
INTRODUCTION

The purpose of this basic policy and procedures manual is to put into one document a list of the current activities, procedures and basic policies of the City of Madison Landmarks Commission.

This manual is general in nature, but includes helpful references to specific ordinances further describing the role of the Landmarks Commission.

The Landmarks Commission is given authority by Madison General Ordinances (MGO) Chapters 33, 41, and 28, which specify the criteria for actions by the Commission or places the Commission in an advisory role.

In compliance with [MGO 33.01\(9\)\(b\)](#), the Landmarks Commission may adopt rules of procedure.

RULES OF PROCEDURE

The following rules of procedure were adopted by the Landmarks Commission (“the Commission”) to facilitate the performance of its duties and the exercising of its powers as outlined in the Madison General Ordinances.

a) Commission Leadership

In June of odd numbered years, the Commission shall elect a Chair and a Vice-Chair. In the absence of the Chair, the Vice-Chair shall serve as Chair. In the absence of both the Chair and Vice-Chair, the Commission shall select an acting Chair from its membership.

The Preservation Planner or their designee shall serve as Secretary to the Commission.

b) Orientation for New Commissioners

As new Commission members are appointed, each shall be furnished with a membership roster, calendar of meeting dates, a Policy and Procedures Manual that includes rules of procedure, relevant ordinances and standards, maps of local historic districts, and a list of designated landmarks. Staff will schedule orientation meetings with new members to provide information and review policy and procedures. New members are encouraged to attend the training sessions offered for all city boards and commissions on rules governing open records and open meetings, as well as ethical standards of conduct. They are also encouraged to view the Historic Preservation Commission Training online instruction offered by the Wisconsin Historical Society.

c) Quorum

Four members shall constitute a quorum for the transaction of business and the taking of official action. A majority of the quorum present is required for approval of a project. In cases where a vote of the Chair will change the outcome of a project, the Chair must vote. Whenever a quorum is not present within fifteen (15) minutes of the scheduled meeting time, the Commission shall adjourn without taking any action, except that it may set a date and time for its next meeting. See [Madison General Ordinances 33.01\(8\)](#).

d) Parliamentary Procedure

Robert's Rules of Order shall govern parliamentary procedure in Commission meetings, except that any Madison General Ordinance or Commission procedural rule shall take precedence over Robert's Rules of Order.

The Landmarks Commission is required to utilize the Common Council's process for Reconsideration. See [Madison General Ordinances 2.21 \(2013\)](#).

The following processes will differ from Robert's Rules of Order: (a list will be provided here if typical processes are found to differ)

e) Secretary

The Preservation Planner is a staff member of the Department of Planning and Community and Economic Development, Planning Division. The Preservation Planner shall serve as the Secretary of the Landmarks Commission and carry out the duties that the Landmarks Commission properly delegates to the Preservation Planner under Chapter 41. In carrying out those duties, the Preservation Planner shall exercise their own professional judgment and expertise, consistent with Chapter 41 and subject to general oversight by the Landmarks Commission.

f) Designees

The Historic Preservation Ordinance allows the Landmarks Commission to identify designees for the purposes of approving projects that will have little effect on the exterior appearance of the property. The Secretary shall be the designee. The Secretary and the Landmarks Commission shall appoint other designees as appropriate and revise this document as required.

As Secretary, the Preservation Planner and the Community and Cultural Resources Planner is hereby appointed as the designee of the Commission and is able to review Category 1, 2 and 3 projects. William Fruhling or Rebecca Cnare are hereby appointed to review Category 1 and Category 2 projects. When the Preservation Planner or the Community and Cultural Resources Planner is unavailable, William Fruhling or Rebecca Cnare may review Category 3 projects and act as the Secretary of the Commission. Building Inspection Support staff and Plan Review & Permitting staff are hereby appointed to review Category 2 projects. Please refer to the Designee Review Process on page 6.

No one else is permitted to issue Certificates of Appropriateness on behalf of the Landmarks Commission.

g) Records

1. Agendas

The Secretary shall prepare an agenda for each meeting. The agenda shall be approved by the Chair. The agenda appears on the City's Legislative Information Center website, which is available on the main City website.

