are identified along with development standards when applicable.

510.941 Base zoning districts

- A. **Generally.** Recognizing that different areas of the City serve unique functions, the City is divided into a number of zoning districts. Even though some of the districts may share similar characteristics, they possess one or more unique qualities that set them apart from the other districts. Although these districts may not now possess each of the attributes in these descriptions, it is intended that as land uses change over time, they more closely reflect the intended uses. Uses are allowed in the various districts consistent with the development standards in this article and development limitations as described in § 510.11 and other sections. Each of the land uses listed in the land use matrix (Appendix A) that are shown as being allowed in a zoning district are determined to be consistent with the purpose statements of such district.
- B. **Establishment.** Base zoning districts are as follows:

Residential Districts

- (1) General residential (R-1) This district is intended to provide for single- and two-family residential development along with compatible community and civic uses.
- (2) Multifamily residential (R-3) This district is intended to provide for multifamily residential development in areas that are served by central water and sewer along with compatible community and civic uses.

Commercial Districts

- (3) General commercial (B-1) This district is intended to provide for the orderly and attractive grouping, at appropriate locations, of retail stores, shops, offices, and similar commercial establishments along with compatible community and civic uses.
- (4) Waterfront commercial (B-2) This district is intended to accommodate a range of commercial uses including commercial marine uses along with compatible community and civic uses.
- (5) Hospitality commercial (B-3) This district is intended to accommodate existing hotels/motels that are not located within any of the other commercial districts.

Special Purpose Districts

- (6) Conservancy (C-1) This district is intended to preserve the natural state of undeveloped lands that, due to their topography, soil composition, or other similar factors, are not suitable for significant development because of the potential hazards to public or private property or the public welfare.
- (7) Public and semipublic (I-1) This district is intended to accommodate institutional uses, whether maintained by the City, another governmental body, or a private business, that are deemed to be a permanent use. This district is located in and adjoining residential areas of the City where such uses are consistent with existing and planned residential uses.
- (8) Park and recreation (P-1) This district is intended to accommodate outdoor recreation, whether maintained by the City, another governmental body, or a private business, that are deemed to be a permanent use. This district is located in and adjoining residential areas of the City where such uses are consistent with existing and planned residential uses.

Editorial notes: As part of the 2024 rewrite of the zoning code, a number of changes were made to the zoning districts as follows: C-1 was changed to B-1, Waterfront District was changed to B-2, R-2 was changed to R-3, W-1 was changed to C-1, and the B-3, I-1, and P-1 districts were added.

510.942 Overlay zoning districts

- A. **Generally.** Overlay zoning districts, as the name would suggest, are applied on top of base zoning districts to account for unique conditions or requirements.
- B. **Establishment.** The following overlay zoning districts are established:
- (1) **Historic preservation overlay district.** This overlay district includes those districts established pursuant to Article 5 and is established to protect the integrity of such districts. Additional details are in Article 11.

- (2) **Floodplain overlay district.** This district includes those lands within the 100-year floodplain, including any mapped subdistricts, as established by the Federal Emergency Management Agency. Additional details are in Article 12.
- (3) **Wellhead protection overlay district.** This district includes those lands surrounding a public wellhead. Provisions are intended to further control what land uses may occur so that the City's municipal water supplies are reasonably protect from contamination. Additional details are in Article 13.
- (4) **Shoreland-wetland overlay district.** This district includes specified wetlands within the shoreland areas. Additional details are in Article 14.
- (5) **Shoreland overlay district.** This district includes land within the shoreland areas. Additional details are in Article 15.
- (6) **Steep slope overlay district.** This district includes any land with slope of 12 percent or more. (Need to verify the percent of slope).

510.943 Defunct districts

Reserved

510.944 Planned development districts (PDDs)

Planned development districts are a special type of zoning district and are established pursuant to the procedures and requirements in Article 5. Each district is unique and therefore has its own set of development standards that are documented in the general development plan, and associated development agreement, if any. PDD districts are numbered sequentially (i.e., PDD-01, PDD-02, etc.).

