

CITY OF MADISON, WISCONSIN

AN ORDINANCE _____

PRESENTED _____
REFERRED _____

Repealing and recreating Section 33.19 of the Madison General Ordinances to update the Landmarks Commission ordinance.

DRAFT

Drafted by: Maureen O'Brien

Date: February 10, 2014

SPONSOR:

DRAFTER'S ANALYSIS: This amendment updates the Landmarks ordinance to clarify procedures and definitions. It does not change the substance of the historic district regulations.

In summary:

In the Definitions section, "Abrasive cleaning," "Development," and "Structure" have been added. "Structure" replaces the word "building" throughout the amendment. The definition of "Historic district" is amended to be shorter and clearer.

The definitions for "Landmark" and "Landmark site" are amended to reduce confusion. Under this definition, a "landmark" is a structure or other improvement that has historic significance, but it may also be an area of land that has historic significance. "Landmark site" is the lot on which a landmark is located.

"Visually related area" is amended to exclude buildings that do not represent the characteristics of the historic district. This is accomplished by defining the significant years of construction for each historic district. Structures built after those dates but before the creation of the historic district are not included in the evaluation of the visually related area.

The composition of the Commission is amended to allow more flexibility in appointments. Instead of requiring one registered architect and one historian, this amendment requires there be two members who meet the Professional Qualification Standards established by the United States Secretary of the Interior for History, Archeology, Architectural History, Architecture, or Historic Architecture.

Previously, the powers and duties section only discussed the designation of landmarks and historic districts. This amendment adds the power to approve Certificates of Appropriateness, demolitions, and land divisions related to landmark sites and historic districts. It also authorizes collaboration with the State regarding properties on the National Register of Historic Places, allows the Commission to work for the passage of legislation to support the intent of the landmarks ordinance and to solicit and receive funds for historic preservation. Additionally, it outlines powers and duties for the City Preservation Planner.

This amendment consolidates all references to public hearings in one subsection. It clarifies the procedure for designation and rescission of landmarks and historic districts, and establishes two situations under which rescission may be considered. Additionally, it replaces the "voluntary restrictive covenant" with a procedure allowing a property owner to request that additional preservation restrictions be placed on the property, which will be enforced by the Commission.

This amendment also consolidates all procedural rules related to Certificates of Appropriateness under one subsection. It creates a separate subsection for the criteria for approval of each category of Certificate of Appropriateness (categories are: (1) exterior alteration or construction; (2) demotion or removal; and (3) painting or restoring signs on brick.)

It changes the appeal process by specifically including a provision requiring the Council to consider the public interest, in addition to the criteria for review, when reviewing a decision by the Commission to grant or deny a Certificate of Appropriateness. Finally, it clarifies the procedure which allows the Commission to grant waivers to specific requirements in the landmarks ordinance. This clarifies that the waiver process is not the same as the zoning variance process.

Approved as to form:

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

1. Section 33.19 entitled "Landmarks Commission" of the Madison General Ordinance is repealed and recreated to read as follows:

"33.19 LANDMARKS COMMISSION.

- (1) Purpose and Intent. It is hereby declared a matter of public policy that the protection, enhancement, perpetuation and use of improvements of special character or special historical interest or value is a public necessity which will strengthen the economy of the City, and which is required in the interest of health, prosperity, safety and welfare of the people. The purpose of this section is to:
- (a) Effect and accomplish the protection, enhancement and perpetuation of such improvements and of districts which represent or reflect elements of the City's cultural, social, economic, political and architectural history.
 - (b) Safeguard the City's historic and cultural heritage, as embodied and reflected in such landmarks and historic districts.
 - (c) Stabilize and improve property values.
 - (d) Foster civic pride in the beauty and noble accomplishments of the past.
 - (e) Protect and enhance the City's attractions to residents, tourists and visitors, and serve as a support and stimulus to business and industry.
 - (f) Promote the use of historic districts and landmarks for the education, pleasure and welfare of the people of the City.
- (2) Definitions. In this section, unless the context clearly requires otherwise:
- Abrasive cleaning method means a cleaning procedure that uses any of the following materials or tools:
- (a) Abrasive materials, including, but not limited to, sand, glass beads, ground slag, volcanic ash, crushed nutshells, rice husks, ground corncobs or crushed eggshells, carried in high pressure air or water; or
 - (b) High pressure water.
- Commission means the Landmarks Commission created under this section.
- Development means any new structure or exterior alteration to an existing structure.
- Historic district is an area designated by the Common Council pursuant to this ordinance which contains improvements with architectural, cultural, or historic significance.
- Improvement means any structure, place, landscape, work of art or other object constituting a physical betterment of real property, or any part of such betterment.
- Landmark means
- (a) Any improvement which has architectural, cultural, or historic character or value reflecting the development, heritage or cultural characteristics of the City, state or nation and which has been designated as a landmark pursuant to the provisions of this section, or
 - (b) Any land of historic significance due to a substantial value in tracing the history of humankind, or upon which an historic event has occurred, and which has been designated as a landmark pursuant to the provisions of this section.
- Landmark site means any lot, or part thereof, on which is situated a landmark and any abutting lot, or part thereof, used as and constituting part of the premises on which the landmark is situated.
- Person means any individual, association, corporation or business entity. For purposes of repeated violations of the provisions of this chapter, any association, corporation or business entity is considered the same as another association, corporation or business entity if they share at least one (1) officer.
- Structure means anything constructed or erected, the use of which requires more or less permanent location on the ground, and in the case of floo areas, in the stream bed or lake bed.
- Visually related area (VRA) means the area within two hundred (200) feet of the boundary of a lot. Outside of an historic district, no property other than a landmark, or landmark site shall be evaluated in the application of the VRA. Within an historic district, properties that were built after the period of significance and before the establishment of the

historic district ordinance shall not be evaluated in the application of the VRA. For each district, buildings constructed in the following years are excluded from the VRA calculation:

- (a) For the Mansion Hill Historic District: 1931-1976 (period of significance 1850-1930)
- (b) For the Third Lake Ridge Historic District: 1930 – 1979 (period of significance 1850-1929)
- (c) For the University Heights Historic District: 1929 – 1985 (period of significance 1893-1928)
- (d) For the Marquette Bungalows Historic District: 1931 – 1994 (period of significance 1924-1930)
- (e) For the First Settlement Historic District: 1921 – 2002 (period of significance 1850-1920)

(3) Landmarks Commission Composition and Terms.

A Landmarks Commission is hereby created, consisting of seven (7) members. Of the membership, two (2) shall meet the Professional Qualifications Standards established by the United States Secretary of the Interior which are in effect on (**DATE- the effective date of this ordinance**) for History, Archeology, Architectural History, Architecture, or Historic Architecture, one (1) shall be a licensed real estate broker; one (1) shall be an alderperson; and three (3) shall be citizen members. Each member shall have, to the highest extent practicable, a known interest in historic preservation. The Mayor shall appoint the commissioners subject to confirmation by the Common Council. The term for each member shall be three (3) years.

(4) Powers and Duties. The commission shall:

- (a) Recommend to the Common Council the designation and rescission of landmarks and historic districts within the City limits of Madison.
- (b) Review and act upon requests for Certificates of Appropriateness for new structures, exterior alterations and demolition/removal relating to any landmark site, landmark, or improvement within an historic district.
- (c) Review and act upon requests for Certificates of Appropriateness for painting signs or restoring painted signs on brick structures that are landmarks or in an historic district.
- (d) Review requests for demolition or removal and provide an advisory report to Plan Commission pursuant to Sec. 28.185(7)(a)4.
- (e) Review any development on a zoning lot adjoining a landmark site for which Plan Commission or Urban Design Commission review is required to determine whether the proposed development is so large or so visually intrusive as to adversely affect the historic character and integrity of the adjoining landmark site. The Landmarks Commission review shall be advisory to the Plan Commission and Urban Design Commission.
- (f) Review proposed land divisions, combinations, and subdivision plats of landmark sites and properties in historic districts to determine whether the proposed lot sizes negatively impact the historic character or significance of a landmark and whether the proposed lot sizes are compatible with adjacent lot sizes and maintain the general lot size pattern of the historic district. The Landmarks Commission review shall be advisory to the Plan Commission and Urban Design Commission.
- (g) Work closely with the appropriate State of Wisconsin officials for the National Register of Historic Places of the United States National Park Service in attempting to list such properties hereunder designated as landmarks on the National Register.
- (h) Actively work for the passage of legislation which would provide financial or other incentives to landmark owners and owners of properties in historic districts which would assist in carrying out the intent of this ordinance.
- (i) Solicit and receive funds for the purpose of historic preservation in the City of Madison. Such funds shall be placed in a special City account for such purpose.