The order of business will be as follows:

- I. Roll Call
- II. Minutes
- III. Public Comment
- IV. Disclosures and Recusals
- V. Adjacency to Landmarks Advisory Recommendations
- VI. Requests for Certificates of Appropriateness (requiring a public hearing)
- VII. Request for Certificates of Appropriateness (not requiring a public hearing)
- VIII. New Business
- IX. Unfinished Business
- X. Regular Business
- XI. Secretary's Report
- XII. Buildings Proposed for Demolition
- XIII. Adjournment

All requests to be placed on the Commission agenda shall be received by the Planning Division Office by the submission deadline. The Secretary shall determine whether the submissions are complete and in proper form.

2. Minutes and Action Reports

The Secretary shall prepare the minutes for each meeting. The minutes appear on the City's Legislative Information Center website, which is available on the main City website.

A copy of the minutes of the past meeting is provided with the agenda for the next meeting. The originals of the Commission minutes are kept in the Planning Division Office.

The Secretary shall prepare the action reports for each meeting. The action reports shall be reviewed as part of the meeting minutes. The Secretary shall provide the action reports of the Commission to other Commissions or staff persons as required by ordinance, as needed for the development review process, or for facilitation of the preservation program.

3. Communications, Petitions, etc.

All communications, petitions, and reports should be addressed to the Commission and emailed, delivered, or mailed to the Secretary. Commission members shall report and forward to the Secretary any individual communications they receive.

Written comments should be submitted 24 hours in advance of the meeting. Comments received less than 24 hours in advance of the meeting may not be processed for review at the meeting, but will be added to the public record as time allows.

4. Reports to other Bodies (the Urban Design Commission, Plan Commission, and Common Council)

The Secretary shall report the action of the Commission to the Urban Design Commission, Plan Commission and Common Council on all matters as appropriate.

The Secretary shall provide the action reports of the Commission to other Commissions or staff persons as required by ordinance, as needed for the development review process, or for facilitation of the preservation program.

5. Public Record

All Commission agendas, meeting minutes, action reports, communications, petitions, and miscellaneous reports shall be available on the City's Legislative Information Center website, which is available on the main City website.

h) Conduct of Meetings

Members of the public who wish to speak on agenda items shall register to speak by registering online or completing a registration form for in-person meetings. Sign in shall be allowed up to the time of discussion for each agenda item.

Testimony before the Commission is limited to three (3) minutes; and additional time may be allowed with the consent of the Commission. The Chair and Secretary shall monitor the time.

The Chair shall endeavor to keep testimony focused, and to maintain the decorum of the meeting.

No argumentative questioning of the Commission or speakers shall be permitted, and no member of the public may question another speaker. Speakers may direct questions to the Chair during their testimony; questions will be noted, and may be answered at the appropriate time during the hearing. Any Commission member may question a speaker on the facts presented or for clarification of a statement made.

For the purposes of a public hearing, the Chair shall open the public hearing and call on registrants in order of their registration. The name of each person appearing shall be stated. Upon conclusion of the public statements, the Chair shall close the public hearing. Once the hearing is closed, no member of the public may comment further unless the Commission votes to suspend its rules for this purpose.

Commission members may then ask questions of staff, make motions, engage in discussion, and vote on the item presented during the public hearing.

i) Motions and Voting

Motions shall be restated by the chair before a vote is taken. The name of the maker of a motion and of the person to second the motion shall be recorded.

The Chair may participate in discussion, questioning and debate, but will not make motions or vote on any matter unless to break a tie. Members of the Common Council who are not serving on the Commission likewise may participate in discussions, but may not make motions or vote on any matters.

Motions shall be passed by an affirmative vote with not less than a majority of the Commission in attendance. Voting shall be by voice when meeting in-person or by raising a hand in a virtual meeting. Any member of the Commission can request a roll call vote.

Please refer to the Review Process Policies, Actions on Matters Before the Commission on page 10.

j) Reports

The Commission may ask for reports and recommendations from the Secretary on any matters before it that are consistent with the annual work plan of the Preservation Planner.

k) Suspension of Rules

The Commission may suspend any of its procedural rules (except City and State Codes) by a majority vote of the members present.

l) Amendments

These rules, policies and procedures may be amended at any regular meeting by a majority vote of the members present. At a minimum, the Commission will review and update this document as necessary in May of even-numbered years and recorded with the City Clerk after being adopted by the Landmarks Commission.

m) Attendance

Commissioners shall endeavor to attend all regularly scheduled meetings of the Commission. Commissioners shall contact the Secretary to request an excused absence as soon as they are aware of a possible scheduling conflict. The City of Madison has specific rules for attendance that cannot be waived by Commission procedures and policies.