510.945 Relationship between base and overlay zoning districts

If a parcel is located in one or more overlay districts, the regulations that apply to the underlying base zoning district remain in effect, except as modified by the overlay district(s), and if there is any conflict between the overlay districts, the most restrictive controls.

510.946 Necessity of zoning district designation

It is the intent of this article that no land shall be without a zoning district designation, unless specifically noted on the zoning map. In the event a parcel of land is for any reason deemed to be without a designation, no land development may occur until such time as the Common Council has assigned the parcel, or part thereof, an appropriate zoning classification.

510.947 Effect of a land transfer on zoning designation

Adjoining property owners are able to transfer land from one lot to another in certain circumstances pursuant to ch. 236, Wis. Stats. In those situations where the affected lots are in different zoning districts, a transfer does not alter the location of the zoning district boundary until such time as the zoning map has been amended consistent with Article 5.

510.948 through 510.959 reserved

DIVISION 4 ALLOWABLE LAND USES

510.960 Land uses generally allowed within zoning districts

- A. **General purpose zoning districts.** For the purposes of this chapter, land uses, as defined in Appendix B are classified as principal, accessory, or temporary. Appendix A lists principal land uses (Series 1 to 16), accessory uses (Series 17), and temporary uses (Series 18). Each of the land uses are designated as one of the following:
- (1) "P" indicates that the use is permitted in the zoning district by right provided all other provisions of this chapter are met
 - (2) "C" indicates that the use is allowed in the zoning district as a conditional use provided all other provisions of this chapter are met
 - (3) "WT" indicates that the use is subject to the special review standards and procedures for wireless telecommunication facilities
 - (4) "-" indicates that the use is not permitted in the zoning district
- B. **Planned development districts.** Land uses that are permitted in a planned development district are enumerated in the general development plan for the district, along with development standards, if any.

510.961 Similarity of land uses

Because the list of land uses cannot include every conceivable type of activity, those land uses that are listed can be interpreted to include other land uses that are of a similar nature and have similar impacts to the listed use.

510.962 Land uses not listed

A land use that is not listed, and which cannot be interpreted to be similar to any listed land use as provided for above, is prohibited. In the event a person would like to establish a land use that is not listed, they can submit a petition to amend the zoning code pursuant to the procedures and requirements in Article 5.

510.963 Project classified in more than one land use category

If a proposed project includes both an allowable land use and a prohibited land use, the prohibited portion of the project may not occur in the zoning district.

510.964 Special standards for accessory land uses

- A. **Generally.** No accessory building may be constructed until the principal building is completed or is under construction.
- B. **Removal of a principal building while retaining an accessory building.** Pursuant to the procedures and requirements in Article 5, the Plan Commission may approve a special exception to allow the removal of a principal building, while retaining the accessory building, when the commission determines that the principal building is dilapidated and the accessory building meets current building codes and serves a useful purpose. If the commission approves the special exception, the property owner must record a deed restriction, as approved by the commission, in the Bayfield County register of deeds office that controls the use of the accessory building and incorporates any requirement imposed by the commission as a condition of approval, such as time limitations (e.g., construction of a principal building).

510.965 Special provisions for community living arrangements

- A. **Limitations.** Under state law, a city may not limit the number of community living arrangements so long as the total capacity of such facilities does not exceed 25 or one percent of the City's population, whichever is greater. When that threshold is exceeded, the Common Council may prohibit additional community living arrangements from being located in the city. Additionally, when the capacity of community living arrangements in a ward reaches 25 or one percent of the population, whichever is greater, the Common Council may prohibit additional community living arrangements from being located in the ward. A foster home or a foster treatment home that is the primary domicile of a foster parent or foster treatment parent and that is licensed under § 48.62, Wis. Stats., and an adult family home certified under § 50.032 (Im)(b), Wis. Stats., are exempt from this provision.^[1]
- B. **Periodic review of existing facilities.** Not less than 11 months but not more than 13 months after the first licensure of an adult family home under § 50.033, Wis. Stats., or of a community living arrangement and every year thereafter, the Common Council may make a determination pursuant to § 59.69 (15)(j), Wis. Stats., as to the effect of such facility on the health, safety, or welfare of residents of the municipality. If the Common Council determines such facility poses a threat to the health, safety, or welfare of the residents of the municipality, the Common Council may order such facility to cease operation or obtain a conditional use permit to continue operation. Such facility must cease operation within 90 days after date of the order, or the date of final judicial review of the order, or the date of the denial of a conditional use permit, whichever is later. The fact that an individual with acquired immunodeficiency syndrome or a positive test for the presences of HIV, as defined in § 252.01 (1M), Wis. Stats., antigen or nonantigenic products of HIV or an antibody to HIV resides in a community living arrangement with a capacity of 8 or fewer persons may not be used under this subsection to assert or prove that the existence of the community living arrangement in the community poses a threat to the health, safety, or welfare of the residents of the City.^[2]

