

Chapter 423

HISTORIC PRESERVATION

[HISTORY: Adopted by the Common Council of the City of Bayfield 4-1-1992 (§§ 15-5-1 through 15-5-6 of the 1992 Code of Ordinances). Amendments noted where applicable.]

GENERAL REFERENCES

Architectural Review Board — See Ch. 21.
Building construction — See Ch. 152.
Zoning — See Ch. 500.

§ 423-1. Purpose and intent.

It is hereby declared a matter of public policy that the protection, enhancement, perpetuation and use of improvements or sites of special character or special architectural or historic interest or value is beneficial and in the interest of the property, safety and welfare of the people of Bayfield. The purpose of this chapter is to:

- A. Preserve and enhance Bayfield's attractions to residents and visitors, and serve as a support and stimulus to the local economy.
- B. Enhance the aesthetic character of Bayfield.
- C. Encourage and promote the protection, enhancement, and perpetuation of such improvements which represent elements of Bayfield's cultural, economic and architectural history.
- D. Consider Bayfield's heritage, as reflected in such historic structures.
- E. Foster civic pride in the notable accomplishments of the past.
- F. Raise public awareness of the desirability of Bayfield's historic preservation program and its effect on the quality of life.

§ 423-2. Definitions.

The following definitions shall be applicable in this chapter:

ARCHITECTURAL REVIEW BOARD (ARB) — Architectural Board established by § 21-8 of Chapter 21, Boards, Commissions and Committees, of the Code of the City of Bayfield.

IMPROVEMENT — Any building, structure, site, work of art or other object constituting a physical betterment of real property, or any part of such betterment, including lighting fixtures, signs and the like.

PLAN COMMISSION — The Plan Commission established by § 21-4 of the Code of the City of Bayfield.

§ 423-3. Designation of historic structures, historic sites and historic districts.

- A. Criteria. An historic structure, historic site, or historic district designation may be placed on any site, natural or improved, including any building, improvement or structure located thereon, or any area of particular historic, architectural, or cultural significance to the City of Bayfield, such as a structure, site, or district which:
- (1) Exemplifies or reflects the cultural or architectural history of the community; or
 - (2) Is identified with historic personages or with important events in national, state or local history; or
 - (3) Embodies the distinguishing characteristics of an architectural type or specimen inherently valuable for a study of a period, style, method of construction; or
 - (4) Is representative of the notable work of a master builder, designer or architect who influenced his or her age.
- B. Procedures.
- (1) Designation of historic structures and historic sites.
 - (a) The Plan Commission may, after notice and public hearing, recommend designation of historic structures and historic sites, or rescission of such designation, after application of the criteria in Subsection A above. At least 30 days prior to such hearing, the Commission shall notify the owners of record, as listed in the office of the City Assessor, who are owners of property in whole or in part situated within 200 feet of the boundaries of the property affected, including the owner of the affected property. Such owners shall have the right to confer with the Commission at the scheduled public hearing. Notice of such hearing shall also be published as a Class 1 Notice, under the Wisconsin Statutes. The Commission shall also notify the Architectural Review Board.
 - (b) The Commission shall then conduct such public hearing and, in addition to the notified persons, may hear expert witnesses. The Commission may conduct an independent investigation into the proposed recommendation. Within 10 days after the close of the public hearing, the Commission may recommend designation of the property as either an historic structure or historic site, or recommend rescission. After the recommendation has been made, notification shall be sent to the property owner or owners.
 - (c) Such recommendations shall then be sent to the Common Council for approval. Notification shall be sent to the property owner or owners of the Council's decision on the recommendations.
 - (2) Designation of historic districts.
 - (a) The Plan Commission shall select specific geographically defined areas within the City to be recommended to the Common Council for designation as historic districts. A district may be designated for any geographic area of particular historic, architectural or economic significance to the City in accordance with the criteria in Subsection A above.

- (b) The Plan Commission shall hold a public hearing when considering a recommendation of an historic district. Notice of the time, place and purpose of such hearing shall be given by publication as a Class 1 Notice under the Wisconsin Statutes in the official City paper. Notice of the time, place and purpose of the public hearing shall also be sent by the City Clerk to the Alderperson of the Aldermanic District or Districts in which the historic district is located, and the owners of record, as listed in the office of the City Assessor, who are proposed owners of the property within the proposed historic district or are situated in whole or in part within 200 feet of the boundaries of the proposed historic district. Said notice shall be sent at least 30 days prior to the date of the public hearing. Following the public hearing, the Plan Commission shall vote to recommend, reject or withhold action on the proposed district. This recommendation shall be forwarded to the Common Council within 30 days.
 - (c) The Common Council, upon receipt of the recommendations from the Plan Commission, must either designate or reject the recommended historic district. Before doing so, the Council reserves the right to hold another public hearing on the matter if it so chooses. However, designation of the historic district shall be accomplished by adoption of the plan for the district in ordinance form. If the Common Council rejects the proposed historic district, it shall be remanded back to the Plan Commission for further consideration.
- C. Interim control. No building permit shall be issued by the Zoning Administrator and/or Architectural Review Board for alteration, construction, demolition, or removal of a nominated historic structure, historic site, or any property or structure within a nominated historic district from the date of the meeting of the Plan Commission at which a nomination form is first presented until the final disposition of the nomination by the Plan Commission or the Common Council unless such alteration, removal or demolition is authorized by formal resolution of the Common Council. In no event shall the delay be for more than 90 days.

