

## Legistar File No. 88383 Body

DRAFTER'S ANALYSIS: This ordinance makes amendments to the following:

Computation of Time: Currently the ordinance specifies ten(10) days public notice for projects that require public noticing. But there is a separate provision on how to count those days that specifies not including weekends and holidays. This has led to fluctuating timelines for public notice, making it difficult for the public and staff to predict the correct deadlines. Shifting to counting all days rather than excluding some from the calculation and then making the public noticing fourteen (14) days will achieve the intent of the original provision while also making it more predictable for all users.

"Appropriate": The word "appropriate" has a challenging history in urban planning and often represented a race-based exclusionary agenda. The text amendment would substitute Certificate of Approval to replace Certificate of Appropriateness ("CoA"). The CoA process is about meeting the design standards of approval and not a more subjective sense of appropriateness. It also clarifies what the document actually is. The CoA is not a declaration that a building is appropriate, but that the work is approved and construction can proceed. Certificate of Appropriateness is also referenced in Chapters 1, 28, and 31.

Size of Accessory Structures and Additions: The ordinance originally included a requirement that additions and accessory structures over one hundred (100) square feet needed a CoA, which aligned with the requirements for accessory structures that needed architect or engineer stamped plans for building permits. That size for the building permitting process has increased to one hundred and fifty (150) square feet. In order to provide consistency with City processes and reviews, we are proposing to amend our language from one hundred (100) to one hundred and fifty (150) square feet.

Alterations on the Sides of Buildings: For project reviews, staff expects to see changes, including additions on the sides and rear of a building. Currently the language for alterations specifies that changes be limited to only areas not visible from the developed public right-of-way, but additions would be allowed in these locations. Borrowing from the language used for introducing skylights, the alterations on the sides of buildings would allow for modifications of window openings on sides, stepped back twelve (12) feet from the front edge of the building.

Indigenous Materials and Craftsmanship: When the ordinance was first written fifty (50) years ago, the definition for vernacular frequently used the word "indigenous" when talking about incorporating locally-sourced natural materials into a building's construction. Word usage has changed with time and a more accurate and clear word choice would be to call it "local materials." This differentiates between the work of indigenous peoples, such as the Ho-Chunk, and the work of later residents in Madison. For example, historic mounds are constructed of indigenous materials by indigenous craftspeople. A Madison sandstone house is constructed with local materials, likely by a local craftsperson.

"Master": Replacing the term "master" for accomplished builders, designers, or architects to "of note" to better communicate the ordinance's intention to celebrate the art of accomplished craftspeople.

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The Common Council of the City of Madison do hereby ordain as follows:

1. Section 41.02 entitled "Definitions" of the Madison General Ordinances is amended by amending therein the following:

"Certificate of Appropriateness Approval means an official form issued by the Preservation Planner stating that the proposed work on a designated historic resource in a historic district is in accord with the requirements of this ordinance and that (1) the proposed work may be completed as specified in the certificate; and (2) that the Building Inspector may issue any permits needed to do the work specified in the certificate."

~~“Master means an architect or designer of recognized greatness who is responsible for a body of published work or structures that are notable for their quality, innovation, or level of proficiency within their craft.”~~

2. Subsection (1) entitled “Computing Time Periods” of Section 41.03 entitled “General Administrative Provisions” of the Madison General Ordinances is amended as follows:

“(1) Computing Time Periods. In computing any period of time prescribed by this ordinance, the day of the act or event from which the designated period of time begins shall not be included. The last day of the period so computed shall be included. ~~When the period of time prescribed or allowed is less than eleven (11) days, Saturdays, Sundays and holidays shall be excluded from the computation.~~”

3. Subsection (2) entitled “Hearing Notices, General” of Section 41.06 entitled “Public Hearings and Hearing Notices” of the Madison General Ordinances is amended as follows:

- (2) Hearing Notices, General. Notice of the time, place and purpose of the hearing shall be given by a Class 2 Notice in the official City newspaper or as otherwise allowed under Wis. Stat. § 985.07, for all of the following:
- (a) Any hearing on the proposed designation of a landmark under Sec. 41.07 or the proposed rescission of a landmark designation under Sec. 41.08.
  - (b) Any hearing on a proposed ~~certificate of appropriateness~~ Certificate of Approval under Subchapter F.
  - (c) Any hearing on a proposed variance under Sec. 41.19.
  - (d) Any hearing on the proposed creation or amendment of a historic district under Subchapter D.
  - (e) Any hearing on a Notice of Demolition by Neglect under Sec. 41.15.