Editorial notes:

[1] See § 59.69 (15)(b)(1) and also § 59.69 (15)(bm), Wis. Stats.

[2] See §§ 59.69 (15)(i) and 59.69 (15)(im), Wis. Stats.

510.966 Special provisions for specified foster homes and treatment foster homes

Foster homes which are owned, operated, or contracted for by the state of Wisconsin or a county department, are not subject to this article.^[1] All other foster homes and treatment foster homes must comply with this article.

Editorial notes:

[1] See 63 Atty. Gen. 34

510.967 Map of conditional uses

The zoning administrator is authorized to prepare a map showing those properties that have an active conditional use permit and to amend the same from time to time.

510.968 through 510.999 reserved

ARTICLE 19 OUTDOOR LIGHTING

510.2500 Legislative findings

- A. It is the intent of this article to define practical and effective measures by which the obtrusive aspects of excessive and/or careless outdoor light usage can be minimized, while preserving safety, security and the nighttime use and enjoyment of property. These measures will reasonably curtail the degradation of the nighttime visual environment by encouraging lighting practices that direct appropriate amounts of light where and when it is needed, increasing the use of energy-efficient sources, and decreasing the wastage of light and glare resulting from overlighting and poorly shielded or inappropriately directed lighting fixtures.
- B. In adopting this article, credit is hereby given to the International Darksky Association for its assistance in providing valuable information and guidance.

510.2501 Conformance with applicable codes

All outdoor illuminating devices must be installed and maintained in conformance with this article and other applicable sections of this chapter.

510.2502 Applicability

- A. **New uses, buildings and major additions or modifications.** For all proposed new land uses, developments, buildings, and structures that require a building permit or other authorization from the City, all outdoor lighting fixtures must meet the requirements of this article. All building additions or modifications of 25 percent or more in terms of additional dwelling units (rooms), gross floor area, or parking spaces, either with a single addition or with cumulative additions subsequent to October 5, 2004, shall invoke the requirements of this article for the entire property, including previously installed and any new outdoor lighting.
- B. **Existing uses.** Existing uses are exempted from the provisions of this article in the circumstances as described in § 510.2511(A). Existing uses and lighting which substantially deviates from § 510.2500 and which are brought to the attention of the City Council by an aggrieved party, may constitute a public nuisance under § 510.2500, and subject to abatement or other relief.
- C. **Resumption of use after abandonment.** If a property or use with nonconforming lighting is abandoned for a period of 6 months, excluding temporary or short-term interruptions for the purpose of remodeling maintaining, or otherwise improving or rearranging a facility, then all outdoor lighting must be reviewed and brought into compliance with this article before the use is resumed.
- D. **Roadways.** Municipal lighting for public roadways is exempt from the provisions of this article. The City, in conjunction with the Wisconsin Department of Transportation (WisDOT), will review the municipal lighting with the intent of both meeting the WisDOT guidelines and the spirit and intent of this article.

510.2503 Shielding and outdoor lighting standards

- A. All nonexempt outdoor lighting fixtures must be fully shielded.
- B. All nonexempt outdoor lighting fixtures must be placed so as to not cause light trespass or light glare beyond the property boundary.
- C. All nonexempt outdoor lighting fixtures must be of a type and placed so as to not allow any light above the horizontal, as measured at the luminaire.
- D. Seasonal decorations using typical unshielded low-wattage incandescent lamps is allowed from November 10 through January 30.
- E. All lighting for commercial, industrial and any other nonresidential activities must be extinguished between 11:00 p.m. (or when the business closes, whichever is later) and sunrise. Security lighting for these establishments must conform to the other provisions of this article.