§ 423-4. Regulation of construction, reconstruction, alteration and demolition.

- A. Certificate of approval required. No owner or person in charge of an historic structure, historic site, or property within an historic district shall reconstruct, alter or demolish all or any part of the exterior of such structure or any improvement on such site or property or construct a new improvement thereon unless a certificate of approval for such work has been granted by the Architectural Review Board.
- B. Criteria for approval. Upon filing of any application for a certificate of approval with the Architectural Review Board, the Architectural Review Board shall approve the application unless:
 - (1) In the case of a designated historic structure or historic site, the proposed work would adversely effect the exterior appearance of the structure; or
 - (2) In the case of the construction of a new improvement or the reconstruction or alteration of an existing improvement within an historic district, the exterior of such improvement would adversely affect the external appearance of other neighboring

improvements; or

- (3) In the case of a proposed demolition, the building or structure is of such architectural or historical significance that its demolition would be detrimental to the City of Bayfield, or the demolition would adversely affect the external appearance of other neighboring improvements, or any hardship or difficulty claimed by the owner is self-created or is the result of any failure to maintain the property in good repair, provided, however, that the demolition shall be approved if denial of the application would result in the loss of all economically reasonable and beneficial use of the property; or
- (4) Subject to the provisions in Subsection B(3) above, the proposed action does not substantially comply with the following standards:
 - (a) The historic character of a property shall be retained and preserved.
 - (b) Each property shall be recognized as a physical record of its time, place and use. Changes that nullify historical developments, such as adding conjectural features or architectural elements, shall be carefully undertaken making sure new construction complements current architectural design.
 - (c) Most properties change over time; those changes that have historical significance in their own right shall be retained and preserved.
 - (d) The surface cleaning of historic structures, if appropriate, shall be undertaken using the gentlest means possible. The State Historical Society may be consulted to determine gentlest means.
 - (e) New work shall be compatible with the massing, size and architectural features to protect the historical integrity of the property and its environment.
 - (f) Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
- (5) In determining whether Subsection B(1) through (3) above are applicable to a proposed action, the Architectural Review Board shall consider the following guidelines where applicable:
 - (a) All new structures should be constructed to a height visually compatible with the building and environment with which they are visually related.
 - (b) The gross volume of any new structure shall be visually compatible with the buildings and environment with which it is visually related.
 - (c) In the street elevation of a building, the proportion between the width and height in the facade should be visually compatible with the building and environment with which it is visually related.
 - (d) The proportions and relationships between doors and windows in the street facade should be visually compatible with the buildings and environment with which it is visually related.

- (e) The rhythm of solids to voids, created by openings in the facade, should be visually compatible with the buildings and environment with which it is visually related.
- (f) The existing rhythm created by existing building masses and spaces between them should be preserved.
- (g) The materials used in the final facade should be visually compatible with the buildings and environment with which it is visually related.
- (h) The texture inherent in the facade should be compatible with the buildings and environment with which it is visually related.
- (i) Colors and patterns used on the facade (especially trim) should be visually compatible with the buildings and environment with which it is visually related.
- (j) The design of the roof should be visually compatible with the buildings and environment with which it is visually related.
- (k) The landscape plan should be sensitive to the individual building, its occupants and their needs. Further, the landscape treatment should be visually compatible with the buildings and environment with which it is visually related.
- (l) The street facades should blend with other buildings via directional expression. When adjacent buildings have a dominant horizontal or vertical expression, this expression should be carried over and reflected.
- (m) Architectural elements should be incorporated as necessary to relate the new with the old and to preserve and enhance the inherent characteristics of the area.

C. Procedures.

- (1) Upon approval of an application for a certificate of approval, the Architectural Review Board shall issue the certificate of approval. Upon the issuance of such certificate, a building permit shall be issued by the City if all other permits have been obtained.
- (2) Should the Architectural Review Board fail to issue a certificate of approval due to the failure of the proposal to conform to the requirements of this chapter, the applicant may appeal such decision to the Zoning Board of Appeals within 30 days of denial.
- (3) If the Architectural Review Board fails to issue a certificate of approval, it shall, with the cooperation of the applicant, work with the applicant in an attempt to obtain a certificate of approval within the requirements of this chapter.

D. Applicability to agencies, utilities and transportation companies. Agencies of the City of Bayfield and all public utility and transportation companies undertaking projects affecting historic structures, historic sites or historic districts, shall be required to obtain a certificate of approval prior to initiating any major changes in the character of street paving, sidewalks, utility installations, lighting, walls, fences, structures, and buildings on property, easements, or streets owned or franchised by the City of Bayfield.