(5) Powers and Duties of the Preservation Planner. The Preservation Planner, or designee, shall staff the Landmarks Commission, shall uphold the purpose and intent of the Landmarks Ordinance, and exercise such administrative duties as designated by the Landmarks Commission as part of her or his regular duties as a staff member in the Planning Division.

(6) Public Hearing Notices under this Section. The Landmarks Commission shall hold a public hearing when required by this ordinance.

- (a) Notice of the time, place and purpose of the hearing shall be given by a Class 2 Notice in the official City paper under Wis. Stat. § 985.07 (2011-2012), for the following:
 - 1. Hearings on designation and rescission of landmark status under subsections (7) and (8);
 - 2. Waivers under subsection (17);
 - 3. Applications for Certificates of Appropriateness which require public hearing under subdivision (11)(f); and
 - 4. Creation and amendment of an historic district under subsection (9).
 - (b) Notice of the time, place and purpose of the hearing shall also be sent by the City Clerk to the owners of record, as listed in the office of the City Assessor, who are owners of property in whole or in part situated within two hundred (200) feet of the boundaries of the property affected.
 - (c) For creation or amendment of an historic district, notice shall also be sent to all owners of record within the proposed district and the Alder of the Aldermanic District or Districts in which the historic district is located.
 - (d) For hearings on waivers and certificates of appropriateness, notice shall also be sent to the applicant and the Alderperson of the District in which the property affected is located.
 - (e) Notice shall be sent at least ten (10) business days prior to the date of the public hearing.
- (7) Designation of Landmarks.
- (a) Nomination. The Landmarks Commission and the Common Council may consider nominations for landmark designation. Any site, natural or improved, including any building, improvement or structure located thereon, or any area of particular historic, architectural or cultural significance to the City of Madison may be nominated. An individual or group may nominate a property for consideration by submitting an application and a nomination on a form provided by the Commission.
 - (b) Public Hearing. If a complete, accurate application is submitted to the Commission, a public hearing shall be scheduled. Notice shall be given according to subsection (6). The Commission shall request comments, when relevant, from Department of Public Works, Parks Division, Fire, Public Health, and Police Departments, Department of Planning and Community and Economic Development and Plan Commission. Each such department shall respond to the Commission within thirty (30) business days of notification with any comments on the proposed designation. In addition to the notified persons, the Commission may hear witnesses and shall have the power to subpoena such witnesses and records as it deems necessary. The Commission may conduct an independent investigation into the proposed designation.
 - (c) Standards. The Commission may recommend designation as a landmark if it determines that the nominated area or structure:
 - 1. Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state or community; or
 - 2. Is identified with historic personages or with important events in national, state or local history; or
 - 3. Embodies the distinguishing characteristics of an architectural type specimen, inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship or
 - 4. Is representative of the notable work of a master builder, designer or architect.
 - (d) Notification of Property Owner. The Commission shall send notification to the owner of record of its recommendation for or against designation. Notification shall be sent within ten (10) business days from the first regularly scheduled Commission meeting following the public hearing, but no later than the date the Commission reports its recommendation to the Common Council.
 - (e) Report to Common Council. The Commission shall report its recommendation, along with the reasons for it, to the Common Council. After considering the Commission's report, and considering the standards contained in this ordinance, the Common Council may designate the property as a landmark. The City Clerk shall notify the Director of the Building Inspection Division and the City Assessor of all designations.

The City Clerk shall cause such designation to be recorded, at City expense, in the Dane County Register of Deeds office.

- (f) For those properties listed on pages 50 and 51 of the Downtown Historic Preservation Plan, adopted in 1998, the procedure to designate a property as a landmark cannot be initiated once a completed application for a conditional use, demolition permit or zoning map amendment has been submitted.
- (g) Voluntary Designation of Additional Preservation Restriction(s).
 - 1. At the time of designation, or at any time thereafter, the owner of record of any landmark may, request that the Commission recommend the placement of additional restriction(s) on the landmark identifying elements or features of the landmark that shall not be altered without a Certificate of Appropriateness from the Commission.
 - 2. The Commission shall identify specific criteria for approval of such a Certificate.
 - 3. The Commission shall submit recommendations for Additional Preservation Restrictions along with the criteria for approval of a Certificate of Appropriateness to the Common Council. The Council shall approve, approve with modifications, or deny.
- (h) Recognition of Landmarks. At such time as a landmark has been properly designated in accordance with this subsection, the Commission shall cause to be prepared and erected on such property at City expense, a suitable plaque declaring that such property is a landmark. Such plaque shall be so placed as to be easily visible to passing pedestrians. In the case of a landmark structure, the plaque shall state the accepted name of the landmark, the date of its construction, and other information deemed proper by the Commission. In the case of a landmark which is not a structure, such plaque shall state the common name of the landmark and such other information deemed appropriate by the Commission. However, if the landmark is ecologically or culturally sensitive such that the Commission determines placement of a plaque is inappropriate, no plaque is required. No person shall remove or alter a plaque without approval of the Preservation Planner.
- (8) Rescission.
 - (a) By Owner of Record at Time of Designation.
 - 1. Any person who is listed as the owner of record of a landmark at the time of its designation who has held continuous ownership since designation, and any person who has inherited the landmark from such person may petition for rescission of the designation under this subdivision by submitting an application to the Landmarks Commission.
 - 2. Upon receipt of a complete application the Commission shall schedule a public hearing. Notice shall be given according to subsection (6).
 - 3. The Commission shall conduct the hearing, may hear witnesses, and shall have the power to subpoena such witnesses and records as it deems necessary. The Commission may conduct an independent investigation into the proposed rescission.
 - 4. A landmark designation may be rescinded under this subdivision (a) only if the owner demonstrates that he or she is unable to find a buyer willing to preserve such landmark, even though he or she has made reasonable attempts in good faith to find and attract such a buyer. Such attempts must be supported by evidence including but not limited to the following:
 - a. Comparable real estate listings showing current market values;
 - b. Current real estate listing including disclosure statement;
 - c. Dates of real estate agent showings;
 - d. Original listing date;
 - e. Original listing amount and dates of subsequent changes;
 - f. Value of improvements made to the property during ownership;
 - g. Current assessed value; and
 - h. List of routine maintenance and associated costs during ownership.
 - 5. The Commission may recommend for or against the rescission of the designation of the property as a landmark based on the standard(s) in paragraph (a)4. The Commission shall send notification to the owner of

record of its recommendation for or against rescission within ten (10) business days from the first regularly scheduled Commission meeting following the public hearing.

6. The Commission shall report its recommendation, along with the reasons for it, to the Common Council. After considering the Commission's report, and considering the standard(s) for rescission contained in this ordinance, the Common Council may rescind the designation of the property as a landmark. The City Clerk shall notify the Director of the Building Inspection Division and the City Assessor. The City Clerk shall cause such rescission to be recorded, at City expense, in the Dane County Register of Deeds office.
7. Following any rescission under this subdivision, the Common Council may not re-designate the subject property a landmark for a period of not less than five (5) years following the date of rescission, unless requested by the owner of record.

(b) Due to Substantially Changed Physical Appearance.

1. The owner of record or the City Preservation Planner may petition the Commission for rescission of a landmark designation under this subdivision by submitting a letter of intent to the Landmarks Commission.
2. Upon receipt of the letter of intent, the Commission shall schedule a public hearing. Notice shall be given according to subsection (6).
3. The Commission shall conduct the hearing, may hear witnesses, and shall have the power to subpoena such witnesses and records as it deems necessary. The Commission may conduct an independent investigation into the proposed rescission.
4. A landmark designation may be rescinded under this subdivision (b) only when the physical appearance of the site has changed substantially such that the site no longer meets the criteria set forth for designation in subdivision (5), provided that such change was not due to the owner of record's failure to maintain the property in good repair.
5. The Commission may recommend for or against the rescission of the designation of the property as a landmark, based on the standard(s) in paragraph (b)4. The Commission shall send notification to the owner of record of its recommendation for or against rescission. Notification shall be sent within ten (10) business days after the first regularly scheduled Commission meeting after the public hearing.
6. The Commission shall report its recommendation, along with the reasons for it, to the Common Council. After considering the Commission's report, and considering the standard(s) for designation and rescission contained in this ordinance, the Common Council may rescind the designation of the property as a landmark. The City Clerk shall notify the Director of the Building Inspection Division and the City Assessor. The City Clerk shall cause such rescission to be recorded, at City expense, in the Dane County Register of Deeds office.

