

Date: November 3, 2014
To: LORC Members
From: David Mollenhoff
Subject: The Case for Locating Madison's New Landmark Ordinance in Chapter 41

Introduction

At the LORC meeting on October 9, our Madison Alliance Ordinance Committee suggested that you select Chapter 41 of Madison's Code of Ordinances as the location for the new Landmarks Ordinance. We were pleased to see your favorable response to this concept.

Today we are providing a complete draft of the new ordinance in the Chapter 41 format for your discussion on November 6.

In this memo, I will summarize the reasons why our committee believes that this location and format are best for the landmarks ordinance.

Reason #1: Chapter 33 was not intended as a place where operating standards, procedures, and policies of regulatory bodies should be located.

In fact, the very limited purpose of Chapter 33 is "to compile in one location the ordinances establishing and regulating city boards, commissions, and committees."

If you analyze the 34 boards, commissions, and committees that are established and regulated by Chapter 33, you see that 32 of these bodies require an average of just 1.1 pages of text. The two exceptions, the Landmarks Commission and the Urban Design Commission, require 32 and 59 pages, respectively. Appendix A summarizes these calculations

We believe that Chapter 33 should *only* be used to establish the Landmarks Commission and that an entire separate chapter should be devoted to its standards and procedures, and policies.

What the City did with the Alcohol License Review Committee illustrates the correct protocol: It was created in chapter 33 and its standards, procedures, and policies were located in Chapter 38.

Reason #2: Several vacant chapters are available in the Code of Ordinances for the Landmarks Ordinance.

As shown in Appendix B, they are chapters 41, 42, 43, and 44. We picked Chapter 41 because it was the first available chapter.

Reason #3: Placing the landmarks ordinance in a single section of Chapter 33 forces too much text into too little space; conversely, devoting Chapter 41 to the Landmarks Ordinance allows this complex law to be organized in a clear, orderly, and readable form.

Unlike the electrical, plumbing, and building codes that are typically used by professionals, the landmarks ordinance is mostly used by lay persons. Therefore, all reasonable steps should be taken to make it user-friendly.

One of the greatest advantages of the Chapter 41 format is that it allows the ordinance to be divided into *subchapters and subsections*, which allows key elements to be organized into clusters that make sense to readers. This advantage is shown in Appendix C.

Reason #4: Placing the Landmarks Ordinance in Chapter 41 will give it two qualities it deserves: greater visibility within the Code of Ordinances and parity with other city functions.

As time goes by and larger are parts of the city are eligible for landmarks and historic districts, the relative importance of the Landmarks Ordinance will grow. This means that Madison's ordinance should have greater visibility within the Code of Ordinances. A quick glance at Appendix B will make this point clear.

Both today's ordinance and the current draft ordinance keep the Landmarks Ordinance hidden in the omnibus Chapter 33. Placing the ordinance in Chapter 41 gives it parity with other important city codes housing, zoning, building, HVAC, sign control, landlord-tenant, and fire prevention.

Reason #5: Earmarking Chapter 41 for the Landmarks Ordinance will allow Madison to have a state-of-the-art ordinance.

From the beginning of Madison's history, civic leaders have recognized that this city boasts attributes that make it very special. They include natural beauty, the state capitol, the state university, a unique isthmus site, and a rare European-style radial street plan. Very importantly, throughout its history civic leaders have demanded high standards to protect and enhance Madison special qualities.

Madison's new landmark ordinance creates another opportunity to demand the best for our special city by giving state-of-the art protection for our historic resources.

Two final and very important points:

● I have been active in city and civic affairs for 47 years and I can tell you that I have never seen anything that even comes close to what James Matson has done with his November 1, draft. He has not only prepared a conspicuously clear state-of-the-art ordinance, but he has provided a detailed plain language summary of what's in the ordinance and why. What he has done is extraordinary! I hope you appreciate the rarity and excellence of what he has given you.

● We are not saying that you should adopt this draft of Chapter 41 *as is*. Every word should be scrutinized and some parts of our draft will trigger conversations about best policies, best standards, and best procedures. We welcome those conversations. Our key point is that locating the new landmarks ordinance in chapter 41 is the best location and format for an increasingly important function of City government. We hope you agree.

cc: Landmark Commission members
Amy Scanlon
John Strange
Alder Ledell Zellers

APPENDIX A**Summary of Space Allocated to Boards, Commissions and Committees in Chapter 33**

dvm, 11-03-14

Name of board, commission, or committee	Number of pages allocated in Chapter 33
Alcohol License Review Committee	3.5
Board of Assessors	.5
Board of Canvassers	.33
Board of Park Commissioners	1.5
Board of Police and Fire Commissioners	.25
Board of Public Works	5.0
Board of Review	.5
City-County Commissions	.75
Committee on the Environment	1.0
Committee on Community Gardens	.5
Common Council Organizational Committee	1.0
Committee on Aging	1.0
Community Development Block Grant Committee	1.0
Community Services Committee	2.0
Economic Development Commission	.75
Community Development Division Committee	.5
Landmarks Commission	32.0
Madison Cultural Arts District Board	2.5
Monona Terrace Community and Convention Center Board	3.0
Public Safety Review Committee	.5
Solid Waste Advisory Committee	.5
Urban Design Commission	59.0
Ho-Chunk Nation-City of Madison Joint Planning Committee	.25
Staff Committees	1.25
Education Committee	.2
Madison Election Advisory Committee	.1
Jeffrey Clay Erlanger Civility in Public Discourse Award	.1
Sustainable Madison Committee	.33
Joint Campus Area Committees	1.25
Sister City Collaboration Committee	.5
Housing Strategy Committee	.75
Madison Arts Commission	2.0
Food Policy Council	1.0
Digital Technology Council	1.0

After removing the two “elephants” from this chapter, the Landmarks Commission and the Urban Design Commission, the average number of pages devoted to the 32 remaining bodies averages 1.1 pages.