- F. All light fixtures that are required to be shielded must be installed and maintained in such a manner that the shielding is effective as described herein for fully shielded fixtures.
- G. Sensor activated luminaries are permitted provided:
- (1) It is located in such a manner as to prevent glare and lighting onto properties of others or into a public right-of-way.
 - (2) The luminaire is set to only go on when activated and to go off within 5 minutes after activation has ceased.
 - (3) The luminaire may not be triggered by activity off of the property.
- H. Placement and height of luminaries.
- (1) Parking area luminaries may be no taller than 17 feet from the ground at their tallest point. Parking area lights are encouraged to be greater in number, lower in height and lower in light level versus fewer in number, higher in height and higher in light level.
 - (2) Freestanding luminaries on private property in residential districts shall be mounted at a height equal or less than the sum of $H = (D/3) + 3$, where D is the distance in feet to the nearest property boundary, but shall not be higher than 15 feet, whichever is less.
 - (3) Streetlights used on arterial roads may exceed 20 feet in height, with the recommendation of the Common Council, and only with the finding that exceeding 20 feet is necessary to protect the safety of residents.
 - (4) Luminaries used for playing fields are exempt from the height restriction provided all other provisions of this article are met and the light is used only while the field is in use.

510.2504 Outdoor advertising signs

- A. External illumination for signs must conform to all provisions of this article. Upward-directed sign lighting is prohibited.
- B. Neon lights are permitted provided they are only used during business hours.

510.2505 Waterfront lighting

- A. **Purpose.** The purpose of this section is to minimize light pollution of the waterfront environment without significantly inhibiting safety and security.
- B. **Generally.** This section applies to all lighting on berthing structures, piers or docks or designed to illuminate those structures. Light fixtures which do not conform to these provisions may be allowed with a conditional use permit upon a showing of special circumstances affecting safety, security, or general public interest. Nonconforming lighting in existence on October 5, 2004 must be brought into compliance by October 5, 2009.
- C. **Standards.** The following standards apply:
- (1) Flashing and rotating lights are prohibited.
 - (2) Lighting inside a boathouse and intended to illuminate its interior is permitted.
 - (3) Lighting on exteriors of berthing structures, piers or docks must be fitted with opaque shields to prevent direct visibility of the lamp to persons on public waters or adjacent lands more than 50 feet beyond the berthing structure.
 - (4) Lighting not mounted on a berthing structure, piers or docks but designed to illuminate such a structure or its immediate vicinity must comply with subsection C(3) above.
 - (5) Lighting installed on, or intended to illuminate, seasonally used berthing structures, piers or docks must be turned off when not required for safety or security.
 - (6) Public marinas may install illuminated signs with opaque shaded or shielded lighting that provide information pertaining to applicable federal state or municipal rules and regulations relating to

electrical, fueling, waste and sewage disposal or other safety and environmental matters. Such sign illumination shall not be visible from off the berth structure, piers or docks.

510.2506 Special standards for recreational facilities

- A. **Lighting levels.** Lighting for outdoor athletic fields, courts, or tracks is exempt from the lumens limits of this article.
- B. **Shielding.** Fully shielded lighting is required for fields designed for Class III or IV levels of play (e.g., amateur or municipal league, elementary to high school, training, recreational or social levels).
- C. **Off-site spill.** The installation must also limit off-site spill (off the parcel containing the sports facility) to the maximum extent possible consistent with the illumination constraints of the design.
- D. **Curfew.** All events must be scheduled so as to complete all activity no later than 10:30 p.m. Illumination of the playing field, court, or track is permitted after the curfew only to conclude a scheduled event that was unable to conclude before the curfew due to unusual circumstances. Field lighting for these facilities must be turned off within 30 minutes after the last event of the night.
- E. **Generally.** All lighting not directly associated with the special use areas above must conform to the lighting standards described in this article, including but not limited to the lamp type and shielding requirements and the lumens limits.