4. Subsection (3) entitled “Additional Notice; When Required” of Section 41.06 entitled “Public Hearings and Hearing Notices” of the Madison General Ordinances is amended as follows:

- (3) Additional Notice; When Required. In addition to notice provided under sub. (2) above, the Commission shall in the following cases mail additional notice to the following persons at least ~~ten (10)~~ fourteen (14) days prior to the hearing date:
- (a) If the hearing pertains to a specific site or structure:
    - 1. Each owner of record of the lot on which that site or structure is located.
    - 2. Each owner of record of each lot located within two hundred (200) feet, measured according to Sec. 41.03(5) of any lot on which the site or structure is wholly or partially located.
  - (b) If the hearing pertains to the creation or amendment of a historic district:
    - 1. All owners of record of lots located wholly or in part within the historic district.

2. The alder of each district in which any part of the historic district is located.
- (c) If the hearing pertains to a proposed ~~certificate of appropriateness~~ Certificate of Approval or variance, to the alder in whose district the affected site or structure is located."

5. Subsection (2) entitled "Standards" of Section 41.07 entitled "Designating Landmarks" of the Madison General Ordinances is amended as follows:

- "(2) Standards. A site, improvement, or site with improvements may be designated as a landmark if the proposed landmark meets any of the following:
- (a) It is associated with broad patterns of cultural, political, economic or social history of the nation, state or community.
  - (b) It is associated with the lives of important persons or with important event(s) in national, state or local history.
  - (c) It has important archaeological or anthropological significance.
  - (d) It embodies the distinguishing characteristics of an architectural type inherently valuable as representative of a period, style, or method of construction, or of ~~indigenous~~ local materials or craftsmanship.
  - (e) It is representative of the work of a ~~master~~ builder, designer or architect of note."

6. Subsection (5) entitled "Landmarks Commission Action" of Section 41.07 entitled "Designating Landmarks" of the Madison General Ordinances is amended as follows:

- "(5) Landmarks Commission Action. After the Landmarks Commission holds a public hearing and completes its review under sub. (4), the Commission shall report to the Common Council a recommendation supporting or opposing the proposed landmark designation. The Commission may recommend landmark designation subject to terms and conditions that are consistent with this chapter. The Commission shall send a notice of the recommendation to each owner of record of each lot on which the proposed landmark is located at least ~~ten (10)~~ fourteen (14) days before any meeting at which the Common Council may act on the Commission's recommendation."

7. Subsection (5) entitled "Landmarks Commission Action" of Section 41.08 entitled "Rescinding a Landmark Designation" of the Madison General Ordinances is amended as follows:

- "(5) Landmarks Commission Action. After holding a public hearing and completing its review under sub. (4) above, the Landmarks Commission shall determine whether the requested rescission meets applicable standards under sub. (3) above. The Commission shall report its finding, along with reasons for it, to the Common Council. The Commission shall send written notice of its findings to each owner of record of each lot on which the landmark is located at least ~~ten (10)~~ fourteen (14) days before any meeting at which the Common Council may act on the Commission's findings."

8. Section 41.09 entitled “Altering or Demolishing Landmarks” of the Madison General Ordinances is amended as follows:

**“41.09 - ALTERING OR DEMOLISHING LANDMARKS.**

- (1) ~~When Required.~~ No person may do any of the following without a ~~certificate of appropriateness~~ Certificate of Approval issued under Subchapter F:
- (a) Add a new structure to a landmark or landmark site.
  - (b) Materially alter a landmark or the exterior of a landmark.
  - (c) Demolish or relocate a landmark or any part of a landmark.
  - (d) Install a sign on the exterior of a landmark or on a landmark site.
  - (e) Divide any lot comprising all or part of a landmark site, or voluntarily grant any easement on that lot if doing so may impair the preservation, maintenance, exterior appearance or historic character of the landmark or landmark site.
- (2) ~~Exception.~~ A ~~certificate of appropriateness~~ Certificate of Approval is not required at Forest Hill Cemetery to:
- (a) Add a new gravesite, memorial or landscape feature to the cemetery;
  - (b) Alter, demolish, remove or relocate any existing structure, object, or landscape feature that is less than fifty (50) years old at the time of alteration, demolition, removal, or relocation; or
  - (c) Conduct routine day-to-day operations and maintenance of the cemetery.”