(9) Creation and Amendment of Historic Districts.

(a) The Landmarks Commission shall select geographically defined areas to be designated as historic districts. These areas shall have been identified in an adopted City Plan, or in a special area plan or report, as areas of particular historic, architectural, or cultural significance to the City of Madison, which:

1. Exemplify or reflect the broad cultural, political, economic or social history of the nation, state or community; or
2. Are identified with historic personages or with important events in national, state or local history; or
3. Embody the distinguishing characteristics of architectural types inherently valuable for the study of a period or periods, styles, methods or construction, indigenous materials or craftsmanship; or
4. Are representative of the notable works of master builders, designers, or architects.

- (b) Each ordinance creating or amending an historic district shall indicate the basis for designation in (a) above and shall include specific criteria for reviewing development in the historic district.
- (c) Factors and guidelines for the Landmarks Commission to consider when developing the review criteria in historic districts are as follows:
 - 1. The review criteria for development in historic districts should provide an understandable set of standards to ensure that construction and exterior alterations will be done in a manner sensitive to the character of each historic district.
 - 2. It is not the intent of this ordinance to discourage contemporary architectural expression that is visually compatible with its environment and otherwise meets the standards in the ordinance, to encourage the rote emulation of existing building styles or to prevent the prior lawful conforming use of buildings that are reconstructed following destruction by fire or other natural disaster.
 - 3. A sensitively designed building in a contemporary style may better preserve and enhance the inherent characteristics of a historic district than a mediocre adaptation of a more traditional style.
 - 4. All new structures shall have a height that is visually compatible with the structures and environment with which they are visually related.
 - 5. The gross volume of any new structure shall be visually compatible with the structures and environment with which it is visually related.
 - 6. In the street elevation(s) of a structure, the proportion between the width and height in the facade(s) should be visually compatible with the structures and environment with which it is visually related.
 - 7. The proportions and relationships between doors and windows in the street facade(s) should be visually compatible with the structures and environment with which it is visually related.
 - 6. The rhythm of solids to voids, created by openings in the facade, should be visually compatible with the structures and environment with which it is visually related.
 - 8. The existing rhythm created by existing structure masses and spaces between them should be preserved.
 - 9. The materials used in the final facade(s) should be visually compatible with the structures and environment with which it is visually related.
 - 10. The texture inherent in the facade should be visually compatible with the structures and environment with which it is visually related.
 - 11. Colors and patterns used on the facade (especially trim) should be visually compatible with the structures and environment.
 - 12. The design of the roof should be visually compatible with the structures and environment with which it is visually related.
 - 13. The landscape plan should be sensitive to the individual structure, its occupants and their needs. Further, the landscape treatment should be visually compatible with the structures and environment with which it is visually related.
 - 14. All street facade(s) should blend with other structures via directional expression. When adjacent structures have a dominant horizontal or vertical expression, this expression should be carried over and reflected.
 - 15. 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.
- (d) 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). 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 business (30) days of the public hearing.
 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) and shall either designate, amend, or reject the historic district ordinance.
- (e) Recognition of Historic Districts. The Commission shall assist other City planning efforts to visually define and highlight historic districts.
- (10) Maintenance of Landmarks, Landmark Sites and Historic Districts.
- (a) Every person in charge of an improvement on a landmark site or in an historic district shall keep in good repair all of the exterior portions of such improvement and 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. This provision shall be in addition to all other provisions of law requiring such improvement to be kept in good repair.
 - (b) Insofar as they are applicable to a landmark, landmark site or improvement in an historic district, designated under this section, 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 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.
 - (c) Notwithstanding subdivision (a) above, sandblasting of any exterior surface of an improvement on a landmark site or in an historic district is prohibited. Other types of abrasive cleaning methods also are prohibited unless specifically approved by the Landmarks Commission prior to their use. The Landmarks Commission shall approve exterior surface cleaning projects using abrasive or corrosive cleaning methods only if the project will not cause irreparable damage to the building material to which it is applied.
- (11) Certificate of Appropriateness.
- (a) Certificate of Appropriateness Required. A Certificate of Appropriateness, approved by the Landmarks Commission, is required for the following:
 1. Exterior alteration of a designated landmark.
 2. Exterior alteration of a structure within an historic district.
 3. Construction of new structure on a landmark site.
 4. Construction of a new structure in an historic district.
 5. Demolition or removal of all or part of a landmark.
 6. Demolition or removal of a structure in an historic district.
 7. Painting or restoring a sign on a brick structure on a landmark site or in an historic district.
 8. Alteration of part of a landmark designated as an Additional Preservation Restriction.
 - (b) Permits. The Director of the Building Inspection Division shall not issue a permit allowing painting of signs, alteration, construction, demolition or removal for which a Certificate of Appropriateness is required unless such Certificate has been approved by the Commission and issued by the Preservation Planner or designee.
 - (c) 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 is required unless such Certificate has been approved by the Commission.
 - (d) Administrative Approval. The Landmarks Commission may appoint a designee or designees to approve certain projects, provided that the Landmarks Commission shall first adopt a policy on the types of projects which can be approved by its designee(s), and the process to be followed.

- (e) Application. An application for a Certificate of Appropriateness shall be filed with the Landmarks Commission. The Commission shall review the application based on the criteria in this ordinance.
- (f) Public Hearings. The Commission shall hold a Public Hearing and provide Class 2 Notice according to subsection (6) entitled "Public Hearing Notices under this Section," for applications involving the following:
 - 1. Demolition or removal of all or part of a landmark;
 - 2. Demolition or removal of a structure in an historic district;
 - 3. Construction of a new principal structure in the University Heights Historic District;
 - 4. Construction of an accessory structure with a footprint larger than one hundred (100) square feet, not including decks and open porches, in the University Heights Historic District; and
 - 5. Exterior alteration of a structure in the University Heights Historic District that increases the footprint of the structure more than one hundred (100) square feet, not including decks and open porches.
- (g) Issuance of Certificate of Appropriateness. The Landmarks Commission shall approve or deny a Certificate of Appropriateness, based upon the applicable criteria in subsections (12), (13) or (14), within sixty (60) business days of application. Failure to approve a Certificate of Appropriateness within sixty (60) business days of the application date shall be deemed a denial, effective on the last day of the determination period. However, the determination period may be extended an additional sixty (60) business days by written stipulation of the applicant and the Landmarks Commission. Upon approval by the Commission, the Preservation Planner or designee shall issue a Certificate of Appropriateness.
- (h) Penalty for Work Done Without, or in Violation of, a Certificate of Appropriateness. In addition to any other penalty provided in this section, 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, or that was not performed in compliance with the conditions of a lawfully issued Certificate of Appropriateness, when such work does not meet the applicable criteria for a Certificate under subsections (12), (13), or (14), or under the Additional Preservation Restriction specific to that landmark. Alternatively, the Commission may order renovation to make such work comply with those criteria.
- (i) Two-Year Deadline. A Certificate of Appropriateness shall expire two (2) years from the date of issuance unless a building permit is obtained within such period.
- (12) Exterior Alteration or Construction; Criteria. The Landmarks Commission shall approve a Certificate of Appropriateness for exterior alteration of a landmark or a structure within an historic district, or for construction on a landmark site or in an historic district, only if:
 - (a) In the case of a designated landmark the proposed work would not destroy or adversely affect any significant exterior architectural feature of the improvement upon which said work is to be done, or significantly degrade the historic fabric of the landmark;
 - (b) In the case of construction of a new structure upon a landmark site, the exterior of such improvement would not adversely affect or fail to harmonize with the external appearance of other neighboring improvements on such site, evaluated using the standards in subsection (9)(c);
 - (c) In the case of any property located in an historic district designated pursuant to the terms of subsection (9) hereunder, the proposed new structure or exterior alteration conforms to the adopted criteria for review for said district.
- (13) Demolition or Removal; Criteria. In determining whether to approve a Certificate of Appropriateness for any demolition or removal of any landmark or structure within an historic district, the Landmarks Commission shall consider 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 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;
 - (c) Whether demolition or removal of the subject property would be contrary to the purpose and intent of this chapter as set forth in Sec. 33.19 and/or to the objectives of the historic preservation plan for the applicable historic district as duly adopted by the Common Council;
 - (d) Whether the structure is of such old and unusual or uncommon design, texture and/or material that it could not be reproduced or be reproduced only with great difficulty and/or expense;
 - (e) 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;
 - (f) Whether the structure is in such a deteriorated condition that it is not structurally or economically feasible to preserve or restore it, provided that any hardship or difficulty claimed by the owner which is self-created or which is the result of any failure to maintain the property in good repair cannot qualify as a basis for the issuance of a Certificate of Appropriateness;
 - (g) Whether any new structure proposed to be constructed or change in use proposed to be made is compatible with the structures and environment 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; and,
 - (h) Documentation of demolished structures. Prior to approving a Certificate of Appropriateness 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.
- (14) Painting and Restoring Signs on Brick Structures; Criteria.
- (a) Identification Signs. The Landmarks Commission shall approve a Certificate of Appropriateness for an identification sign only if all of the following are true:
 1. The structure is designated a landmark or is in a locally-designated historic district.
 2. The brick surface was painted previously.
 3. The structure was built in whole or in part for commercial or industrial use.
 4. The sign is an identification sign for a tenant of the structure.
 5. The sign will not be illuminated.
 6. The proposed sign is of a size, style, and location that blends with the historic character of the structure and/or historic district.
 7. The permittee complies with the provisions of Chapter 31, MGO.
 - (b) Heritage Signs. The Landmarks Commission shall approve a Certificate of Appropriateness for a heritage or restored sign only if all of the following are true:
 1. The structure is a landmark or is in a locally-designated historic district.
 2. The structure was built in whole or in part for commercial or industrial use.
 3. The owner presents documentation of the existence and appearance of the sign to be restored.
 4. The original sign predates 1950.
 5. The restored sign is the same size and in the same location as the original sign.
 6. The restored sign is in the same colors, if known, as the original sign.
 7. The restored sign will not be illuminated.
 8. The lettering style of the restored sign matches as closely as possible the original lettering style of the original sign, however, new words may be used.
 9. The permittee complies with the provisions of Chapter 31, MGO.
- (15) Appeal. An appeal from the decision of the Landmarks Commission to approve or deny a Certificate of Appropriateness may be taken to the Common Council by the applicant for the Certificate, the Alderperson of the district in which the subject property is located, or by twenty percent (20%) of the property owners within two hundred (200) feet of the subject property.

