

**PROPOSED REVISIONS TO DISTRICT DESIGNATION AND MAINTENANCE OBLIGATION
SECTIONS OF LANDMARKS ORDINANCE**

This document provides proposed revisions to the District Designation and Maintenance Obligation sections of the Landmarks Ordinance included in the draft referred to the Ad Hoc Landmarks Ordinance Review Committee on July 1, 2014. These sections should reflect the following principles that are not currently reflected in the revised draft:

1. **The ordinance should clearly define the “compatibility” standard used in the ordinance and apply it consistently throughout the ordinance.** The proposed language in Section 9 below is drawn directly from the New York Model Ordinance, Section 14.
2. **The ordinance should clearly define the maintenance standard used in the ordinance and apply it consistently throughout the ordinance.** The proposed language in Section 10 below is drawn directly from the Milwaukee Historic Preservation Ordinance, Section 320-21-3-d, which defines the maintenance standard by reference to the Building Code.

The following revisions to the draft sections reflect these principles:

(9) Creation and Amendment of Historic Districts.

(a) The Landmarks Commission may select geographically defined areas to be designated as historic districts. To be designated as a historic district, the defined area shall be of particular historic, architectural, or cultural significance to the City of Madison, which:

1. Is associated with broad patterns of cultural, political, economic or social history of the nation, state or community; or
2. Is associated with the lives of important persons, with important event(s) in national, state or local history; or
3. Is associated within an area of particular archaeological or anthropological significance;
4. Embodies the distinguishing characteristics of an architectural type inherently valuable for the study of a period, style, method of construction, or of indigenous materials or craftsmanship; or
5. Is representative of the work of a master builder, designer or architect.

(b) Each ordinance creating or amending an historic district shall indicate the basis for designation in (a) above and shall include specific Standards and Guidelines for reviewing development in the historic district. Standards and Guidelines for development in an historic district should ensure that construction and exterior alterations will be done in a manner sensitive to the character of the historic district. Adopted Standards shall apply to every instance of development in an historic district. Adopted Guidelines shall serve as a collective set of principles to promote architectural compatibility of new construction and exterior alterations an historic district. ~~In adopting Standards and Guidelines for each historic district, the Landmarks Commission should consider adopting shall include~~ the following:

1. Architectural elements shall be visually compatible with the structures and environment of the historic district.~~with which they are visually related (visually related area) in regards to:~~
 - a. ~~Height.~~
 - b. ~~Gross volume.~~
 - c. ~~In the street elevation(s) of a structure, the proportion between the width and height in the facade(s).~~
 - d. ~~The proportions and relationships between doors and windows in the street facade(s).~~
 - e. ~~The rhythm of solids to voids, created by openings in the facade.~~
 - f. ~~Colors and patterns used on the facade.~~
 - g. ~~The design of the roof.~~
 - h. ~~The landscape treatment.~~
 - i. ~~The texture and materials used in the facade(s).~~
2. The ~~existing~~ rhythm created by ~~existing~~ structure masses and spaces between them shall be preserved compatible with the historic district.
3. The amount, shape, and pattern of open spaces shall be sensitive to compatible with the character of the district.
4. The landscape plan shall be sensitive to compatible with the ~~individual structure, its occupants and their needs~~ character of the district.
5. All street facade(s) shall blend with other structures via directional expression that is compatible with the character of the district.~~When adjacent structures have a dominant horizontal or vertical expression, this expression shall be carried over and reflected.~~
6. Architectural details should be incorporated as necessary to relate the new with the old and to preserve and enhance the inherent characteristics of the area.

(c) Review and Adoption Procedure.

1. Landmarks Commission. The Landmarks Commission shall hold a public hearing when considering an ordinance creating or amending an historic district. Notice shall be given according to Subsection (6) of this ordinance. Following the public hearing, the Landmarks Commission shall vote to recommend, reject or withhold action on the ordinance. This recommendation shall be forwarded to the City Plan Commission and the Common Council.
 2. The City Plan Commission. The Plan Commission shall review the ordinance creating or amending the historic district ordinance and make a recommendation to the Common Council within thirty (30) days of the public hearing. The Plan Commission may extend this time by referral.
 3. The Common Council. The Common Council, upon receipt of the recommendations from the Landmarks Commission and Plan Commission, shall hold a public hearing, notice to be according to Subsection (6) of this ordinance and shall either designate, amend or reject the historic district ordinance.
- (d) Recognition of Historic Districts. The Commission shall assist other City planning efforts to visually define and highlight historic districts.