9. Subsection (2) entitled “Criteria” of Section 41.10 entitled “Creating and Amending Historic Districts” of the Madison General Ordinances is amended as follows:

- “(2) Criteria. A historic district shall be of particular historic, architectural, or cultural significance to the City of Madison, as indicated by at least one of the following criteria:
- (a) The district is associated with broad patterns of cultural, political, economic or social history of the nation, state or community.
  - (b) The district is associated with the lives of important persons, and/or with important events in national, state or local history.
  - (c) The district encompasses an area of particular archaeological or anthropological significance.
  - (d) The district embodies the distinguishing characteristics of an architectural type inherently valuable for its representation of a period, style, or method of construction, or of ~~indigenous~~ local materials or craftsmanship.
  - (e) The district is representative of the work of a ~~master~~ builder, designer or architect of note.”

10. Subdivision (a) entitled “Criteria for Creation of Mansion Hill Historic District” of Subsection (2) entitled “Mansion Hill Historic District” of Section 41.11 entitled “Historic District Ordinance Requirements” of the Madison General Ordinances is amended as follows:

- “(a) Criteria for Creation of Mansion Hill Historic District. In that the Mansion Hill Historic District reflects a pattern in the broad social history of Madison, the State and the Nation, and in that elements within the District meet the other three designation criteria, namely that many of the structures in the District:

1. Are identified with historic personages or with important events in national, state or local history;
2. Embody the distinguishing characteristics of an architectural type specimen, inherently valuable for a study of a period, style, method of construction, or of ~~indigenous~~ local materials or craftsmanship;
3. Are representative of the notable work of a ~~master~~ builder, designer or architect of note whose individual genius influences their age;

The area described by the map and legal description shall be designated a historic district."

11. Subdivision (a) entitled "Criteria for Creation of the University Heights Historic District" of Subsection (4) entitled "University Heights Historic District" of Section 41.11 entitled "Historic District Ordinance Requirements" of the Madison General Ordinances is amended as follows:

"(a) Criteria for the Creation of the University Heights Historic District. In that the University Heights Historic District reflects a pattern in the broad social history of Madison and in the state and the nation and in that elements within the district meet the other three designation criteria in Sec. 41.10(2) of this chapter, namely that many of the structures in the district:

1. Are identified with historic personages or with important events in national, state, or local history;
2. Embody the distinguishing characteristics of an architectural type specimen, inherently valuable for a study of a period, style, method of construction, or of local or craftsmanship; and,
3. Are representative of the notable work of a ~~master~~ builder, designer, or architect of note whose individual genius influenced their age,

The area described by the map and legal description shall be designated a historic district."

12. Section 41.12 entitled "Constructing, Altering, or Demolishing Structures in Historic Districts" of the Madison General Ordinances is amended as follows:

**"41.12 CONSTRUCTING, ALTERING, OR DEMOLISHING STRUCTURES IN HISTORIC DISTRICTS.**

No person may do any of the following in a historic district without a ~~certificate of appropriateness~~ Certificate of Approval issued under Subchapter F:

- (1) Construct a new structure.
- (2) Materially alter the exterior of an existing structure.
- (3) Demolish or relocate an existing structure.
- (4) Install a sign.
- (5) Divide any lot, consolidate any lot, or voluntarily grant any easement on any lot if doing so may distract from the historic character of the district."

13. Subdivision (b) of Subsection (4) entitled "Appeal of Landmarks Commission Finding" of Section 41.15 entitled "Demolition by Neglect" of the Madison General Ordinances is amended as follows:

- "(b) An appeal under sub. (a) shall be filed with the City Clerk within ~~ten (10)~~ fourteen (14) days after the Landmarks Commission makes its finding. The appeal shall include the name and address of each petitioner, and shall specify the grounds for appeal. The City Clerk shall forward the petition to the Common Council."