Such appeal shall be initiated by filing a petition to appeal, specifying the grounds therefore, with the City Clerk within ten (10) business days of the date the final decision of the Landmarks Commission is made. The City Clerk shall file the petition to appeal with the Common Council. The Council shall hold a public hearing with Class 1 public notice. The Council may, by favorable vote of two-thirds (2/3) of its members, based on the criteria for review contained in this ordinance and a balancing of the public interest in preserving the subject property with the public interest in approving or denying the Certificate of Appropriateness, reverse or modify the decision of the Landmarks Commission.

- (16) Conditions Dangerous to Life, Health or Property. Nothing contained in this section shall prohibit the making of necessary construction, reconstruction, alteration or demolition of any improvement on a landmark site or in an historic district pursuant to order of any governmental agency or pursuant to any court judgment, for the purpose of remedying emergency conditions determined to be dangerous to life, health or property. In such case, no approval from the Commission shall be required.
- (17) Waivers.
- (a) Authority. The Landmarks Commission may waive the criteria for review of new structures, exterior alterations, or repairs for designated landmarks, landmark sites and improvements in an historic district, for one or more of the following reasons:
1. To permit re-siding with a material or in a manner not permitted under this chapter.
 2. To allow use of materials for new structures that would be otherwise prohibited under this chapter.
 3. To allow alterations visible from the street or alterations to street facades which are not compatible with the existing structure in design, scale, color, texture, proportion of solids to voids or proportion of widths to heights of doors and windows.
 4. To allow materials and/or architectural details used in an alteration to differ in texture, appearance and design from those used in the original construction of the existing structure.
 5. To permit the alteration of a roof shape otherwise prohibited under this chapter.
 6. To permit the use of roofing materials otherwise prohibited under this chapter.
- (b) Application for Waiver and Notice of Hearing. An application for a waiver shall be filed with the Landmarks Commission. The Commission shall hold a public hearing on the application. Notice shall be given according to subsection (6).
- (c) Standards. The Landmarks Commission shall not waive the regulations of this ordinance unless it finds, based upon the evidence presented to it in each specific case, that one of the following conditions is present:
1. The proposed alteration would incorporate materials, details, or other elements not permitted by the ordinance but which can be documented by photographs, architectural or archaeological research or other suitable evidence to have been used on other structures of a similar vintage and style in the historic district in which the structure is located, provided that the project will not destroy significant architectural features on the structure.
 2. In the case of new structures, the proposed design incorporates materials, details, or other elements that are not permitted by the ordinance but which would enhance the quality of the design for the new structure, provided that said new structure otherwise complies with the criteria for new construction in the historic district in which the structure is proposed to be located and provided further that it would also have a beneficial effect on the historic character of the visually related area.
- (18) Compliance With Regulations. Every person in charge of any landmark, landmark site or improvement in an historic district shall maintain same or cause or permit it to be maintained in a condition consistent with the provisions of this section.
- (19) Penalties for Violations. Any person violating any provision of this section 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 offense within thirty-six (36) months shall be subject to a minimum forfeiture of five hundred dollars (\$500) for each

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

(20)

Separability. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of this chapter and the application of such provisions to other persons or circumstances shall not be affected thereby.

(21)

Mansion Hill Historic District.

(a) Purpose and Intent. It is hereby declared a matter of public policy that a specific area of the City be identified, designated, and protected because of its special character and historical interest. This area, to be called the Mansion Hill Historic District, shall be described in general by the map and specifically by the legal description on file in the City Clerk's office. The purpose and intent of this ordinance shall be to designate this area in accordance with Sec. 33.19(9), entitled "Creation of Historic Districts" of the Madison General Ordinances.

(b)

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 and in 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 materials or craftsmanship;
3. Are representative of the notable work of a master builder, designer or architect whose individual genius influences his age;

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

(c)

Criteria for Review of Development in the Mansion Hill Historic District.

1. The gross volume of any new structure shall be visually compatible with the structures and environment with which it is visually related (visually related area).
2. In the street elevation(s) of a structure, the proportion between the width and the height in the facade(s) shall be visually compatible with the structures and the environment with which it is visually related (visually related area).
3. The proportions and relationships between width and height of the doors and windows in street facade(s) shall be visually compatible with the structures and environment with which it is visually related (visually related area).
4. The rhythm of solids to voids created by openings in the facade shall be visually compatible with the structures and environment with which it is visually related (visually related area).
5. All street facades shall blend with other structures via directional expression. When adjacent structures have a dominant vertical or horizontal expression, this expression should be carried over and reflected.

(d)

Reference to Plan.

The requirements in this section derive from a plan entitled "The Mansion Hill Historic Preservation Plan and Development Handbook", City Planning Department, 1975.

(22)

Third Lake Ridge Historic District.

(a)

It is hereby declared a matter of public policy that a specific area of the City be identified, designated, and protected because of its special character and historical interest and significance. This area, to be called the Third Lake Ridge Historic District, shall be described in general by the map and specifically by the legal description on file in the City Clerk's Office. The purpose and intent of this ordinance shall be to designate this area in accordance with Sec. 33.19(9), entitled "Creation of Historic Districts" of the Madison General Ordinances.

(b)

Criteria for the Creation of the Third Lake Ridge Historic District.

In that the Third Lake Ridge Historic District area reflects a broad pattern of social history of Madison and the State and the Upper Midwest, and in that elements within the District meet other designation criteria in subsections (4) and (6), namely that many of the structures and sites in the District:

1. Are identified with historic personages or with important events in state or local history; and
 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 materials or craftsmanship;
The area described by the map and legal description shall be designated an historic district.
- (c) Criteria for New Structures in the Third Lake Ridge Historic District - Parcels Zoned for Employment Use.
1. The gross volume shall be visually compatible with the structures and environment within its visually related area.
 2. The height shall be visually compatible with the structures and environment within its visually related area.
- (d) Criteria for Exterior Alterations in the Third Lake Ridge Historic District - Parcels Zoned for Employment Use.
Alterations of height shall be visually compatible with the structures and environment within its visually related area.
- (e) Criteria for New Structures in the Third Lake Ridge Historic District - Parcels Zoned for Mixed-Use and Commercial Use.
1. Any new structures shall be evaluated according to both of the criteria listed in Sec. 33.19(22)(c); that is, compatibility of gross volume and height.
 2. The rhythm of solids and voids in the street facade(s) shall be compatible with the structures within its visually related area.
 3. The materials used in the street facade(s) shall be compatible with those used in the structures and environment within its visually related area.
 4. The design of the roof shall be compatible with those of the structures and environment within its visually related area.
 5. The rhythm of structure masses and spaces shall be compatible with the existing rhythm of masses and spaces for those sites within its visually related area.
- (f) Criteria for Exterior Alterations in the Third Lake Ridge Historic District - Parcels Zoned for Mixed-Use and Commercial Use.
1. Alterations of height of any shall be visually compatible with the structures and environment within its visually related area.
 2. Alterations of street facade(s) shall retain the original or existing historical rhythm of solids and voids.
 3. Alterations of street facade(s) shall retain the original or existing historical materials.
 4. Alterations of roof shall retain its existing historical appearance.
- (g) Criteria for New Structures in the Third Lake Ridge Historic District - Parcels Zoned for Residential Use.
1. Any new structures shall be evaluated according to all criteria listed in Sec. 33.19(22)(e).
 2. The directional expression shall be compatible with those of the structures and environment within its visually related area.
 3. The materials, patterns and textures shall be compatible with those of the structures and environment within its visually related area.
 4. The landscape plan shall be compatible with that of the structures and environment within its visually related area.
- (h) Criteria for Exterior Alterations in the Third Lake Ridge Historic District - Parcels Zoned for Residential Use.
1. Alterations shall be evaluated according to all criteria listed in Sec. 33.19(22)(g).
 2. Alterations of the surface material, pattern and texture in the facade(s) shall be compatible with the original or existing historical finishes.
 3. Alterations shall retain or be compatible with the original or existing historical rhythm of masses and spaces.

4. Alterations shall retain the existing historical landscape plan or shall develop a new plan which is compatible with the plans of the structures and environment within its visually related area.
5. Alterations of the street facade(s) shall retain the original or existing historical proportional relationships of door sizes to window sizes.

(i) Reference to Plan.

The public policy guidelines in this subsection derive from a plan entitled "Third Lake Ridge Historic District," City Planning Department, January, 1978.

(23) University Heights Historic District.

(a) Purpose and Intent. It is hereby declared a matter of public policy that a specific area of the City be identified, designated and protected because of its special character of historic interest and significance. This area, to be called University Heights Historic District, shall be described generally by the map and specifically by the legal description on file in the City Clerk's Office. The purpose and intent of this ordinance shall be to designate this area in accordance with Sec. 33.19(9) entitled "Creation of Historic Districts" of the Madison General Ordinances.

(b) 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. 33.19(9) of the Madison General Ordinances, 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 materials or craftsmanship; and,
3. are representative of the notable work of a master builder, designer, or architect whose individual genius influenced her/his age, the area described by the map and legal description shall be designated an historic district.

(c) Criteria for the Review of New Structures in the TR-V1, TR-V2, TR-U1, TR-U2, TR-C2, TR-C3, TR-C4, MNX, TSS, and LMX Zoning Districts.

1. Principal Structures.

a. Height. The maximum height in the TR-C2, TR-C3, TR-C4, TR-V1, and TR-V2 Zoning Districts shall be thirty-five (35) feet and shall not exceed two and a half (2-1/2) stories except as provided in the height regulations for the district.

The maximum height in the TR-U1, NMX, TSS, and LMX Zoning Districts shall be forty (40) feet.

The maximum height in the TR-U2 Zoning District shall be fifty (50) feet. All new structures in all zoning districts within University Heights shall be no less than fifteen (15) feet high.

b. Materials. Materials for the exterior walls shall be the same as or similar to materials prevalent in the University Heights Historic District. Permitted materials include brick, narrow gauge horizontal clapboards four or less inches in exposed width, stone, stucco, smooth shingles or combinations of the above provided the combinations occur in a manner and location similar to the materials on existing structures in University Heights (e.g., brick on first floor with clapboard on second floor). Other materials, such as aluminum or vinyl must be visually compatible with structures in the visually related area. The following materials are prohibited: concrete block, asbestos, wide clapboards over four inches in exposed width, diagonal boards, vertical boards, rough sawn wood, rough split shingles, shakes.

c. Visual Size. The gross area of the front facade, i.e., all walls facing the street, of a single-family, two-unit or commercial structure shall be no greater than one hundred twenty-five percent (125%) of the average gross area of the front facades of structures in the visually related area. The gross area of the front facade of a multiple family

dwelling shall be no more than one hundred twenty-five percent (125%) of the average gross area of the front facades of all structures within the visually related area or variations in the setback shall be designed in the front facade of the structure to repeat the rhythm and proportions of structures to space between them within the visually related area.

- d. Roof Shape. The shapes and pitches of roofs on shall be similar to the roof shapes and pitches on existing structures within the visually related area.
 - e. Roof Materials. Roofing materials shall be similar in appearance to roofing materials used on structures within the visually related area. Modern-style shingles, such as thick wood shakes, dutch lap, french method and interlock shingles, that are incompatible with the historic character of the district are prohibited. Rolled roofing, tar and gravel and other similar roofing materials are prohibited except that such materials may be used on flat or slightly sloped roofs which are not visible from the ground.
 - f. Parking Lots. No new parking lots will be approved unless they are accessory to and on the same zoning lot as a commercial structure or multiple family dwelling.
2. Accessory Structures. Accessory structures, as defined in Section 28.211 of the Madison General Ordinances, shall be compatible with the design of the existing structures on the zoning lot, shall not exceed fifteen (15) feet in height and shall be as unobtrusive as possible. No accessory structure shall be erected in any yard except a rear yard. Exterior wall materials shall be the same as those for construction of new principal structures as set forth in Sec. 33.19(23)(c)1.b.
- (e) Criteria for the Review of Exterior Alterations and Repairs in TR-C2, TR-C3, and TR-C4, Zoning Districts.
1. Height. No alterations shall be higher than the existing structure; however, if the existing structure is already a nonconforming one, alteration shall be made thereto except in accordance with Section 28.192 of the Madison General Ordinances. Roof alterations resulting in an increased structure volume are prohibited unless they meet the requirements in Section 33.19(23)(e)6. and are permitted under Chapter 28 of the Madison General Ordinances, or approved as a variance pursuant to Section 28.184 or approved as a conditional use or as part of a planned residential development.
 2. Second Exit Platforms and Fire Escapes. Second exit platforms and fire escapes shall be invisible from the street, wherever possible, and shall be of a plain and unobtrusive design in all cases. In instances where an automatic combustion products detection and alarm system is permitted as an alternative to second exits, use of such a system shall be mandatory.
 3. Repairs. Materials used in exterior repairs shall duplicate the original building materials in texture and appearance, unless the Landmarks Commission approves duplication of the existing building materials where the existing building materials differ from the original. Repairs using materials that exactly duplicate the original in composition are encouraged.
 4. Restoration. Projects that will restore the appearance of a structure to its original appearance are encouraged and will be approved by the Landmarks Commission if such projects are documented by photographs, architectural or archeological research or other suitable evidence.
 5. Re-Siding. Re-siding with aluminum or vinyl that replaces or covers clapboards or nonoriginal siding on structures originally sided with clapboards will be approved by the Landmarks Commission provided that the new siding imitates the width of the original clapboard siding to within one (1) inch and provided further that all architectural details including, but not limited to, window trim, wood cornices and ornament either remain uncovered or are duplicated exactly in appearance. Where more than one layer of siding exists

on the structure, all layers except the first must be removed before new siding is applied. If insulation is applied under the new siding, all trim must be built up so that it projects from the new siding to the same extent it did with the original siding.

