

**CITY OF MADISON
OFFICE OF THE CITY ATTORNEY
Room 401, CCB
266-4511**

Date: March 24, 2022

MEMORANDUM

TO: City of Madison Common Council & City of Madison Landmarks Commission

FROM: Kate M. Smith, Assistant City Attorney

RE: Supplemental Drafters Analysis for Legistar file #6581

The Common Council created the Landmarks Ordinance Review Committee (LORC) in 2014 for the sole purpose of reviewing and drafting the first comprehensive revision to the Landmarks ordinance. The work of LORC was designed in two phases, the first (“LORC 1”) was completed in 2015 and the ordinance presented here represents the second phase (“LORC 2”). LORC 2 was tasked with updating the process for how the Landmarks Commission conducts project reviews in the City’s five historic districts.

LORC 1, Legistar file # [34577](#), adopted by the Common Council July 21, 2015 contained massive structural and organizational changes. ACA John Strange wrote a [memorandum](#) detailing each subchapter and highlighting key textual and policy changes. The ordinance before the Council tonight represents the culmination of the work of LORC 2 and the Landmarks Commission to completely revise the historic preservation ordinance.

Currently, MGO Chapter 41 contains separate subsections on each of the City’s five historic districts with separate standards and processes. The processes written at the time of adoption of each historic district [Mansion Hill (1976), Third Lake Ridge (1979), University Heights (1985), Marquette Bungalows (1993), and First Settlement (2002)] reflected best practices in preservation at the time that they were created. While each new historic district benefitted from lessons learned from administering the existing historic districts, none of the previously designated districts received updates to align their process and standards with best practices. The lack of consistency between the districts and the problems created by vague standards in the early districts was one of the principal reasons for the Common Council to create LORC.

The current LORC ad hoc committee consists of five Alders (Keith Furman, Patrick Heck, Arvina Martin, Regina Vidaver, and Tag Evers) and one community member (Marsha Rummel). The committee began its second phase (LORC 2) in 2017 by hosting public meetings in each historic district, a total of fifteen public meetings. The meetings were to gather feedback on how to best update the process for the districts. LORC 2 then

undertook regular meetings to redraft the historic district portion of the ordinance, which is before you tonight.

Near the end of their drafting process in February 2022, the committee hosted three additional public Zoom meetings to gather feedback from stakeholder groups and presented a draft ordinance to the public. The first was an all districts meeting, which included breakout sessions for each historic district. The second was for development professionals and contractors and the final meeting addressed the topic of new construction in the districts. Staff also solicited feedback on the draft through emails, phone calls and website submittals. Staff then compiled all the feedback and presented the materials at the LORC 2 meeting on March 3, 2022. At the meeting, the committee voted to advance the ordinance to Common Council for introduction.

This memo discusses the changes to Chapter 41 as they chronologically appear in the draft ordinance.

1. Several definitions in MGO Sec. 41.02 are changed. “Building,” “Construction,” “Historic Resource,” “Landscape,” “Landscape Feature,” and “Object” are all amended for editorial consistency within the Chapter. “Certificate of Appropriateness” is edited to amend language to reference “historic resource.” “Developed Public Right of Way” is a new definition added to MGO Chapter 41 because the phrase is used later in the ordinance. “Development” and “Height (of a building)” are amended to be consistent with zoning code definitions in MGO Chapter 28.
2. MGO Sec. 41.03(5) is amended to include accounting for landmark properties that might have multiple historic resources within the two hundred (200) foot measurement. In addition, measurement is clarified for historic districts.
3. MGO Sec. 41.05 is edited for gender-neutral pronouns.
4. MGO Sec. 41.11(1)(d) is amended to clarify how historic districts can be nominated.
5. MGO Sec. 41.11(2) “Development Standards and Guidelines” is deleted since a new section creating uniform standards and guidelines across all five historic districts is included in the new ordinance sections. MGO Sec. 41.11(2) is replaced, along with the creation of MGO Secs. 41.11(3) – (6), listing the five historic districts. Each listed section also includes the period of significance for each historic district.
6. MGO Sec. 41.14(b) & (c) is amended to allow the Building Inspector “or designee” to issue official written notices and notifications to the Preservation Planner for

violations of Chapter 41. This change is consistent with procedure in the Building Code.

7. MGO Sec. 41.14(3) is amended to include gender-neutral pronouns
8. MGO Sec. 41.15(1) is amended to allow the Building Inspector *or designee* to give written notice beginning a demolition by neglect investigation. This change is consistent with similar existing building code procedures.
9. MGO Sec. 41.18(3) “Signs” is amended to clarify the standards the Landmarks Commission uses for issuing a certificate of appropriateness for signs associated with historic resources.
10. Subchapter 41G “Designated Historic Districts, Historic District Ordinances” is repealed entirely and replaced by a new Subchapter 41G “Historic District Standards”. The new 41G subchapter includes universal standards for all historic districts including the following:
 - a. MGO Sec. 41.22 “Spectrum of Review” addresses when property owners are able to do work without needing a Certificate of Appropriateness, the Preservation Planner approval or the Landmarks Commission vote. If work is exclusively maintenance, property owners do not need to get City approval. The Preservation Planner is able to administratively approve repair and alterations proposals if they conform to Landmarks Commission policy. The Landmarks Commission makes decisions on applications for additions and all new construction.
 - b. MGO Sec. 41.23 “Standards for Maintenance” is created to provide details on how property owners are required to maintain all structures in historic districts. This section provides standards for maintenance of the building site, exterior walls, roofs, windows, doors, entrances, porches, balconies and decks. The priority of maintenance is to proactively and continually maintain structures to preserve the integrity with the least degree of intervention. If the work exceeds the levels described in the subgroups, then the work is considered a repair and governed by MGO Sec. 41.24.
 - c. MGO Sec. 41.24 “Standards for Repairs” is created to provide standards for repairs when the scope of work exceeds normal maintenance. If the work required goes beyond this threshold, it is considered an alteration and MGO Sec. 41.25 applies. Repair standards are outlined for the building

site, walls, roofs, windows, doors, entrances, porches, balconies, and decks.

- d. MGO Sec. 41.25 “Standards for Alterations” is created. Alterations are any changes to the exterior of a building or site that replaces existing materials or changes its appearance. This section provides standards for alterations for materials and features and replacement of existing features. It also addresses accessibility to the historic building. In response to community feedback, MGO Sec. 41.25(e) addresses how to replace a feature due to lead paint. Finally, MGO Sec. 41.25 provides specific standards for alterations of exterior walls, roofs, windows, doors, entrances, porches, balconies, decks and building systems (including solar).
- e. MGO Sec. 41.26 “Standards for Additions” is created for new additions to historic structures. It addresses where additions are allowed, limitations on materials and features, and accessibility. MGO Sec. 41.26(1)(d)1. prohibits certain additions in the Marquette Bungalows Historic District based on height. Finally, specific standards across all districts are outlined for exterior walls, roofs, windows, doors, entrances, porches, balconies, decks and building systems (including solar).
- f. MGO Sec. 41.27 “Standards for New Structures” addresses proposed new structures in a historic district. New structures must be visually compatible with other historic resources within two hundred (200) feet. Since all new structures in historic districts are decided by the Landmarks Commission, this section provides standards on how to determine visual compatibility. This section also address specific requirements for building sites, exterior walls, roofs, windows, doors, entrances, porches, balconies, decks, and building systems (including solar).