14. Subchapter 41F entitled "Certificates of Appropriateness—Projects on Landmarks, Landmark Sites and in Historic Districts" of the Madison General Ordinances is amended as follows:

**"SUBCHAPTER 41F: CERTIFICATES OF ~~APPROPRIATENESS~~ APPROVAL—PROJECTS ON LANDMARKS, LANDMARK SITES AND IN HISTORIC DISTRICTS**

**41.16 CERTIFICATE OF ~~APPROPRIATENESS~~ APPROVAL REQUIRED.**

A ~~certificate of appropriateness~~ Certificate of Approval is required for all of the actions identified under Secs. 41.09 and 41.12.

**41.17 OBTAINING A CERTIFICATE OF ~~APPROPRIATENESS~~ APPROVAL.**

- (1) Application. A property owner may apply for a ~~certificate of appropriateness~~ Certificate of Approval for a proposed action under Sec. 41.16 related to that owner's property. The property owner shall file the application on a form approved by the Landmarks Commission. The property owner shall file the application with the City Planning Division, to the attention of the Preservation Planner. Every application shall include at least the following information unless otherwise indicated by the Preservation Planner:
- (a) Completed Application document.
  - (b) Narrative Description of the project.
  - (c) Architectural drawings, which may include:
    - 1. Scalable drawing set reduced to 11" x 17".
    - 2. Floor plans.
    - 3. Dimensioned site plans showing siting of structures, grading, landscaping, pedestrian and vehicular access, lighting, signage, and other features.
    - 4. Elevations of all sides showing exterior features and finishes, subsurface construction, floor and roof.
    - 5. Plan views of above- and below-grade levels and roof.
    - 6. For proposals of more than two (2) commercial or residential or combination thereof units, a minimum of two (2) accurate street-view normal perspectives shown from a viewpoint of no more than five (5) feet above existing grade.
  - (d) Any other information requested by the Preservation Planner to convey the aspects of the project.
  - (e) Signature of the property owner.
- (2) Review for Completeness. The Preservation Planner shall review each application under sub. (1) for completeness. When the Preservation Planner finds that an application is complete, the Preservation Planner shall stamp the application with the date of the completeness finding. The Preservation Planner shall promptly forward each complete

application to the Landmarks Commission unless, under Sec. 41.17(4), the Commission has authorized the Preservation Planner to administratively grant or deny the application.

- (3) Public Hearing: When Required. The Commission shall issue a notice under Sec. 41.06 and hold a public hearing on a complete application if the application proposes any of the following:
- (a) Demolition or removal of all or part of a landmark.
  - (b) Demolition or removal of a structure in a historic district.
  - (c) Construction of a new principal structure in a historic district or on a landmark site.
  - (d) Construction of an accessory structure with a footprint larger than ~~one hundred (100)~~ one hundred and fifty (150) square feet, not including decks and open porches, in a historic district or on a landmark site.
  - (e) Land divisions and combinations.
  - (f) Exterior alteration of a structure in a historic district or to a landmarked structure that increases the footprint of the structure more than ~~one hundred (100)~~ one hundred and fifty (150) square feet, not including decks and open porches.
- (4) Administrative Approval. The Landmarks Commission may authorize the Preservation Planner to act on an application for ~~certificate of appropriateness~~ Certificate of Approval on projects that do not require a public hearing, provided that the Commission shall first adopt written policies establishing which projects can be administratively approved by the Preservation Planner, and that the Preservation Planner follows the Commission's written policies when granting or denying applications under this provision.
- (5) Granting or Denying an Application. Within sixty (60) days of a completeness finding under Sec. 41.17(2), the Preservation Planner or Landmarks Commission shall, based upon the applicable standards in Sec. 41.18, approve, approve with conditions, or deny the application for ~~certificate of appropriateness~~ Certificate of Approval. Failure to approve or deny an application within sixty (60) days of a completeness finding shall be deemed a denial of the application, effective on the last day of the determination period. The determination period may be extended an additional sixty (60) days with the applicant's written agreement.
- (6) Issuance of a Certificate of Appropriateness Approval. Upon approval of an application, the Preservation Planner shall issue a ~~certificate of appropriateness~~ Certificate of Approval to the property owner.
- (7) Expiration of a Certificate of Appropriateness Approval. A ~~certificate of appropriateness~~ Certificate of Approval shall expire two (2) years from the date of issuance unless a building permit is obtained within such period.
- (8) Meeting Conditions of Approval. Upon conditional approval of a project by the Landmarks Commission, the applicant shall have one (1) year to meet the conditions of approval in order to secure the Certificate of ~~Appropriateness~~ Approval.
- (9) Administrative Extension of Approval. Where the plans still meet the conditions of approval from the Landmarks Commission and the Certificate of ~~Appropriateness~~ Approval has expired, the Preservation Planner may, after consultation with the Alderperson of the District, approve an extension of up to twelve (12) months from the expiration date.