- E. Other permits, appeals and ordinances. The issuance of a certificate of approval shall not relieve the applicant from obtaining other permits and approvals required by the City. A building permit or other municipal permit shall be invalid if it is obtained without the presentation of the certificate of approval required for the proposed work. Insofar as they are applicable to an historic structure, historic site, or improvement in an historic district designated under this chapter, any provision of the plumbing code, electrical code, or building or housing codes of the City shall apply, unless waived by the appropriate state or City officials. The Architectural Review Board may support or propose such waivers before the appropriate state or City appeals body.
- F. Compliance with certificate. Work authorized by a certificate of approval shall be started within 12 months following said issuance of the certificate or the certificate shall expire and require reissuance. The work shall conform to the provisions of the certificate. The City may inspect the work during and after construction in order to assure compliance. Failure to comply with a certificate of approval or failure to obtain a certificate of approval shall be a violation of this section. In addition to other penalties and remedies, the City shall issue a stop-work order. Once a stop-work order has been issued, work on that portion of the project must cease immediately. However, work on other portions of the project may continue provided they comply with the other provisions in this chapter.
- G. Ordinary maintenance and repairs. Ordinary maintenance and repairs as defined by the Architectural Review Board may be undertaken without a certificate of approval provided that the work involves repairs to existing features of an historic structure or site or the replacement of elements of a structure with pieces similar in appearance and provided that the work does not substantially change the exterior appearance of the structure or site and does not require the issuance of a building permit.
- H. Emergency conditions. In any case where the Building Inspector determines that there are emergency conditions dangerous to life, health or property affecting an historic structure, site or property in an historic district, the Building Inspector may order the remedying of these conditions without the approval of the Architectural Review Board. The Building Inspector shall promptly notify the Architectural Review Board of the action being taken. When the emergency conditions do not require demolition, the Building Inspector shall make every effort to carry out the intent of this chapter and to use the design guidelines of the Architectural Review Board when remedying the emergency conditions.
- I. Other duties of the Architectural Review Board (ARB). In addition to those duties already specified in this section, the Architectural Review Board may:
 - (1) Work cooperatively with other entities to ensure the continuing education of the citizens about the historical heritage of the City and the historic properties designated under the provisions of this chapter.
 - (2) 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.
 - (3) Make recommendations for designation of historic sites, structures, or districts to the

Plan Commission for its consideration.

- (4) As it deems advisable, may receive and solicit funds for the purpose of historic preservation in the City. Such funds shall be placed in a special City account for such purpose.

§ 423-5. Maintenance of historic structures, historic sites and improvements within historic districts.

- A. Every owner or person in charge of an historic structure, historic site or improvement in an historic district shall maintain the same or cause or permit it to be maintained in a condition consistent with the provisions of this chapter. The Common Council may appoint a Building Inspector to enforce this chapter. The duties of the Inspector shall include periodic inspections at the direction of the Common Council, of designated historic structures, historic sites and historic districts.
- B. Every owner or person in charge of an historic structure, site, or improvement in an historic district shall keep in good repair all of the exterior portions of all structures and improvements and all interior portions thereof which, if not so maintained, may cause or tend to cause the exterior portions of such improvement to fall into a state of disrepair, including but not limited to:
 - (1) The deterioration of exterior walls or other vertical supports;
 - (2) The deterioration of roofs or other horizontal members;
 - (3) The deterioration of external chimneys;
 - (4) The deterioration or crumbling of exterior plasters or mortar;
 - (5) The ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors;
 - (6) The excessive peeling of paint, rotting, holes, and other forms of decay;
 - (7) The deterioration of surrounding environment, e.g., fences, gates, sidewalks, steps, signs, accessory structures, and landscaping;
 - (8) The deterioration of any features so as to create or permit the creation of any hazardous or unsafe condition or conditions.
 - (9) All interior portions thereof which may cause the exterior to deteriorate or become damaged or otherwise to fall into a state of disrepair.
- C. Exceptions for economic hardships.
 - (1) An owner or person in charge of an historic structure, historic site, or improvement within an historic district may seek an exception to the requirements of Subsections A and B above on grounds that compliance would cause undue economic hardship and that the granting of an exception would not unduly interfere with the intent and purpose of this chapter.
 - (2) An application for an exception shall be submitted to the Architectural Review Board

which, after consideration of the application, shall make a recommendation for its approval or denial to the Common Council. The Common Council, after consideration of the application and the recommendation of the Architectural Review Board, shall then approve or deny the application.

- (3) In determining whether the grounds stated in Subsection C(1) above have been met, the Architectural Review Board and Common Council shall consider the following factors:
 - (a) The financial resources of the applicant.
 - (b) Other financial resources available to the applicant.
 - (c) The costs of compliance.
 - (d) The impact of the exception on the historic structure, site, or district in question.

§ 423-6. Violations and penalties.

Any person or persons violating any provision of this chapter may be fined not less than \$50 nor more than \$500 for each separate violation, and a stop-work order shall be issued if necessary or appropriate. Each and every day which a violation continues may be deemed to be a separate offense. Notice of violations may be issued by the Building Inspector. If the violations remain uncorrected after the time specified in the notice, the City may, at its election, impose fines and/or have the violations corrected at City expense and have a lien placed against the property equal to the cost of the repairs, plus applicable fines and administrative costs.