REVIEW PROCESS POLICIES

The following review process policies were adopted by the Landmarks Commission (“the Commission”) to facilitate the performance of its duties and the exercising of its powers as outlined in the Madison General Ordinances.

a) Development Review Process Summary

The development review process varies based on the complexity of a proposal and the type of request involved. However, each process generally includes three stages; the pre-application stage, the commissions review stage, and the plan sign-off, permitting, and inspection stage.

The Landmarks Commission has final review authority in some instances. In other instances, the Commission is required to make an advisory recommendation to the Plan Commission and/or the Urban Design Commission. When review by multiple Commissions is required, the Landmarks Commission is typically the first Commission to take action in the development review process.

b) Designee Review Process

The Historic Preservation Ordinance allows the Landmarks Commission to identify designees for the purposes of approving projects that will have little effect on the exterior appearance of the property. The categories below indicate the types of projects that may be approved by designees. In all cases, the designees may use their discretion and send the request to the Commission for a formal review. Please refer to the Rules of Procedure, Designees, page 2.

Category 1:

1. In kind repairs to existing buildings/structures that will not change the appearance.

Category 2:

1. Reroofing projects which will replicate the use of three-in-one tab asphalt or fiberglass shingles or other rectangular asphalt or fiberglass shingles of similar scale or sawn wooden shingles. Reroofing with tile, slate or metal may be approved if there is historical documentation, physical evidence, or generally understood methodology or practice that the building once had a tile, slate or metal roof. Reroofing projects on buildings or parts of buildings with flat roofs or shed roofs that are not visible from the street may be approved. If a house is shingled in the French method, new shingles of the same design may be approved. Small attic ventilators that match the roof in color may be approved.
2. Replacement in-kind of exterior mechanical equipment when it maintains a similar size and configuration.
3. Handrails designed to be compatible with the style of the house.

Category 3:

1. Project that will result in only a minor change of appearance, aligning with the Spectrum of Review in MGO 41.22, and that will not destroy significant architectural elements, such as converting a door to a window on the rear of the house, or adding a flat skylight on a roofline not visible from the street.

2. Projects that will result in a moderate change of appearance provided that there are compelling reasons for beginning work before the next Landmarks Commission meeting (such as emergency structural repairs or the onset of bad weather). Such projects must also be approved by the Chair of the Landmarks Commission, or in their absence the Vice Chair.
3. Replacement of the face of an existing sign with new information and the installation of awnings, provided that the proposed design will not detract from the character of the building or district.
4. The construction of a small garden shed in the rear yard of a property provided that the shed does not adversely affect the primary structure, is of simple design, with gable, hip or shed roof and provided that the shed design is compatible with the design of the house and the neighborhood.
5. Projects that restore the original appearance/condition using historic materials may be approved provided that there is historical documentation, physical evidence, or generally understood methodology.
6. Projects that have received a recent Certificate of Appropriateness from the Commission and require a minor modification (not a Minor Alteration) to that approval that does not destroy historic fabric or historic character and does not reverse or alter any portion of the project that was a significant part of the Commission discussion. Consistent with open meeting requirements, Staff may consult with members of the Commission.
7. Exterior alterations to sites that are adjacent to landmarks provided that the alterations are minor alterations and will result in only a minor change of appearance.

c) Actions on Matters Before the Commission

1. Certificate of Appropriateness

For any Certificate of Appropriateness where the Landmarks Commission approval is required, the Commission may take one of the following actions:

- The Commission shall **Approve** the Certificate of Appropriateness if it determines that the request meets the applicable standards for approval. The Commission may adopt conditions of approval for a project if it believes that those conditions will allow the project to meet the standards for approval.
- The Commission shall **Deny** the Certificate of Appropriateness if it believes the request does not meet the applicable standards for approval. In doing so, the Commission shall specifically state the standards that the request does not meet and the reasons why those standards are not met.
- The Commission shall **Refer** the matter to a future meeting if it believes that the request currently before it does not meet the applicable standards for approval but that it could with additional modification or if it determines that the Commission has not been provided with complete information to make a determination. A referral may also be requested by the applicant or by staff because the request is not, or may not be, procedurally ready to proceed. For any referral, the Commission should specify its reasons for referring the matter to a future meeting.

