

# Memo

To: Historic Preservation Committee

Fr: Trevor Fuller, Planning and Zoning Administrator

Re: DISCUSSION OF LANDMARKS AND HISTORIC PRESERVATION CHAPTER OF THE VILLAGE ORDINANCE

Date: November 22, 2016

Attached is the Landmarks and Historic Preservation Chapter of the Village Ordinances. Chairperson Ropp and I thought it would be appropriate to review the chapter due to recent discussion at meetings, new members to the committee, and with the possibility of additional properties in the village listed to the National Register.

The Historic Preservation Committee is asked to review the chapter and discuss further at the meeting. The committee is also asked to discuss possible future action on this issue.

## CHAPTER 424

### LANDMARKS AND HISTORIC PRESERVATION

#### 424-1 Purpose and Intent.

This ordinance is designed to promote the general welfare of the community and of the state by regulating any place, structure or object with a special character, historic interest, aesthetic interest or other significant value for the purpose of preserving the place, structure or object and its significant characteristics. The intent of this ordinance is to create the Village of Allouez Historic Preservation Committee to designate historic landmarks and establish historic districts and to regulate all historic landmarks and all property within each historic district to preserve the historic landmarks and property within the district and the character of the district. The purpose of this section is to:

- A. Effect and accomplish the protection, enhancement and preservation of such improvements, sites and districts which represent or reflect elements of the Village of Allouez's cultural, social, economic, political and architectural history.
- B. Safeguard the Village of Allouez's historic, prehistoric and cultural heritage, as embodied and reflected in such historic structures, sites and districts.
- C. Stabilize and improve property values, and enhance the visual and aesthetic character of the Village of Allouez.
- D. Foster civic pride in the beauty and accomplishments of the past.
- E. Enhance the Village's attraction to residents, tourists and visitors and serve as a support and stimulus to local business.
- F. Strengthen the economy of the Village.
- G. Promote the use of historic structures, sites and districts for the education, pleasure and welfare of the residents of Allouez.

#### 424-2 Definitions

Unless otherwise indicated, the below words, terms or phrases used herein shall have the following meanings:

**ALTERATION** – Any act or process which changes one or more of the exterior features of a structure, including but not limited to the erection, construction, reconstruction or moving of any improvement.

**CERTIFICATE OF APPROPRIATENESS** – A statement verifying that the Committee has reviewed an application to allow the alteration, rehabilitation, reconstruction or razing of any improvement upon an historic site or within an historic district; that the Committee has found the requested action to be appropriate to the general character of the historic site or historic district; and that the requested action may be taken subject to applicable building and zoning codes.

**COMMITTEE** – The Historic Preservation Committee created under this section.

**HISTORIC DISTRICT** – A place or area designated as an historic district by the Village Board on recommendation of the committee or listed by the State on the National Register as such. In order to be designated, the following requirements shall be met: The historic district is listed by the State or on the National Register as such or may contain, within definable geographic boundaries, one or more historic structures along with such other buildings, places or areas which, while not of such historic significance to be designated as historic structures, nevertheless contribute to the overall visual characters of the historic structure or structures located within the District.

**HISTORIC STRUCTURE** – Any improvement which has a special character or special historic interest or value as part of the development, heritage or cultural characteristics of the Village and which has been designated as an historic structure pursuant to the provisions of this chapter or listed by the State or on the National Register.

**IMPROVEMENT** – Any building, structure, place, work of art or other object constituting a physical betterment of real property or any part of such betterment.

**LANDMARK** – Any improvement which has a special character of special historic interest or value as part of the development, heritage or cultural characteristics of the Village which has been designated as a landmark pursuant to the provisions herein.

**LANDMARK SITE** – Any parcel of land of historic significance due to a substantial value in tracing the history of aboriginal man or upon which an historic event has occurred and which has been designated as a landmark site.

**NATIONAL REGISTER** – National Register of Historic Places as administered by the National Park Service under the National Historic Preservation Act of 1966.

**RAZING** – Any act or process which demolishes or destroys in part or in whole an improvement.

**STATE REGISTER** – State Register of Historic Places as maintained by the Wisconsin Society as the State of Wisconsin Historic Preservation Office according to the National Historic Preservation Act of 1966.

#### **424-3 Historic Preservation Committee**

A Historic Preservation Committee shall consist of six regular members, none of whom shall hold any other public office in the Village and one Village of Allouez Trustee. Of the membership, if available in the community, one shall be a registered architect and one shall be a licensed real estate broker. Each member shall have, to the highest extent practicable, a known interest in historic preservation. The Village President shall appoint the committee, subject to confirmation by the Village Board.