510.2507 Special standards for service station canopies and parking structures

- A. **Shielding.** All luminaires mounted on or recessed into the lower surface of service station canopies and parking structures must be fully shielded and utilize flat lenses.
- B. **Total under-canopy output.** The total light output used for illuminating service station canopies, defined as the sum of all under-canopy initial bare-lamp outputs in lumens, may not exceed 215 lumens per square meter (20 lumens per square foot) not limited to luminaires mounted on the lower surface or recessed into the lower surface of the canopy, any lighting within signage or illuminated panels over the pumps, and is to be included toward the total at full initial lumen output.
- C. The lumen output of lamps mounted on or within the lower surface of a canopy is included toward the lumens per acre according to the method defined in above. Other lighting located under a canopy but not mounted on or within the lower surface is included toward the lumen caps at full initial output.
- D. Generally. All lighting not directly associated with the special use areas above must conform to the lighting standards described in this article, including but not limited to the lamp type and shielding requirements and the lumens limits.

510.2508 Prohibitions

- A. **Laser source light.** The use of laser source light or any similar high-intensity light for outdoor advertising or entertainment, when projected above the horizontal, is prohibited.
- B. **Searchlights.** The operation of searchlights for advertising purposes is prohibited.

510.2509 Temporary exemption (Does the City want to retain this provision? Is it ever used?)

- A. **Request; renewal; information required.** Any person may submit a temporary exemption request to the Plan Commission. The request shall contain the following information:
 - (1) Specific ordinance exemption(s) requested;
 - (2) Duration of requested exemption(s);
 - (3) Proposed location on premises of the proposed light fixture(s);
 - (4) Purpose of the proposed lighting;
 - (5) Information for each luminaire and lamp combination as required herein;

- (6) Previous temporary exemptions, if any, and addresses of premises thereunder;
 - (7) Such other data and information as may be required by the designated official.
- B. **Approval; duration.** The Plan Commission shall have 45 business days from the date of submission of the request for temporary exemption to act, in writing, on the request. If approved, the exemption shall be valid for not more than 30 days from the date of issuance of the approval. The approval shall be renewable upon further written request, at the discretion of the designated official, for a maximum of one additional 30-day period. The designated official is not authorized to grant more than one temporary permit and one renewal for a 30-day period for the same property within one calendar year.
- C. **Disapproval; appeal.** If the request for temporary exemption or its extension is disapproved, the person making the request will have the appeal rights provided by the municipality.

510.2510 Other exemptions

- A. **Nonconformance.** Bottom-mounted or unshielded outdoor advertising sign lighting may not be used after October 5, 2006. All other outdoor light fixtures lawfully installed prior to and operable on October 5, 2004 are exempt from all requirements of this article.^[1] There shall be no change in use or lamp type, or any replacement (except for same type and same-output lamp replacement) or structural alteration made, without conforming to all applicable requirements of this article. Further, if the property is abandoned, or if there is a change in use of the property, the provisions of this article apply when the abandonment ceases or the new use commences.
- B. **State and federal facilities.** Compliance with the intent of this article at all state and federal facilities is encouraged.
- C. **Emergency lighting.** Emergency lighting, used by police, fire-fighting, or medical personnel, or at their direction, is exempt from all requirements of this article for as long as the emergency exists.
- D. **Swimming pool and fountain lighting.** Underwater lighting used for the illumination of swimming pools and fountains is exempt from the lamp type and shielding standards provided herein, though it must conform to all other provisions of this article.
- E. **Residential fixtures.** Outdoor light fixtures attached to residential buildings and located below the eave and less than 2,000 lumens are exempt from the provisions of this article. Light fixtures 2,000 lumens and over are not exempt.^[2] Outdoor fixtures above the eave or attached to buildings or poles separate from the residence are not exempt. All spotlights or floodlights must be fully shielded to prevent glare and light trespass beyond the property boundary, and directed no more than 45° above straight down. The acceptability and shielding restrictions applicable to a particular lamp are decided by its initial lumen output, not wattage; check manufacturer's specifications.
- F. **Flags, lighted.** United States and State of Wisconsin flags are exempt from the provisions of this article. All other outdoor lighted flags, such as, but not limited to, decorative and commercial flags, must conform to this article.
- G. **Holiday lighting.** Holiday lighting is exempt from the provisions of this article from November 10 until January 30 of the following year.
- H. **Towers.** Legally required safety lighting for towers is exempt from this article.
- I. **Airfields and airports.** Airfields and airports, whether commercial or noncommercial, are exempt from the provisions of this article where lighting is used for air safety reasons. All other lighting must conform to this article.