2. Adjacency to Landmarks Advisory Recommendation

For any advisory recommendation related to adjacency to landmarks and landmark sites, the Commission shall use the language of [MGO 28.144](#) to provide an advisory recommendation.

An example motion for an advisory recommendation may be similar to the following:

“The Landmarks Commission finds that the proposed development is not so large or visually intrusive as to adversely affect the historic character and integrity of the adjacent landmark.”

3. Historic Value Advisory Recommendation

When advised by the Preservation Planner or the Community and Cultural Resources Planner regarding a demolition request, the LC may provide a report to the Plan Commission on the historic, architectural or cultural significance of the structure for which a demolition permit is sought, to assist the Plan Commission in its determination of whether the standards of Chapter 28 are satisfied. The determination of historic value does not look at the proposed project for the site - only the historic value of the existing resources on the property.

For any advisory recommendation related to the historic value of buildings proposed for demolition, the Commission shall take one of the following actions:

- a. The Commission finds that the building(s) has no known historic value.*
- b. The Commission finds that the building(s) has historic value related to the vernacular context of Madison’s built environment, or as the work/product of an architect of note, but the building itself is not historically, architecturally or culturally significant.*
- c. The Commission finds that the building(s) has historic value based on architectural significance, cultural significance, historic significance, as the work/product of an architect of note, its status as a contributing structure in a National Register Historic District, and/or as an intact or rare example of a certain architectural style or method of construction.*

The Commission may also provide a separate report regarding a property proposed for demolition to the Plan Commission. This report can further describe the historic value of the property outside of the language of the actions above.

4. Window Replacement Requests

For window replacement applications, applicants shall provide information on whether the windows proposed for replacement are original to the structure or date to the period of significance for the landmark or historic district. If the windows are historic, the applicant must provide a 3rd party assessment of whether the windows are physically beyond repair and/or are not economically feasible to repair. This assessment must come from a contractor who completes window repair, such as a carpenter, painter, or general contractor.

An application will evaluate each window individually and provide a description of the window and window component dimensions of the existing window and the proposed replacement windows.

The Commission shall take one of the following actions:

- Determine if the proposed window is physically beyond repair and/or is not economically feasible to repair.
- If it is feasible and practical to repair the windows, then they must be repaired.
- If the window requires replacement, approve replacement products that are similar in design, color, scale, architectural appearance, and other visual qualities. The window size and component dimensions should be comparable.

5. Tribal Consultation for Archaeological Sites

For project requests that involve ground-disturbing activities on landmark sites with archaeology or human remains with tribal association, staff shall notify the Tribal Historic Preservation Offices of interested tribes about the proposed project and ask for comments or concerns related to the proposal. Staff will provide any tribal comments to the Landmarks Commission to incorporate into their review of the project proposal.

GENERAL POLICIES

The following general policies were adopted by the Commission to facilitate the performance of its duties and the exercising of its powers as outlined in the Madison General Ordinances.

a) Education Series

Each May, in recognition of national Historic Preservation month, the Landmarks Commission may host a public education and outreach session during a regularly scheduled or special meeting.

The Commission may prepare information packets for property owners related to maintenance of historic buildings.

b) Regular Review of Policy and Procedure Manual

At the beginning of each even numbered calendar year, the Landmarks Commission shall review the adopted policy and procedure document and make any revisions as needed. The adopted document shall be filed with the City Clerk's Office.

c) Landmark Plaque Procedure

According to MGO [41.07\(8\)](#), the City shall provide a plaque for a recently designated landmark site. Preservation staff will draft the text for the plaque using materials prepared for the nomination process. The text will include the items of interest as described in the Ordinance. Staff will allow the Owner to review the text and provide suggestions. Once the text has been reviewed by the Owner, staff will forward it to the Landmarks Commission for review and final approval.