#### **41.18 STANDARDS FOR GRANTING A CERTIFICATE OF APPROPRIATENESS APPROVAL.**

A ~~certificate of appropriateness~~ Certificate of Approval shall be granted only if the proposed project complies with this chapter, including all of the following standards that apply.

- (1) New Construction or Exterior Alteration. The Landmarks Commission shall approve a ~~certificate of appropriateness~~ Certificate of Approval for exterior alteration or construction only if:
  - (a) In the case of exterior alteration to a designated landmark, the proposed work would meet the Secretary of the Interior's Standards for Rehabilitation.
  - (b) In the case of exterior alteration or construction of a structure on a landmark site, the proposed work would meet the Secretary of the Interior's Standards for Rehabilitation.
  - (c) In the case of exterior alteration or construction on any property located in a historic district, the proposed exterior alteration or construction meets the adopted standards and guidelines for that district.
  - (d) In the case of any exterior alteration or construction for which a ~~certificate of appropriateness~~ Certificate of Approval is required, the proposed work will not frustrate the public interest expressed in this ordinance for protecting, promoting, conserving, and using the City's historic resources.
- (2) Demolition or Removal. In determining whether to approve a ~~certificate of appropriateness~~ Certificate of Approval for any demolition or removal of any landmark or structure within a historic district, the Landmarks Commission shall consider all of the following, and may give decisive weight to any or all of the following:
  - (a) Whether the structure is of such architectural or historic significance that its demolition or removal would be detrimental to the public interest and contrary to the general welfare of the people of the City and the State.
  - (b) Whether a landmark's designation has been rescinded.
  - (c) Whether the structure, although not itself a landmark structure, contributes to the distinctive architectural or historic character of the historic district as a whole and therefore should be preserved for the benefit of the people of the City and the State.
  - (d) Whether demolition or removal of the subject property would be contrary to the policy and purpose of this ordinance and/or to the objectives of the historic preservation plan for the applicable historic district as duly adopted by the Common Council.
  - (e) Whether the structure is of such old and unusual or uncommon design, method of construction, or material that it could not be reproduced or be reproduced only with great difficulty and/or expense.
  - (f) Whether retention of the structure would promote the general welfare of the people of the City and the State by encouraging study of American history, architecture and design or by developing an understanding of American culture and heritage.
  - (g) The condition of the property, provided that any deterioration of the property which is self-created or which is the result of a failure to maintain the property as required by this chapter cannot qualify as a basis for the issuance of a ~~certificate of appropriateness~~ Certificate of Approval for demolition or removal.
  - (h) Whether any new structure proposed to be constructed or change in use proposed to be made is compatible with the historic resources of the historic district in which the subject property is located, or if outside a historic district, compatible with the mass and scale of buildings within two hundred (200) feet of the boundary of the landmark site.



Prior to approving a ~~certificate of appropriateness~~ Certificate of Approval for demolition, the Landmarks Commission may require the applicant to provide documentation of the structure. Documentation shall be in the form required by the Commission.

- (3) Signs. The Commission shall approve a ~~certificate of appropriateness~~ Certificate of Approval for signs if it finds that the following are true:
- (a) Signs are located within the façade areas set aside for signs as part of the façade design or are integrated and compatible with the structure where the façade areas have not been set aside for signs;
  - (b) New signs shall be consistent with the traditional signage pattern locations on a structure or a property, and shall feature materials and style of illumination typical of the period of significance for the property or district;
  - (c) Signs shall comply with Chapter 31, MGO;
  - (d) Signs shall comply with specific standards and guidelines adopted for historic districts under this ordinance.
- (4) Land Divisions and Combinations. The commission shall approve a ~~certificate of appropriateness~~ Certificate of Approval for land divisions, combinations, and subdivision plats of landmark sites and properties in historic districts, unless it finds that the proposed lot sizes adversely impact the historic character or significance of a landmark, are incompatible with adjacent lot sizes, or fail to maintain the general lot size pattern of the historic district.