Editorial notes:

[1] The Common Council adopted an outdoor lighting ordinance on October 5, 2004, which was codified in the municipal code as Chapter 273. That chapter was incorporated into the zoning regulations as part of the code rewrite, which was adopted in 2024.

[2] The following are examples of lamp types that are 2,000 lumens and less: (1) 100-watt standard incandescent, (2) 15-watt cool white fluorescent, (3) 15-watt compact fluorescent, and (4) 18-watt low pressure sodium.

510.2511 Lighting plan

- A. **Properties subject to site plan review.** At the time any exterior light is installed or substantially modified, and whenever a development-related application is made, a lighting plan must be submitted for review and approval consistent with the requirements for a site plan set forth in Article 5.
- B. **Properties not subject to site plan review.** If the zoning administrator believes a property that is not otherwise subject to a site plan review (e.g., single-family residence) may not be in compliance with this article, the property owner must submit a lighting plan to the zoning administrator for review within 21 days of a written request.
- C. **Content.** A lighting plan must include the following:
- (1) A description of all existing and proposed luminaires, including name of manufacturer, product number, lamp type, mounting height, and lumen output. This may include manufacturer's catalog cut sheets.
 - (2) A photometric plan indicating the location of all existing and proposed luminaires, mounting and/or installation height in feet, the overall illumination levels (in footcandles) and uniformities on the site, and the illumination levels (in footcandles) at the property boundary lines. This may be accomplished by means of an isolux curve or computer printout projecting the illumination levels.
 - (3) Other information the zoning administrator deems necessary to ensure compliance with this article.
- D. **Amendment of an approved lighting plan.** The zoning administrator may upon petition approve an amendment to an approved lighting plan based on a finding that the amendment is minor and otherwise complies with the requirements of this article in effect at the time. Any proposed amendment that the zoning administrator determines to be substantial, requires a new approval and all procedures and requirements in place at the time must be followed.

510.2512 through 510.2599 reserved

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**Appendix E
Mapping Requirements**

The following information should be provided for each type of application to the extent applicable to the project.

Type of Information	Site plan	General development plan ^[1]	Precise implementation plan ^[1]	Project Maps		
				Conditional use	Zoning map amendment	Special exception and variance
Background Project Information						
Project name	X	X	X	X	X	X
Applicant name	X	X	X	X	X	X
Preparation date	X	X	X	X	X	X
Name of preparer	-	X	X	-	-	-
Survey Information						
North arrow and graphic scale	X	X	X	X	X	X
Address of subject property or legal description	X	X	X	X	X	X
Property boundaries	X	X	X	X	X	X
Acreage of subject property	X	X	X	X	X	X
Project Development Information						
Land use summary table by density/intensity and acreage	-	X	X	-	-	-
Easements/rights-of-ways (location, width, purpose, ownership)	X	X	X	X	-	X
Common areas/conservancy areas (location, purpose, ownership)	X	X	X	X	-	-
Land to be dedicated to the public (boundaries, area, purpose)	-	X	X	-	-	-
Setting						
Property boundaries within __ feet of the subject property	50 ft.	150 ft.	150 ft.	150 ft.	150 ft.	50 ft.
Land uses within __ feet of the subject property	50 ft.	150 ft.	150 ft.	150 ft.	150 ft.	50 ft.
Zoning district boundaries within __ feet of the subject property	50 ft.	150 ft.	-	150 ft.	150 ft.	50 ft.
Municipal boundaries within __ feet of the subject property	50 ft.	150 ft.	150 ft.	150 ft.	150 ft.	50 ft.
Site Features (existing and proposed)						
Ground contours when slopes exceed __ percent	8%	8%	8%	8%	-	8% ^[2]
Wetlands	X	X	X	X	-	X
Woodlands	X	X	X	X	-	X
Wildlife habitat, including critical wildlife habitat	X	X	X	X	-	X
Environmentally sensitive features	X	X	X	X	-	X
Water resources (rivers, ponds, etc.) and ordinary high-water mark for navigable waters	X	X	X	X	-	X
Floodplain boundaries and elevations of the same	X	X	X	X	-	X
Environmental and manmade development constraints and hazards including brownfields, contaminated sites, unstable soils, high groundwater, bedrock, and high-pressure natural gas lines	X	X	X	X	-	X