According to the Ordinance, the plaque should be located so it is easily visible to passing pedestrians. Plaques should be mounted to building walls on or near the primary façade preferably near the entrance or on landscape elements including natural boulders or formed concrete bases. In some cases, the plaque could be mounted on fences or entrance piers. The plaque can be fabricated with horizontal or vertical format to work with the space provided. Staff should suggest a plaque location and coordinate with the property owner to select a final location. Under no circumstances, shall the plaque be located in a place that would obscure or damage unique architectural or character defining features. If a property owner is not agreeable to placing a plaque on the building, staff may locate the plaque on a concrete base on the street side of the terrace.

Typically, the plaques should be fabricated and installed within the 12 months after designation; however, it may be more cost effective to have numerous plaques fabricated and installed at once. Preservation staff will consider the most cost effective means when having plaques fabricated.

Plaques will have a uniform appearance and will have horizontal or vertical formats to complement the area selected for installation. The specifications are as follows:

Size: 16" x 24" x ½" thick
Material: cast brushed aluminum
Background: painted black (satin finish)
Texture: leatherette
Copy: raised TIMES ROMAN all caps. Not to exceed 500 characters. Silver color.

Border: single line. Silver color.

Mounting: concealed

Typical horizontal plaque format (vertical format would be similar):

JAMES & BRIDGET CASSERLY HOUSE

1891

THE CASSERLY HOUSE IS A CLASSIC EXAMPLE OF A QUEEN ANNE STYLE HOUSE BUILT FOR A MIDDLE-CLASS FAMILY. JAMES CASSERLY WAS A FOREMAN AND LATER SUPERINTENDENT OF THE MADISON DEMOCRAT, ONE OF MADISON'S TWO MAJOR NEWSPAPERS AT THE TURN-OF-THE-CENTURY. THE CASSERLYS WERE ONE OF THE MANY FAMILIES OF IRISH DESCENT WHO LIVED IN THIS NEIGHBORHOOD. IN THE 1960S, THE HOUSE BECAME A ROOMING HOUSE AND ITS CONDITION DETERIORATED. IN 1980, IT WAS CAREFULLY RESTORED AS OFFICES AND AN APARTMENT.

DESIGNATED APRIL 25, 1983

MADISON LANDMARKS COMMISSION

Staff will work with the plaque installer and property owner to schedule the installations. Staff will provide the plaque installer with descriptive documents indicating the approved location of the plaque. Staff should communicate the installation date to the property owner and should be available during installation to visit the site if necessary. The plaque is property of the City of Madison and should not be removed or altered once installed. Should a plaque need to be removed for maintenance or repairs, the property owner must receive written approval from the Preservation Planner prior to performing such work. Once the work is complete, the plaque should be promptly reinstalled at the expense of the property owner.

Plaques are fabricated from aluminum and are originally painted black and matte silver/gray. Maintenance of the plaque is the responsibility of the property owner. Should maintenance be required, the property owner must receive written approval from the Preservation Planner prior to performing such work. In general repainting of a plaque is not desired, but if necessary, may only be done by a professional painter or an individual approved by the Preservation Planner.

CODE OF ETHICS

Landmarks Commission members are required to attend an in-person training conducted by the City Attorney's office. The general summary below cannot replace a full training nor does it constitute legal advice. As questions arise, contact the Office of the City Attorney or the City of Madison Ethics Board.

The Ethics Code spells out standards of conduct intended to foster public trust and promote confidence in the integrity of government by avoiding the appearance of self-interest, personal gain, or benefit. The Code also requires written disclosures by most City elected officials, employees and appointees regarding their private financial or personal interests in matters that may affect the City. See [Section 3.35 of the Madison General Ordinances \(MGO\)](#).

The Madison Ethics Code establishes guidelines to ensure that City elected officials, employees, and appointees (a) act impartially, responsibly and independently, (b) make decisions and policies through proper channels of City governmental structure, and (c) serve the public interest rather than some private interest.

The major areas of responsibility and accountability spelled out in the Code include:

- Disclosure of conflicts of interest and possible disqualification from subsequent action
- Use of office for private gain
- Disclosures of confidential or privileged information
- Receipt of gifts and favors
- Incompatible employment
- Restrictions after leaving office or appointment

As questions regarding conflicts of interest and the application of the Code of Ethics arise, commissioners should consult the Code of Ethics and the Office of the City Attorney. When in doubt, ask the City Attorney's Office or the City of Madison Ethics Board.¹

OPEN MEETING REQUIREMENTS

The general summary below does not constitute legal advice. As questions arise, contact the Office of the City Attorney.