#### **41.19 VARIANCES.**

- (1) General. A property owner who applies for a ~~certificate of appropriateness~~ Certificate of Approval under Subchapter F may request a variance from one or more standards under Sec. 41.18. The Landmarks Commission may vary one or more standards under Sec. 41.18 for any of the following reasons:
- (a) Economic hardship under sub. (4) below.
  - (b) Historic design under sub. (5) below.
  - (c) Alternative design under sub. (6) below.
  - (d) Projects which are necessary for the public interest under sub. (7) below.
- (2) Variance Request. A property owner shall make a variance request under sub. (1) above on a form approved by the Landmarks Commission. The request shall include:
- (a) The name and address of the property owner.
  - (b) The location of the property to which the request pertains.
  - (c) The ~~certificate of appropriateness~~ Certificate of Approval application under Sec. 41.17 to which the variance request pertains.
  - (d) The type of variance requested under sub. (1).
  - (e) The specific standard or standards under Sec. 41.18 from which the owner requests a variance.
  - (f) The circumstances and supporting evidence that justify the requested variance.
  - (g) Any other materials requested by the Preservation Planner or Landmarks Commission.
- (3) Hearing, Decision, and Appeal.
- (a) The Landmarks Commission shall hold a public hearing on each variance request under sub. (1). The Commission shall give notice of the hearing as provided in Sec. 41.06. The Commission may combine the hearing with a hearing on the proposed ~~certificate of appropriateness~~ Certificate of Approval to

which the variance request pertains, provided that the hearing notice identifies both items.

- (b) After it holds a public hearing on a variance request, the Commission shall grant or deny the request.
  - (c) The Commission's decision under par. (b) may be appealed to the Common Council, as provided under Sec. 41.20.
- (4) Economic Hardship Variance. The Landmarks Commission may grant a variance from a standard under Sec. 41.18 if all of the following apply:
- (a) Strict literal application of the standard would deny the property owner a reasonable rate of return on investment, or would impose upon the property owner an unreasonable and unnecessary financial hardship.
  - (b) The circumstances justifying the variance are unique to the property in question, and,
    - 1. Were not caused by the owner's failure to maintain the property as required by this chapter; and
    - 2. Does not apply to a substantial portion of the historic district or historic resources within two hundred (200) feet of the subject property; and
    - 3. Will not alter the historic character of the historic district or historic resources within two hundred (200) feet of the subject property.
  - (c) The property owner documents the circumstances justifying the variance. The Landmarks Commission may publish evidentiary guidelines to assist property owners, and to ensure the Commission receives adequate documentation for variances granted under this subsection. Required documentation includes:
    - 1. Property purchase costs;
    - 2. Rental income;
    - 3. Real estate listings, disclosure statements, asking prices, and purchase offers;
    - 4. Tax assessments and real estate listing for comparable properties;
    - 5. Improvements made, and improvement costs incurred, during ownership;
    - 6. Routine maintenance costs incurred during ownership;
    - 7. Costs to comply with the standard from which a variance is requested;
    - 8. Other documentation reasonably requested by the Landmarks Commission.
- (5) Historic Design Variance. The Landmarks Commission may grant a variance allowing, as part of the alteration of an existing structure, elements otherwise prohibited under Sec. 41.18 if all of the following apply:
- (a) The property owner provides photographic or other evidence to show that other local structures, of similar age and style, incorporated similar elements as part of the original design.
  - (b) The proposed alteration complies with all other applicable standards under Sec. 41.18.
  - (c) The alteration will not destroy significant architectural features on the building.
- (6) Alternative Design Variance. The Landmarks Commission may grant a variance allowing, in a new or altered structure, elements that are otherwise prohibited under Sec. 41.18 if all of the following apply:
- (a) The elements will enhance the quality of the design.