6. Alterations Visible from the Street and Alterations to Street Facades. Alterations visible from the street, including alterations to the top of structures, and alterations to street facades shall be compatible with the existing structure in architectural design, scale, color, texture, proportion of solids to voids and proportion of widths to heights of doors and windows. Materials used in such alterations shall duplicate in texture and appearance, and architectural details used therein shall duplicate in design, the materials and details used in the original construction of the existing structure or of other structures in University Heights of similar materials, age and architectural style, unless the Landmarks Commission approves duplication of the texture and appearance of materials and the design of architectural details used in the existing structure where the existing building materials and architectural details differ from the original. Alterations that exactly duplicate the original materials in composition are encouraged. Alterations that destroy significant architectural features are prohibited. Side alterations shall not detract from the design composition of the original facade.
7. Additions and Exterior Alterations Not Visible from the Street. Additions and exterior alterations that are not visible from any streets contiguous to the lot lines upon which the structure is located will be approved by the Landmarks Commission if their design is compatible with the scale of the existing structure and, further, if the materials used are compatible with the existing materials in texture, color and architectural details. Additions and alterations shall harmonize with the architectural design of the structure rather than contrast with it.
8. Roof Shape. The roof shape of the front of a structure shall not be altered except to restore it to the original documentable appearance or to add a dormer or dormers in a location and shape compatible with the architectural design of the structure and similar in location and shape to original dormers on structures of the same vintage and style within the district. Alterations of the roof shape of the sides or back of a structure shall be visually compatible with the architectural design of the existing structure.
9. Roof Material.
 - a. If the existing roof is tile, slate or other material that is original to the structure and/or contributes to its historic character, all repairs thereto shall be made using the same materials. In addition, in all cases any such roof must be repaired rather than replaced, unless the documented cost of repair exceeds the documented cost of re-roofing with a substitute material that approximates the appearance of the original roofing material as closely as possible, in which case re-roofing with a material that approximates the appearance of the original roofing material as closely as possible will be approved by the Landmarks Commission.
 - b. If the existing roofing material is asphalt shingles, sawn wood shingles or a nonhistoric material such as fiberglass, all repairs shall match in appearance the existing roof material; however, if any such roof is covered or replaced, re-roofing must be done using rectangular sawn wood shingles or rectangular shingles that are similar in width, thickness and apparent length to sawn wood shingles, for example, 3-in-1 tab asphalt shingles. Modern style shingles, such as thick wood shakes, dutch lap, french method and interlock shingles, that are incompatible with the historic character of the district are prohibited.
 - c. Rolled roofing, tar and gravel and other similar roofing materials are prohibited except that such materials may be used on flat or slightly sloped roofs which are not visible from the ground.

10. Parking Lots. No new parking lots will be approved unless they are accessory to and on the same zoning lot as a commercial structure or multiple family dwelling.

(f) Criteria for the Review of Exterior Alterations and Repairs in the TR-VI, TR-V2, TR-U1, TR-U2, NMX, TSS and LMX Zoning Districts.

1. Height. No alterations shall be higher than the existing structure; however, if the existing structure is already nonconforming, no alteration shall be made thereto except in accordance with Section 28.192 of the Madison General Ordinances. In addition, all alterations, including alterations to the top of a structure, shall conform to the height restrictions for the zoning district in which the structure is located.
2. Alterations. Alterations shall be compatible in scale, materials and texture with the existing structure.
3. Repairs. Materials used in repairs shall harmonize with the existing materials in texture, color and architectural detail.
4. Re-Siding. The criteria for the review of re-siding are the same as the criteria for review of re-siding in the TR-C2, TR-C3 and TR-C4 Zoning Districts set forth in Sec. 33.19(23)(e)5. of the Madison General Ordinances.
5. Roof Shape. Roof alterations to provide additional windows, headroom or area are prohibited unless permitted under Chapter 28 of the Madison General Ordinances or otherwise approved pursuant thereto as a variance or as part of a conditional use. In addition, all roof alterations shall be visually compatible with the architectural design of the structure.
6. Roof Materials. All repairs shall match in appearance the existing roofing materials; however, when a roof is covered or replaced, roofing materials shall duplicate as closely as practicable the appearance of the original materials. Thick wood shakes, French method, interlock and Dutch lap shingles are prohibited. Rolled roofing, tar and gravel and other similar roof materials are also prohibited except on flat or slightly sloped roofs which are not visible from the street.
7. Parking Lots. No new parking lots will be approved unless they are accessory to and on the same zoning lot as a commercial structure or multiple family dwelling.

(24) Marquette Bungalows Historic District.

- (a) Purpose and Intent. It is hereby declared a matter of public policy that a specific area of the city be identified, designated and protected because of its special character of historic interest and significance. This area, to be called the Marquette Bungalows Historic District, shall be described generally by the map and specifically by the legal description on file in the City Clerk's office. The purpose and intent of this ordinance shall be to designate this area in accordance with Sec. 33.19(9) entitled "Creation and Amendment of Historic Districts" of the Madison General Ordinances.
- (b) Criteria for the Creation of the Marquette Bungalows Historic District. In that the Marquette Bungalows 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 designation criteria in Sec.33.19(7) of these ordinances, specifically that many of the structures in the district embody the distinguishing characteristics of an architectural type specimen, inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship, the area described by the map and legal description shall be designated an historic district.
- (c) Criteria for the Review of New Construction and Fences.
 1. Accessory Structures. Accessory structures shall be compatible with the design of the existing structure on the zoning lot, shall not exceed fifteen (15) feet in height and shall be as unobtrusive as possible. Accessory structures shall be erected in the rear yard. If the structure on the lot is sided in wood or stucco, the siding on the accessory structure shall match the appearance of the siding on the structure. Imitation siding materials that approximate the look of the siding on the structure, such as vinyl, aluminum or applied stucco-like surfaces, may be approved. If the siding on the structure is brick, the garage may be sided in brick to match, clapboard, stucco, narrow-gauge

vinyl or aluminum or applied stucco-like surfaces. Garage doors shall blend with the historic appearance of the neighborhood. Horizontally paneled doors and flat paneled doors are prohibited. Windows shall be either casements or double-hung units of a similar proportion to the windows on the structure. Alteration of existing accessory structures shall comply with this subdivision (e) and with subdivision (d) above. The roof shape may be a hip or gable of any pitch; single slope roofs are prohibited. The roof material shall match as closely as possible the color and appearance of the roof material on the structure.

2. New Principal Structures. New principal structures shall match the design of other structures in the district in materials, roof shape, architectural details, the proportion of solids to voids, the proportion of widths to heights of doors and windows, the scale, height, setbacks, side yards and other visual features. The intention is to have new structures virtually duplicate the design of other structures in the neighborhood, since all parcels in the district are currently developed and any new construction would be replacing an existing structure.
 3. Fences. Chain link, metal mesh and other rustic style fences, such as rough sawn wood or split-rails, are prohibited in the front yard. Fences in the front yard shall not exceed three (3) feet in height.
- (d) Criteria for the Review of Exterior Alterations and Repairs. All exterior alterations and repairs must be compatible with the historic character of the structure and the Marquette Bungalows Historic District.
1. Re-Siding. Re-siding with aluminum or vinyl that replaces or covers clapboards or non-original siding on structures originally sided with clapboards will be approved by the Landmarks Commission provided that the new siding imitates the width of the original clapboard siding to within one inch and provided further that all architectural details including, but not limited to, window trim, wood cornices and other ornament either remain uncovered or are duplicated exactly in appearance. All trim must continue to project out beyond the plane of the siding. Brick, stucco, and half-timber detailing shall match the original in appearance. Original wood shingle siding should be repaired or replaced to match the original in appearance, whenever possible; however, covering wood shingles with double-four vinyl or aluminum may be approved.
 2. Roof Materials. Reroofing shall be done with asphalt shingles, fiberglass shingles or other rectangular composition shingle similar in appearance to 3-in-1 tab asphalt shingles. Sawn wood shingles may also be approved. Modern style shingles, such as thick wood shakes, dutch lap, french method and interlock shingles are incompatible with the historic character of the district and are prohibited. Vents shall be located as inconspicuously as possible and shall be similar in color to the color of the roof. Rolled roofing, tar and gravel and other similar roofing materials are prohibited except that such materials may be used on flat or slightly sloped roofs which are not visible from the ground.
 3. Skylights. Skylights on street-facing roof slopes are prohibited. Skylights may be permitted on side roof slopes provided the front edge of the skylight is at least ten (10) feet back from the front edge of the main roof. Skylights on any roof area not visible from the street may be permitted. The design should be as simple as possible, of the flat type (not bubble) and painted to blend with the color of the roof.
 4. Dormers and Other Roof Alterations. New dormers shall be greater than three (3) feet from the front edge of the roof. New dormers shall match original dormers on the structure (or original dormers on similar structures in the district) in roof shape and material, width of overhang, siding, window design and trim details. The ridge line of a new dormer shall not extend above the ridge line of the main roof of the structure. The dormer walls shall not extend beyond the line of the main structure wall below. Shed dormers behind existing dormers or gables on non-street sides of the structure may

be approved provided that the roof material, siding, window design and trim details match the original features of the structure. Other roof alterations shall be compatible with the roof shape and other features of the structure, such as siding and trim details, and shall not extend above the ridge line of the structure.