New Definition: “Compatible” means in harmony with location, context, setting, and historic character, considering the following factors:

- (a) the general design and character of alterations or new construction relative to existing features of the property or improvement;

- (b) the scale and visual compatibility of alterations or new construction in relation to the property itself, surrounding properties, and the district;
 - (c) texture and materials, and their relation to similar features of the property and other properties in the district;
 - (d) visual compatibility with surrounding properties and the district, including proportion of the property's façade, proportion and arrangement of windows and other openings within the façade, roof shape, and the rhythm of spacing of properties on streets, including setback; and
 - (e) the importance of historic physical and visual features to the significance of the property.
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(10) Obligation to Maintain Landmarks, Landmark Sites and Historic Districts, Compliance with Regulations, Penalties for Violations, Demolition by Neglect.

(a) Public Interest in Preservation and Maintenance. The Common Council finds it is in the public interest to preserve and maintain landmarks, landmark sites, and improvements in an historic district, and to vigorously enforce the provisions of this and other ordinances ~~against those who allow such sites and structures to decay, deteriorate, become structurally defective or otherwise fall into disrepair.~~

(b) Obligation to Maintain. Every owner ~~or such other person who may have legal possession, custody, and control~~ of an improvement on a landmark site or in an historic district shall protect against exterior decay and deterioration, keep any structure free from structural defects, and maintain all interior portions thereof which, if not so maintained, may cause or tend to cause the exterior portions of such improvement to fall into a state of disrepair pursuant to the standards provided in paragraph (c). ~~This provision shall be in addition to all other provisions of this ordinance and other ordinances, laws, or regulations requiring the maintenance of such improvements.~~

(c) Enforcement. The Director of the Building Inspection Division of the Department of Planning & Community & Economic Development or designee is authorized to enforce the provisions of this ordinance. Upon written official notice of the Director of the Building Inspection Division or designee, the owner ~~or such other person who may have legal possession, custody, and control~~ of an improvement, shall repair such decay, deterioration, or structural defects to bring the improvement into compliance, ~~with this ordinance.~~ Insofar as they are applicable to a landmark, landmark site or improvement in an historic district, designated under this section, with any provision of Chapters 18 (Plumbing Code), 27 (Minimum Housing and Property Maintenance Code), 29 (Building Code), 30 (Heating, Ventilating and Air Conditioning Code) and 31 (Sign Control Ordinance) of the Madison General Ordinances as may be varied or waived, on application, by the appropriate board having such jurisdiction over such chapter or, in the absence of such board, by the Director of the Building Inspection Division, provided such variance or waiver does not endanger public health or safety. However, the Building Inspector or designee may not waive the provisions of this Ordinance.

(d) Penalties for Violations. Violations of the provisions in this ordinance, following written official notice under paragraph (c) and the failure to bring the improvement into compliance within the specified time, shall be subject to a minimum forfeiture of two hundred fifty dollars (\$250) and a maximum forfeiture of five hundred dollars (\$500) for each separate violation. A second violation within thirty-six (36) months shall be subject to a minimum forfeiture of five

hundred dollars (\$500). A third violation within thirty-six (36) months shall be subject to a minimum forfeiture of one thousand dollars (\$1000). Each and every day during which a violation continues shall be deemed to be a separate offense.

(e) Demolition by Neglect. In addition to the penalties imposed in (d) above, if the owner ~~or such other person who may have legal possession, custody, and control~~ of an improvement, fails to repair the improvement upon written official notice of the Building Inspector or designee, the Building Inspector or designee shall report to the Landmarks Commission whether he or she believes that the structure is undergoing demolition by neglect.

1. Upon receiving a report from the Building Inspector or designee stating that a structure is undergoing demolition by neglect, the Landmarks Commission shall, within ~~ten-thirty~~ (130) days of receiving such a report, issue and serve upon the owner ~~or such other person~~ a complaint notice stating the charge of demolition by neglect and setting a time, date, and place for a public hearing. Notice shall be given according to Subsection (6) of this ordinance. The public hearing shall take place not less than thirty (30) nor more than sixty (60) days after the serving of such ~~a complaint notice~~. The purpose of the hearing is to receive evidence concerning ~~the charge of~~ ongoing demolition by neglect and to ascertain whether the owner ~~or other such person~~ wishes to petition the Landmarks Commission for a waiver under Subsection (15) of this ordinance.

2. If after notice and hearing, the Landmarks Commission determines that the structure is undergoing demolition by neglect, the Landmarks Commission shall state in writing the findings of fact in support of such a determination, serve a copy of its decision determination to the owner ~~or other such person~~, and provide a copy of its decision determination to the Common Council. In the event that the owner ~~or other such person~~ states an interest to pursue a waiver, the Landmarks Commission decision determination shall be stayed until after the Landmarks Commission's determination in accordance with Subsection (15) of this ordinance.