APPENDIX B

Madison, WI Code of Ordinances, 2014

Chapter 1	Construction and Effect of Ordinances and their Publication
Chapter 2	Standing Rules for the Government of the Common Council
Chapter 3	Officials, Boards, Employees, and Public Records
Chapter 4	Finance
Chapter 5	Police Department and Police Regulations
Chapter 6	Fire Department and Fire Regulations
Chapter 7	Public Health
Chapter 8	Public Property
Chapter 9	Licenses and Permits
Chapter 10	Streets, Alleys, Sidewalks, and Gutters
Chapter 11	Public Utilities
Chapter 12	Vehicle Code
Chapter 13	Public Water Supply System
Chapter 14	Public Waters and Shorelines
Chapter 15	Aldermanic Districts and Wards
Chapter 16	General Planning
Chapter 17	Radio, Television, and Electronic
Chapter 18	Plumbing Code
Chapter 19	Electrical Code
Chapter 20	Impact Fee Ordinance
Chapter 21	Nonmetallic Mining Reclamation Ordinance
Chapter 22	Consumer Protection and Weights and Measures
Chapter 23	Offenses Against Public Policy
Chapter 24	Offenses Against Peace and Quiet
Chapter 25	Offenses Against Public Safety
Chapter 26	Offenses Against Public Moral and Decency
Chapter 27	Minimum Housing and Property Management
Chapter 28	Zoning Code
Chapter 29	Building Code
Chapter 30	Heating, Ventilating, and Air Conditioning
Chapter 31	Sign Control Ordinance
Chapter 32	Landlord and Tenant
Chapter 33	Boards, Commissions, and Committees
Chapter 34	Fire Prevention Code
Chapter 35	The Public Sewerage System
Chapter 36	Video and Cable Television Service Providers
Chapter 37	The Public Stormwater System including Erosion Control
Chapter 38	Alcohol Beverage Regulated
Chapter 39	Department of Civil Rights
Chapter 40	Conveyance Code
Chapter 41	Vacant, Landmarks Commission ?
Chapter 42	Vacant
Chapter 43	Vacant
Chapter 44	Vacant
Chapter 45	Repeal

APPENDIX C

Comparison of Organizational Formats: Chapter 33.19 and Chapter 41

dvm, 11-03-14

Shown below in side-by-side columns are the two ways of organizing the Landmarks Ordinance. Notice how the Chapter 41 use of subchapter titles and sections provides a much more transparent,coherent and user-friendly way to organize this complex ordinance.

Chapter 33, June 24, 2014 Draft	Chapter 41, Alliance Ordinance Committee
<p>33.19 Landmarks Commission</p> <ul style="list-style-type: none"> (1) Purpose and Intent (2) Definitions (3) Landmarks Commission Composition and Terms (4) Powers and Duties (5) Powers and Duties of the Preservation Planner (6) Public Hearing Notices under this Section (7) Designation of Landmarks (8) Rescission (9) Creation and Amendment of Historic Districts (10) Obligation to Maintain Landmarks, Landmark Sites and Historic Districts, Compliance with Regulations, Penalties for Violations, Demolition by Neglect (11) Certificate of Appropriateness (12) Standards for Certificate of Appropriateness (13) Appeal (14) Conditions Dangerous to Life, Health or Property (15) Waivers (16) Harmonization of Regulations (17) Computation of Time (18) Separability (19) Mansion Hill Historic District (20) Third Lake Ridge Historic District (21) University Heights Historic District (22) Marquette Bungalows Historic District (23) First Settlement Historic District 	<p>Subchapter I – General Provisions</p> <ul style="list-style-type: none"> 41.01 – Policy and purpose 41.02 – Definitions 41.03 – Other general provisions <p>Subchapter II – Landmarks Commission</p> <ul style="list-style-type: none"> 41.04 Authority and duties 41.05 Preservation planner 41.06 Hearings and public notices <p>Subchapter III – Landmarks</p> <ul style="list-style-type: none"> 41.07 Designating landmarks 41.08 Rescinding a landmark designation 41.09 Maintaining landmarks 41.10 Altering landmarks 41.11 Demolishing landmarks <p>Subchapter IV – Historic Districts; General</p> <ul style="list-style-type: none"> 41.12 Designating and amending historic districts 41.13 Maintaining structures in historic districts 41.14 Constructing, altering, relocating or demolishing structures in historic districts <p>Subchapter V – Certificates of Appropriateness</p> <ul style="list-style-type: none"> 41.15 Certificates of appropriateness; general 41.16 Landmarks; standards for certificates of appropriateness 41.17 Historic districts; standards for certificates of appropriateness 41.18 Variances <p>Subchapter V – Enforcement and Penalties</p> <ul style="list-style-type: none"> 41.19 Enforcement and penalties. <p>Subchapter VI – Planning, Coordinating and Promoting Historic Preservation</p> <ul style="list-style-type: none"> 41.20 Planning, Coordinating and Promoting Historic Preservation <p>Subchapter VII – Designated Historic Districts; District-Specific Standards</p> <ul style="list-style-type: none"> 41.21 Mansion Hill historic district 41.22 Third Lake Ridge historic district 41.23 University Heights historic district 41.24 Marquette Bungalows historic district 41.25 First Settlement historic district