5. Chimneys. The exterior appearance of chimneys visible from the street shall be maintained in good repair. The removal of the exterior portions of such chimneys is prohibited. Chimneys not visible from the street may be removed. New chimneys shall be constructed of brick to match as closely as possible the brick on the structure, or if there is no brick on the structure, chimneys may be made of brick similar in dimensions and color to brick on other in the neighborhood. New chimneys not visible from the street may also be constructed of metal or other non-historic material.
6. Windows and Doors.
 - a. General Criteria. The original appearance of leaded glass and other non-rectangular decorative windows (e.g., curved top windows) on any facade of the structure shall be retained. Replacement of such windows shall duplicate the original in size, configuration and appearance. Picture windows are prohibited. Trim on new or remodeled windows shall match the original window trim on the structure.
 - b. Street Facades. Windows and doors on the front or street facade of the structure and on side faces within ten (10) feet of the front facade of the structure shall retain their original or existing appearance, including true muntins where they exist. Replacement windows and doors may be approved if they match the original appearance.
 - c. Non-Street Side Facades. Retention of the original appearance of windows and doors on the sides of the structure is encouraged. However, if replacement or new windows are proposed, the muntin design of the original windows on the structure may either be replicated with true-divided lights or with exterior or interior applied grids or with grids applied between the panes of glass. New windows shall either be casement windows or double-hung windows. Sash on new windows over four (4) feet square shall be divided by muntins or mullions. Bay windows may be approved if they have sides perpendicular to the wall and if they do not extend beyond the eaves of the roof.
 - d. Rear Facade. Replacement, remodeling or installation of new doors and windows on the rear facade will not be restricted except as discussed under "General Criteria" above.
7. Porches. Porches and stairway railings shall match the original railings in appearance wherever possible. Wrought iron railings with vertical balusters at least one-half (1/2) inch in width, wood railings with vertical square balusters spaced no more than three (3) inches apart, and solid wall railings covered in siding to match the structure will be approved. Other designs may be permitted if they blend with the character of the structure and the district. Porches may be enclosed with windows or screens provided that new windows be casements or double-hung units similar in proportion to other windows on the structure. Steps may be constructed of wood, concrete or brick. If wood is used, steps shall have risers and be enclosed on the sides by lattice or a wing wall. Rear yard decks shall have a railing as described above, shall have the underside screened by lattice or evergreen shrubs, and all parts of the deck, except the flooring and steps, shall be painted or opaque-stained in a color to blend with the colors on the structure.
8. Second Exits. Second exit platforms and stairways shall be as unobtrusive as possible. No second exit platforms or stairways shall be permitted on the front facade of a structure. When possible, second exit stairways shall be provided on the interior of the. When this is not possible, they shall be added

onto the rear section of the structure. Railings and design shall follow the railing and deck criteria listed under "Porches" above.

9. Additions and Other Alterations. New additions on the front of the structure are prohibited. Additions on the sides or rear shall be permitted if they are compatible with the structure in architectural design, scale, color, texture, proportion of solids to voids and proportion of widths to heights of doors and windows. Materials and architectural details used in additions and alterations shall duplicate in texture, appearance, and design, the materials and details used in the original construction of the structure or of other structures in the district. The Landmarks Commission may approve an exception to this policy where the existing structure materials and architectural details differ from the original. Additions and exterior alterations that exactly duplicate the original materials in composition are encouraged. Additions or exterior alterations that destroy significant architectural features are prohibited. Side additions shall not detract from the design composition of the original facade.
10. Foundations. The original or existing finish on the foundation shall be retained. Brick or stone shall not be covered with a cementitious or other surface. Foundation insulation shall be applied only to the interior. Basement windows may be removed provided that the space is filled with a material to match as closely as possible the appearance of the surrounding foundation and provided that the new material is inset at least one inch from the plane of the wall.
11. Tuckpointing and Brick Repair. Mortar and other materials used in brick repair shall match the original in color, hardness and appearance. Brick shall not be painted.
12. Storm Windows and Doors. Storm windows and doors shall be enameled, painted or otherwise coated with a colored surface; raw aluminum is prohibited. Storm door designs of wood and glass to match the original design on the structure or on similar structures in the district is encouraged. Storm doors of simple design with no stylistic references (e.g., colonial cross-bars) may also be used. Storm doors with metal grilles may be approved provided that they blend with the style of the structure.

(25) First Settlement Historic District.

- (a) Purpose and Intent. It is hereby declared a matter of public policy that a specific area of the city be identified, designated and protected because of its special character of historic interest and significance. This area, to be called the First Settlement Historic District, shall be described generally by the map and specifically by the legal description on file in the City Clerk's Office. The purpose and intent of this ordinance shall be to designate this area in accordance with Section 33.19(9) entitled "Creation and Amendment of Historic Districts" of the Madison General Ordinances.
- (b) Criteria for the Creation of the First Settlement Historic District. In that the First Settlement Historic District reflects the broad cultural, political, economic and social history of Madison, the state and the nation and in that elements within the district meet designation criteria in Section 33.19(7) of these ordinances, specifically that they are identified with historic personages or with important local historical events and/or that they embody the distinguishing characteristics of an architectural type specimen, inherently valuable for a study of a period, style, method of construction or of indigenous material or craftsmanship, the area described by the map and legal description shall be designated an historic district.
- (c) Criteria for the Review of New Principal Structures.
 1. Structure Height, Scale, Proportion and Rhythm. New principal structures shall be similar in height to the structures directly adjacent to each side. If the structures directly adjacent to each side are different in height, the new structure shall be of a height compatible with the structures within the visually related area of the proposed structure. New principal structures shall be compatible with the scale, proportion, and rhythm of masses and spaces of structures within the visually related area of the proposed structure.
 2. Siding Materials. Narrow gauge clapboards made of wood, composite wood material, or concrete, and/or brick and stone may be permitted. Stucco and

split-faced concrete block may be permitted only as trim, rather than the primary siding material. Stucco panels and pebble dash are prohibited. If the first two floors of a proposed structure are masonry, the Landmarks Commission may permit the use of artificial siding (i.e. vinyl or aluminum) on the upper floor or floors. In such circumstances, the artificial siding must conform to the following requirements:

- a. The material shall be of the highest grade offered by the manufacturer.
 - b. The material shall have a minimum gauge of .042.
 - c. The color and sheen of the siding shall be consistent with those used in the era in which adjacent structures were constructed.
 - d. The siding shall not have a false wood grain.
 - e. The width of each apparent clapboard shall not exceed four (4) inches.
 - f. The use of visible j-channel trim and other prefabricated elements that differ in appearance from those used on historic structures in the neighborhood is prohibited.
3. Roof Materials. Roofing materials shall be asphalt shingles; fiberglass or other composition shingles similar in appearance to multi-layered architectural shingles or 3-in-1 tab; or Dutch lap, French method or interlock shingles. Sawn wood shingles may also be approved. Thick wood shakes are prohibited. Vents shall be located as inconspicuously as possible and shall be similar in color to the color of the roof. Rolled roofing, tar-and-gravel, rubberized membranes and other similar roofing materials are prohibited except that such materials may be used on flat or slightly sloped roofs that are not visible from the ground.
 4. Roof Shape. If a principal structure does not have a flat roof, the pitch of the new roof shall be no less than 4-in-12.
 5. Facade Design. Street facades shall be modulated with setbacks incorporated into the design at the first floor level. The entrance shall either be inset or projecting from the plane of the main facade. Porches on main entrances are encouraged. Street facades shall reflect the rhythm and directional expression of pre-1930 structures within the visually related area.
 6. Windows and Doors. The proportion of width to height of doors and windows and the proportion of solids to voids in the front and side facade designs shall be similar to pre-1930 structures within the visually related area. Windows trimmed with bead molds similar in design to other pre-1930 window trim in the district and windows and doors shall be inset at least one (1) inch from the exterior trim. The main entrance to the structure shall be on the front facade. Garage doors shall be located on the side or rear facades whenever feasible. If it is not feasible to locate the garage door on the sides or rear facades, one-car garage doors will be permitted on the front facade.
- (d) Criteria for the Review of Exterior Alterations and Repairs. All additions, exterior alterations and repairs must be compatible with the historic character of the structure and the First Settlement Historic District. The criteria listed below are intended to maintain an historically accurate appearance. Modern materials that do not meet the exact requirements of the criteria but which duplicate the historic appearance may be considered on an individual basis in the waiver procedure listed in Section 33.19(17) above.
1. Porches. Porches that are original to the structure, or that pre-date 1930 and blend with the historic character of the structure, shall be retained, rehabilitated or rebuilt to match the original in all details. Porches on street facades may be enclosed with wood-framed screens, on the condition that the railing must be retained or restored in a design compatible with the historic character of the structure. Porches on street facades shall not be enclosed as a heated space. If a porch is on a street facade and the owner can demonstrate to the Landmarks Commission that it is beyond repair, then a new porch must be constructed in its place. Construction of new porches to approximate the dimensions of original porches is encouraged.