- (b) The design complies with all other applicable standards under Sec. 41.18.
  - (c) The design does not allow material deviations from historic district standards and guidelines that would undermine the character or purpose of the historic district.
  - (d) The design will have a beneficial effect on the historic character of the area within two hundred (200) feet of the subject property.
- (7) **Public Interest Variance.** The Landmarks Commission may grant a variance allowing the construction of a new structure, or the alteration, demolition or removal of an existing structure, which would otherwise be prohibited under Sec. 41.18, if the Commission finds that a variance is necessary in the public interest. A variance is necessary in the public interest if the Commission finds all of the following:
- (a) The proposed building, object, site or structure provides unique, high priority benefits to the general public.
  - (b) The benefits to the general public under sub. (7)(a) above substantially outweigh the strong public interest in preserving historic resources expressed in this chapter.
  - (c) There are no reasonable alternatives to granting a variance that would allow the proposed project to occur in the city and satisfy the standards of this chapter.

#### **41.20 APPEAL TO COMMON COUNCIL.**

- (1) The applicant, the alder of the district in which the subject property is located, or the owners of twenty percent (20%) of the number of parcels of property within two hundred (200) feet of the subject property may appeal to the Common Council the decision of the Landmarks Commission to approve or deny a ~~certificate of appropriateness~~ Certificate of Approval or variance request.
- (2) The appellant(s) shall file a petition of appeal with the City Clerk within ~~ten (10)~~ fourteen (14) days of the Landmarks Commission's final decision. The petition shall indicate the identity and address of the petitioners and the specific grounds for appeal.
- (3) Once a petition is filed, the City Clerk shall forward the petition to the Common Council. The Common Council shall set the appeal for a public hearing.
- (4) After a public hearing, the Common Council may, by favorable vote of a majority of its members, reverse or modify the decision of the Landmarks Commission with or without conditions, or refer the matter back to the Commission with or without instructions, if it finds that the Commission's decision is contrary to the applicable standards under Secs. 41.18, 41.19, or any district-specific standards contained in Subchapter G.

#### **41.21 PENALTIES FOR FAILURE TO OBTAIN CERTIFICATE OF APPROPRIATENESS APPROVAL.**

- (1) **Permits.** The Building Inspector shall not issue a permit allowing alteration, construction, demolition, removal, or for any other action for which a ~~certificate of appropriateness~~ Certificate of Approval is required unless the certificate has been approved by the Commission and issued by the Preservation Planner or designee.
- (2) **Prohibition.** No owner, operator, or person in charge of a landmark, landmark site or structure within an historic district shall cause or permit any painting of signs, alteration, construction, demolition or removal for which a ~~certificate of appropriateness~~ Certificate of Approval is required unless such Certificate has been approved by the Commission.
- (3) **Penalty for Work Done Without, or in Violation of, a Certificate of Appropriateness Approval.** In addition to any other penalty provided in this chapter, the Landmarks Commission, may order the removal or modification of any alteration, construction or other work that was performed without a required ~~certificate of appropriateness~~ Certificate of Approval, or that was not performed in compliance with the conditions of a

lawfully issued ~~certificate of appropriateness~~ Certificate of Approval, when such work does not meet the applicable standards for a certificate under Subchapter F of this ordinance. Alternatively, the Commission may order renovation to make such work comply with those standards.”

15. Subsection (1) of Section 41.22 entitled “Spectrum of Review” of the Madison General Ordinances is amended as follows:

“(1) Property owners should conduct Maintenance activities in compliance with the historic district Standards for Maintenance. When a project only involves Maintenance work, it does not require a Certificate of ~~Appropriateness~~ Approval.”

16. Subdivision (a) of Subsection (1) entitled “General” of Section 41.24 entitled “Standards for Repairs” of the Madison General Ordinances is amended as follows:

“(a) This section provides standards for building or site repair when the scope of a project exceeds normal on-going maintenance and a limited amount of repair of any exterior element is necessary. Work beyond the level described below, as determined by the Preservation Planner, shall be considered an alteration and be governed by the Standards for Alterations section (Sec. 41.25).”

17. Subdivision (b) entitled “Materials and Features” of Subdivision (1) entitled “General” of Section 41.25 entitled “Standards for Alterations” of the Madison General Ordinances is amended as follows:

“(b) Materials and Features

1. Alterations shall be in keeping with the original design and character of the building or site.
2. The removal of historic features on elevations visible from the developed public right-of-way is prohibited.
3. The introduction of conjectural architectural features without historic precedent on the building or site is prohibited.”

18. Subdivision (a) entitled “Openings” of Subsection (5) entitled “Windows and Doors” of Section 41.25 entitled “Standards for Alterations” of the Madison General Ordinances is amended as follows:

“(a) Openings.