#### **424-4 Historic Structure, Historic Site and Historic District Designation Criteria**

- A. For purposes of this ordinance, 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, archeological or cultural significance to the village such as historic structures, sites, or districts which:
1. Exemplify or reflect the broad cultural, political, economic or social history of the nation, state or community; or
  2. Are identified with historic personages or with important events in national, state or local history; or
  3. Embody the distinguishing characteristics of an architectural type or specimen inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship; or
  4. Are representative of the notable work of a master builder, designer or architect who influenced his age; or
  5. Have yielded, or may likely to yield, information important to prehistory or history

- B. The committee shall adopt specific operating guidelines for historic structure, historic site and historic district designation providing such are in conformance with the provisions of this ordinance.

#### **424-5 Powers and Duties**

- A. The committee shall have the power, subject to Section 424-6, to designate historic structures and historic sites and to recommend designation of historic districts within the village limits. Such designation shall be made based on Section 424-4. Historic districts shall be approved by the village board. Once designated, such historic structures, sites and districts shall be subject to all the provisions of this ordinance.
- B. If any property, site, physical object, building, or structure is an historic landmark or is contributing to an historic district, as recognized by local designation by the Village of Allouez or listing on State or National Registers, the committee shall have the authority to review an application to alter, repair, rehabilitate, reconstruct, or raze any improvement upon such structure and may issue a Certificate of Appropriateness, as required under Section 424-6.
- C. Recognition of Historic Structures, Sites, and Districts.

#### **424-6 Procedures**

- A. Designation of Historic Structures and Historic Sites
  - 1. After receipt of recommendation from the committee, the village board may, after notice and public hearing, designate historic structures, sites and districts. At least ten (10) days prior to such hearing, the village clerk shall notify the owners of record, who are owners of property in whole or in part situated within two hundred (200) feet of the boundaries of the property affected.
  - 2. The village board shall then conduct such public hearing. Within thirty (30) days after the close of the public hearing, the village board may designate the property as either an historic structure, or an historic site. If the properties are designated as an historic structure or an historic site, notification shall be made of this decision to the property owner or owners by certified mail return receipt. The designation shall be recorded, at village expense, at the County Register of Deed's office.
  - 3. At such time as a historic structure or site has been properly designated, the committee, in cooperation with the property owner, may prepare and erect on such property and at village expense, a suitable plaque declaring that such property is a historic structure or site.
- B. Creation of Historic District
  - 1. For preservation purposes, committee shall select geographically defined areas within the village to be designated as historic districts and shall prepare an historic preservation plan for each area. An historic district may be designated for any geographic area of particular historic, architectural or cultural significance to the village, after application of the criteria in Section 424-4 above. Each historic preservation plan prepared for or by the committee shall include a cultural and architectural analysis supporting the historic significance of the area, the specific guidelines for development, and a statement of preservation objectives.

2. Review and adoption procedure.
  - i. The Historic committee shall hold a public hearing when considering the plan for an historic district. Notice of the time, place and purpose of the public hearing shall be sent by the Village Clerk to the owners of the property within the proposed district or who are situated in whole or in part within two hundred feet of the boundaries of the proposed district. Said notice shall be sent at least ten (10) days prior to the date of the hearing. Following the public hearing, the committee shall vote to recommend, reject or withhold action on the plan.
  - ii. The village board, upon receipt of the recommendations from the committee shall hold a public hearing, notice to be given by the village clerk as noted in section A.1 above, and shall, following the public hearing, either designate or reject the historic district. Designation of the historic district shall constitute adoption of the plan prepared for that district and direct the implementation of said plan.
3. At such time as a historic district has been properly designated, the committee, in cooperation with the property owner, may prepare and erect on such property and at village expense, a suitable plaque declaring that such property is a historic district.

C. Regulation of Construction, Reconstruction, Alteration and Razing

1. No owner or person in charge of a historic structure, historic site, or structure within an historic district shall reconstruct, alter or raze all or any part of the exterior of such property or construct any improvement upon such designated property or properties or cause or permit any such work to be performed upon such property or raze such property unless a Certificate of Appropriateness has been granted by the Historic Preservation Committee. Also, unless such certificate has been granted by the committee, the building inspector shall not issue a permit for any such work.
2. Upon filing of any application for a Certificate of Appropriateness with the committee, the committee shall approve the application except:
  - i. In the case of a designated historic structure or historic site, the proposed work would detrimentally change, destroy or adversely affect any exterior feature of the improvement or site upon which said work is to be done;
  - ii. In the case of the construction of a new improvement upon an historic site, or within an historic district, the exterior of such improvement would adversely affect or not harmonize with the external appearance of other neighboring improvements on such site or within the district;
  - iii. In the case a building or structure, although not itself a designated historic structure, contributes to the distinctive architectural or historic character of the historic district as a whole;
  - iv. In the case of any property located in an historic district, the proposed construction, reconstruction, exterior alteration or razing does not

conform to the purpose and intent of this section and to the objectives and design criteria of the historic preservation plan for said district;