Type of Information	Site plan	General development plan ^[1]	Precise implementation plan ^[1]	Project Maps		
				Conditional use	Zoning map amendment	Special exception and variance
Buildings and Outdoor Storage/Activity Areas						
Existing and proposed	X	X	X	X	X	X
Existing within ___ feet of subject property	50 ft.	150 ft.	150 ft.	150 ft.	150 ft.	50 ft.
Required Setbacks						
Yard setbacks (front, side, rear and shore)	X	-	X	X	-	X
On-site septic systems	X	-	-	X	-	X
On-site wells and off-site wells within 10 feet of the perimeter of the subject property	X	-	-	X	-	X
Landscaping Features (existing and proposed)						
Fences, buffers, and berms	X	-	-	X	-	-
Pervious and impervious surfaces by type	X	-	-	-	-	-
Site amenities (benches, fountains, etc.)	X	-	-	-	-	-
Existing trees and other prominent vegetation	X	-	-	-	-	-
Trees / shrubs to be planted, including a plant list and specs.	X	-	-	-	-	-
Trees / shrubs to be retained	X	-	-	-	-	-
Outdoor Lighting (existing and proposed)						
Location	X	-	X	-	-	-
Fixture specifications	X	-	X	-	-	-
Stormwater Facilities (existing and proposed)						
Location	X	-	X	-	-	-
Specifications for each facility	X	-	X	-	-	-
Utilities (existing and proposed)						
Location	X	X	X	-	-	X
Type (sewer, telephone, etc) (buried or overhead, if applicable)	X	X	X	-	-	X
Size/capacity, if applicable	-	X	X	-	-	-
Transportation Facilities (existing and proposed)						
Streets	X	X	X	X	-	X
Driveways and road access onto public and private roads	X	X	X	X	-	X
Sidewalks and trails	X	-	X	X	-	X
Fire lanes (i.e., fire apparatus access)	X	-	-	-	-	X
Clear visibility triangles (location and dimensions)	X	-	X	-	-	X
On-Site Parking (existing and proposed)						
Access aisles and parking spaces by size	X	-	X	-	-	-
Location of accessible parking spaces	X	-	X	-	-	-
Location and specifications/dimensions for accessibility ramps	X	-	X	-	-	-
Type and location of on-site parking signs and traffic control signs	X	-	X	-	-	-
Surface materials for parking lot (e.g., concrete, bituminous concrete, pavers)	X	-	X	-	-	-

Type of Information	Site plan	General development plan ^[1]	Precise implementation plan ^[1]	Project Maps		
				Conditional use	Zoning map amendment	Special exception and variance
Snow storage areas	X	-	X	-	-	-
Areas designated for queuing of vehicles for drive-through facilities (e.g., car washes, drive-up service windows, etc.)	X	-	X	-	-	-
Pedestrian walks between the parking lot and the building	X	-	X	-	-	-
Designated areas of a parking area for pedestrian walks	X	-	X	-	-	-
Loading lanes and loading docks	X	-	X	-	-	-
Stormwater drainage	X	-	X	-	-	-
Distance between parking areas and adjoining properties if less than 20 feet	X	-	X	-	-	-
Areas designated for bicycle parking	X	-	X	-	-	-
Signs (existing and proposed)						
Location	X	optional	optional	-	-	-
Specifications for each sign including type, height, dimensions, lighting, and other factors considered during the review process	X	optional	optional	-	-	-

Notes:

- [1] A general development plan and precise implementation plan are similar, except a precise implementation plan is more refined and detailed.
- [2] For variance applications, the slope of the property must be depicted when the petitioner is claiming that the slope of a property is a hardship or a unique property limitation.