1. A limited number of openings in walls above the foundation not visible from the developed public right-of-way or stepped back twelve (12) feet from the front edge of the building may be filled in a manner that retains the original opening pattern and size, and is similar in design, scale, architectural appearance, and other visual qualities of the surrounding wall.

2. New window or door openings may be added to elevations not visible from the developed public right-of-way or stepped back twelve (12) feet from the front edge of the building.
3. The new openings and the windows or doors in them shall be compatible with the overall design of the building.”

19. Subdivision (b) entitled “Balconies and Decks” of Subsection (6) entitled “Entrances, Porches, Balconies and Decks” of Section 41.26 entitled “Standards for Additions” of the Madison General Ordinances is amended as follows:

(b) Balconies and Decks.

1. Rear yard decks shall be constructed so that they are not visible from the developed public right-of-way to which the building is oriented.
2. Spaces beneath decks and stairs visible from the developed public right-of-way shall be screened.
3. All parts of the deck or balcony, except the flooring and steps, shall be painted or opaquely stained.
4. Projecting, partially projecting, and inset balconies are prohibited on elevations ~~visible from~~ facing the developed public right-of-way. Balconies that are not on elevations facing the developed public right-of-way shall be minimally visible when there is not precedent on historic resources in the district.

20. Subdivision (b) entitled “Balconies and Decks” of Subsection (6) entitled “Entrances, Porches, Balconies and Decks” of Section 41.27 entitled “Standards for New Structures” of the Madison General Ordinances is amended as follows:

(b) Balconies and Decks.

1. Projecting, partially projecting/inset, and inset balconies are prohibited on elevations ~~visible from~~ facing the developed public right-of-way, unless there is precedent on the historic resources in the district. Balconies that are not on elevations facing the developed public right-of-way shall be minimally visible when there is not precedent on historic resources in the district.

21. Subdivision (c) of Subsection (7) entitled “Review for Historic Value” of Section 28.185 entitled “Approval of Demolition (Razing, Wrecking) and Removal” of the Madison General Ordinances is amended as follows:

- “(c) Nothing in this subsection eliminates the requirement in MGO Secs. 41.09(1)(c) and 41.12(3) that the demolition of landmark structures or structures in historic districts must also be approved by the Landmarks Commission through the issuance of a Certificate of ~~Appropriateness~~ Approval.”

22. Paragraph 2 of Subdivision (c) entitled “Standards of Approval” of Subsection (9) entitled “Plan Commission Approval” of Section 28.185 entitled “Approval of Demolition (Razing, Wrecking) and Removal” of the Madison General Ordinances is amended as follows:

“2. The applicant has received a Certificate of ~~Appropriateness~~ Approval from the Landmarks Commission under MGO Secs. 41.09(1)(c) and 41.12(3), if applicable.”

23. Subsection (1) entitled “Historic Districts and Landmarks” of Section 31.13 entitled “Districts of Special Control for Purposes of Signs” of the Madison General Ordinances is amended as follows:

“(1) Historic Districts and Landmarks. The requirements of this Chapter shall apply to all signs to be displayed in an historic district, on a landmark, or a landmark site, as defined in Sec. 41.02, MGO. In addition, all applications for a sign permit in an historic district, on a landmark, or a landmark site shall be reviewed and approved by the Landmarks Commission pursuant to applicable procedures in the Historic Preservation Ordinance, Chapter 41, MGO, including Sec. 41.18(3) regarding a ~~certificate of appropriateness~~ Certificate of Approval for signs. In the event of a conflict between this section and Chapter 41, the more strict provision shall apply.”

24. Subsection (3) entitled “Schedule of Deposits” of Section 1.08 entitled “Issuance of Citations and Complaints for Violations of Certain Ordinances and Providing a Schedule of Cash Deposits” of the Madison General Ordinances is amended by amending therein the following:

<u>“Offense</u>	<u>Ord. No./Adopted Statute No.</u>	<u>Deposit *</u>
Failure to maintain.	41.14	\$250, 1st \$500, 2nd \$1,000, 3rd & subs.
Failure to obtain Certificate of <del>Appropriateness</del> <u>Approval</u> .	41.21	\$250, 1st \$500, 2nd \$1,000, 3rd & subs.”