- v. In the case the building or structure is of such old, unusual, or uncommon design, texture and/or material that it could not be reproduced or be reproduced only with great difficulty and/or expense;
  - vi. In the case the building or structure is of such architectural or historical significance that its razing would be detrimental to the public interest and contrary to the general welfare of the people of the Village;
  - vii. In the case of a request for the razing of a deteriorated building or structure, where any preservation or restoration efforts would not be structurally or economically feasible, provided that any hardship or difficulty claimed by the owner which is self-created or which is the result of any failure to maintain the property in good repair cannot qualify as a basis for the issuance of a Certificate of Appropriateness.
3. At such time as a property owner or person in charge of a property applies for a Certificate of Appropriateness to alter, rehabilitate, reconstruct, or add an addition to an improvement, such application shall be filed with the Historic Preservation Committee. If the committee determines that the application for a Certificate of Appropriateness and the proposed changes are consistent with the character and features of the property or district, it shall issue the Certificate of Appropriateness. The committee shall make this decision within thirty (30) days of the filing of the application to alter, rehabilitate, reconstruct, or add an addition to an improvement.
4. At such time as a property owner or person in charge of a property applies for a Certificate of Appropriateness to raze an improvement, such application shall be filed with the Historic Preservation Committee. Upon such application, the committee may refuse to grant such written approval for a period of up to sixty (60) days from the time of such application for single-family homes and up to ninety (90) days for other types of structures, during which time the committee and the applicant shall undertake serious and continuing discussions for the purpose of finding a method to save such property. During such period, the applicant and the committee shall cooperate in attempting to avoid razing of the property. At the end of the required time period, if no mutually agreeable method of saving the subject property bearing a reasonable prospect of eventual success is underway, or if no formal application for funds from any governmental unit or nonprofit organization to preserve the subject property is pending, the Building Inspector may issue the permit to raze the subject property without the approval of the committee. If such mutually agreeable method for saving the subject property is not successful or no such funds to preserve the subject property have been obtained and made available for disbursement within a period of thirty (30) days following the end of the required time period, the Building Inspector may issue the permit to raze the subject property without the approval of the committee.
5. The Certificate of Appropriateness shall not relieve the applicant from obtaining other permits and approvals required by the Village.

6. A building permit or other municipal permit shall be invalid if it is obtained without the presentation of the Certificate of Appropriateness required for the proposed work.
7. Ordinary maintenance and repairs may be undertaken without a Certificate of Appropriateness 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 identical in appearance and provided that the work does not change the exterior appearance of the structure or site and does not require the issuance of a building permit.

D. Appeals

An appeal from the decision of the Historic Preservation Committee to grant or deny a Certificate of Appropriateness may be taken to the Village Board by the applicant. Such appeal shall be initiated by filing a petition to appeal, specifying the grounds thereof, with the Village Clerk within ten (10) days of the date the final decision of the committee is made. After reviewing the application for appeal, the Village Board may, by a favorable majority vote of its members, reverse or modify the decision of the Historic Preservation Committee if, after balancing the interest of the public in preserving the subject property and the interest of the owner in using it for his or her own purposes, the Village Board finds that, owing to special conditions pertaining to the specific parcel of property, razing will preclude any and all reasonable use of the property causing serious hardship for the owner, provided that any self-created hardship shall not be a basis for reversal or modification of the committee's decision.

In addition, if the committee fails to issue a Certificate of Appropriateness the committee shall, with the cooperation of the applicant, work with the applicant in an attempt to obtain a Certificate of Appropriateness within the guidelines of this ordinance.

**424-7 Interim Control**

Nothing contained in this chapter shall prohibit the making of necessary construction, reconstruction, alteration, or razing of part or all of an historically identified improvement, site, or of such contributing to an historic district, pursuant to order of court or authorized governmental official for the purpose of remedying emergency conditions determined to be dangerous to life, health or property. In such cases, documenting the action to the Historic Preservation Committee only shall be required. In no event shall the delay be for more than one hundred twenty (120) days.

**424-8 Penalties for Violations**

Except as otherwise provided, any person, firm, corporation or organization found to be in violation of any provisions of this chapter or any rule or order promulgated herein shall be subject to a penalty as provided in § 1.05 of the Village Ordinances. Each and every day during which a violation continues shall be deemed to be a separate offense. Notice of violations shall be issued by the Building Inspector.

**424-9 Separability**

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected thereby.