“In recognition of the fact that a representative government of the American type is dependent upon an informed electorate, it is declared to be the policy of this state that the public is entitled to the fullest and most complete information regarding the affairs of government as is compatible with the conduct of governmental business.” Wisconsin Statutes Section 19.81(1)

Applicable open meetings laws are found in Section 19.81 through 19.98 of the Wisconsin Statutes, reproduced in Section 3.71 Madison General Ordinances, and supplemented by Administrative Procedure Memorandum (APM) 3-13. The Landmarks Commission as a body must meet “open meeting” requirements set forth in these statutes and ordinances to ensure its business is conducted properly. Generally, staff is responsible for ensuring that the meeting is properly noticed and conducted in compliance with these rules.

Individual members are responsible for following certain requirements outside of noticed meetings. Common issues include, but are not limited to:

- Illegal meetings – generally, a meeting occurs any time a group of members discusses Commission-related issues, if the group is large enough to take or block action on an issue. Social encounters among members should be limited to non-Commission topics of conversation. Tours by the Commission should be properly noticed to meet open meeting requirements.
- Email – an email discussion between members could be an illegal meeting. Generally, email should not be used to conduct substantive issue-related Commission business. Messages from citizens to members should be forwarded to staff for dissemination to the full Commission. Messages from staff or an individual member to the full Commission are permissible on procedural issues, but members should take care to reply only to the sender (not reply-all).
- Conference calls – a conference call between members could be an illegal meeting. Meetings may be conducted via conference call, but should be properly noticed as such and provide a public facility with speakerphone so the public is able to hear/participate.²

DECISION MAKING

The general summary does not constitute legal advice. As questions arise, contact the Office of the City Attorney.

All parties who appear before the Commission are entitled to a fair and impartial hearing. This includes:

1. The appearance of fairness

The Commission must make decisions in an impartial and unbiased manner. Actual bias is not required; an impermissibly high *risk* of bias is sufficient to compromise the appearance of fairness. *Keen v. Dane County Board of Supervisors*, 269 Wis.2d 488 (Ct. App 2003).

2. Proper notice and hearing

Notice is handled by City staff (e.g. publication, mailed notice, noting on agenda). Hearings serve the dual function of providing citizens with an opportunity to express their views and to inform the decision-making body regarding the views of the affected community members.

3. Decisions based on the standards and the evidence before the body

Where decision-making standards are listed in the ordinances, the Commission must follow them. It is the responsibility of the applicant to demonstrate that a proposal meets the standards, and the responsibility of the Commission to explain how it came to a determination. Unless specifically required by statute or ordinance, particularized written findings are not necessary, nor are there “magic words” that must be used. However, a simple statement that “the standards are met” or “are not met” is insufficient to inform the applicant of the reasons for the determination. The decision and the transcript must provide a record that allows meaningful judicial review.³

LEGAL ADVICE PROVIDED BY CITY ATTORNEY

Legal advice provided by the City Attorney is privileged and provided on a confidential basis. It should not be released to third parties or discussed at a public meeting, unless the advice is in a formal memorandum that Planning Staff and the City Attorney intend be distributed to the public.

ENDNOTES

1. *Ethics Code training materials can be found on the City Attorney's Page of the City Website at www.cityofmadison.com/attorney/ethics/index.cfm

(See Also: City Attorney Opinion 2007-003 available on the City Attorney's Page of the City Website at www.cityofmadison.com/attorney/opinions/2007Opinions.cfm)
2. *Open Meetings training materials can be found on the City Attorney's Page of the City Website at www.cityofmadison.com/attorney/meetings/training.cfm

(See Also: City Attorney Opinion 2004-001, available on the City Attorney's Page of the City Website at www.cityofmadison.com/attorney/opinions/2004Opinions.cfm)
3. Quasi-Judicial Decision-making training materials can be found on the City Attorney's Page of the City Website at www.cityofmadison.com/attorney/training/index.cfm

(See Also: City Attorney Opinion 2007-003 available on the City Attorney's Page of the City Website at www.cityofmadison.com/attorney/opinions/2007Opinions.cfm)

Note: Madison General Ordinances are available on the [City of Madison's Legislative Center](#) on the [City's website](#).