All porches shall present a finished appearance, e.g., all floor joists shall be hidden from view and all porches shall be finished with ceilings and frieze boards. Porch ceilings shall have the appearance of narrow beaded boards, unless another original material is approved by the Landmarks Commission. First floor porch flooring shall be tongue-in-groove boards; carpeting and two-by-four (2 x 4) decking are prohibited. All wood on exterior porches, except flooring and stair treads, shall be painted or opaque stained.

All railings on porches shall be constructed of wood, or another material that duplicates the appearance of wood, with top and bottom rails. Bottom rails shall be raised above the floor level and shall be no higher than three and one-half (3 1/2) inches from the floor. All balusters on porch railings shall be square posts, unless the owner can demonstrate to the Landmarks Commission that a different design is original to the structure. If the building code requires a forty-two (42) inch high railing, the lower portion of the railing may be solid framed panels. Railings on stairways may be either wood to match the railings on the porch or wrought iron with one-by-one (1 x 1) plain vertical balusters. Twisted or other decorative wrought iron is prohibited. All balusters shall be constructed such that a four (4) inch ball may not pass through the railing at any point. All balusters shall be located in between the top and bottom rail and shall not extend across the face of either. Siding on porch rails is prohibited unless the existing rail is sided. Porch posts shall be trimmed with decorative molding at the top and bottom of the posts.

All porches and stairways shall be enclosed between the frieze under the first floor and the ground with a framed lattice of crisscross design, narrow vertical boards or other openwork design. The lattice shall be designed such that a three-(3) inch ball could not pass through any portion of the lattice. All stairways shall have solid wood risers.

Porches on street facades may be enclosed by storm windows. Storm windows on porches shall have the appearance of double-hung windows, with or without a transom, and shall fill the space between the top of the railing and the upper frieze board. When porches are enclosed, the railing area underneath may be filled in with solid framed panels. Porches on street facades shall not be enclosed as a four-season heated space.

2. Decks. Decks in rear yards will be approved by the Landmarks Commission provided that the design complies with par. 1., except that tongue-in-groove flooring is not required. Decks in front and side yards may be permitted if they are not replacing an entrance porch, do not detract from the historic character of the structure and neighborhood, and if they comply with par.1.
3. Accessibility Ramps. It is the intent of this section to permit accessibility ramps wherever possible, especially when required by ADA provisions. Accessibility ramps shall be as inconspicuous as possible. Landscape screening shall be provided where possible. The details of such ramps shall conform to the requirements for porches in par. 1.
4. Windows. On the front facade and on side facades within ten (10) feet of the front facade, all original windows or pre-1930 windows that are compatible with the historic character of the structure shall retain their existing historic size, appearance, and trim detail. If any of the original windows or pre-1930 windows that are compatible with the historic character of the structure have true divided lights (i.e., with small panes of glass between muntin bars), replacement sash shall duplicate the existing appearance and have true divided lights. If windows have been altered in the past, restoration to the original appearance is encouraged. On side facades not within ten (10) feet of the front facade and on rear facades of the structure, the sills of original windows or pre-1930 windows that are compatible with the historic character of the structure may be raised to serve bathrooms and kitchens. In other respects, the design shall duplicate the original appearance of the existing window. On side facades more than ten (10) feet from the front facade and on rear facades, new windows in locations where no window previously

- existed may be approved, provided they retain a similar ratio of height to width as original windows on the structure, are the same type of window as others on the structure (e.g., double-hung or casement), and are trimmed and finished to match the appearance of the other windows.
5. Entrance Doors. If the entrance door is original or is pre-1930 and blends with the historic character of the structure, it should be retained unless the owner can demonstrate to the Landmarks Commission that it is beyond repair. Metal doors may be approved, provided they blend with the historic appearance of the structure. Unpaneled, modern-style doors, and doors with a fake wood grain are prohibited. All doors shall be painted or varnished.
 6. Double or Multiple Doors. Double or multiple doors, such as doors leading onto patios or decks, may be permitted, provided they have frames similar to full view doors. Raw aluminum or other metallic finishes are prohibited. Patio doors shall be painted or finished with a material that resembles a painted finish. Such doors on street facades shall be hinged doors, rather than sliding doors.
 7. Storm Windows and Doors. Storm windows and doors shall be enameled, painted or otherwise coated with a colored surface to resemble a painted surface. Raw aluminum or other metallic finishes on storm windows and doors are prohibited. Painted or varnished storm doors of wood and glass to match the original design on the structure or on similar structures in the district are encouraged. Storm doors of simple design with no stylistic references may be used. Full view storm doors will be permitted. Storm doors with metal grills are prohibited.
 8. Skylights. Skylights on the roof slope over the main street facade are prohibited unless not visible from the street. Skylights may be permitted on rear roof slopes and on side roof slopes, provided the front edge of the skylight is at least ten (10) feet back from the front edge of the main roof and provided that the skylight is not so obtrusive as to detract from the general appearance of the structure. Skylights on any roof area not visible from the ground will be permitted. The design of new skylights shall be as simple as possible, of the flat (not bubble) type, and finished to blend with the color of the roof.
 9. Roof Materials. Reroofing shall be done with asphalt. Fiberglass or other rectangular composition shingles similar in appearance to 3-in-1- tab asphalt shingles. Sawn wood shingles also may be approved. Modern style shingles such as thick wood shakes, Dutch lap, French method, and interlock shingles are prohibited. Vents shall be located as inconspicuously as possible and shall be similar in color to the color of the roof. Rolled roofing, tar-and-gravel, rubberized membranes, and other similar roofing materials are prohibited, except that such materials may be used on flat or slightly sloped roofs that are not visible from the ground.
 10. Dormers and Other Roof Alterations. New dormers shall match the appearance of original dormers on the structure in roof shape and material, width of overhang, siding, window design, and trim details whenever feasible. If the original roof shape is not practical, another shape may be approved, provided that it does not detract from the historic character of the structure or the neighborhood. New dormers shall be no less than twelve (12) feet from the front edge of the roof. The ridge line of a new dormer shall not extend above the ridge line of the main roof of the structure unless such higher roof line is not visible from the ground. Shed dormers behind existing dormers or gables on non-street sides of the structure may be approved, provided that the roof material, siding, window design and trim details match the original features of the structure. Other roof alterations shall be compatible with the roof shape and other historic features of the structure, such as siding and trim details, and shall not extend above the ridge line of the structure unless such extension is not visible from the ground.
 11. Chimneys. The exterior appearance of original or pre-1930 chimneys visible from the street shall be maintained in good repair. The removal of the

exterior portions of such chimneys is prohibited. Chimneys not visible from the street may be removed. New chimneys shall be constructed of brick, stone, stucco, or other compatible material. Metal chimneys are prohibited.

12. Siding. Original wood siding or pre-1930 siding that blends with the historic character of the structure shall be retained and restored as necessary, except that if the owner can demonstrate to the Landmarks Commission that the original siding is beyond repair, it may be replaced with wood, composite wood, or concrete clapboard siding to match the original or existing pre-1930 appearance. Restoration of original wood decorative details is encouraged. Soffits may be replaced or sided with wood or artificial materials, provided the appearance of the proposed material matches as closely as possible the original appearance.

Original brick, stone and stucco siding shall be retained. Installation of artificial siding on such structures is prohibited. Painting of unpainted brick is prohibited. Mortar and other materials used in brick repair shall match the original in color, hardness, and appearance.
13. Foundations. All original foundation masonry, such as brick, stone, or rusticated concrete block, shall be retained unless the owner can demonstrate to the Commission that significant repairs are required, in which case replacement with materials to duplicate the original appearance is encouraged. If duplicating the original appearance is not practical, other materials may be approved, provided they blend with the historic character of the structure and the district.
14. Additions. Additions on the front of the structure are prohibited, except for open porches. Additions on the sides or rear shall be permitted if they are compatible with the structure in architectural design, scale, color, texture, proportion of solids to voids, and proportion of widths to heights of doors and windows. Additions that exactly duplicate the original materials in composition are encouraged. Additions that destroy significant architectural features are prohibited. Side additions shall not detract from the design composition of the main facade. Siding on new additions shall be the same as the structure, unless the structure is masonry, in which case narrow-gauge clapboards will be permitted. Foundation material on additions shall duplicate the original foundation material whenever practical. Other foundation materials may also be permitted, provided they do not detract from the historic character of the structure.
15. Fire Escapes and Rescue Platforms. Fire escapes and rescue platforms shall be located such that they are as unobtrusive from the street as possible. No fire escapes or rescue platforms shall be permitted on the front facade of a structure unless the owner can demonstrate to the Landmarks Commission that no other location is practical. The design of fire escapes and rescue platforms shall comply with the requirements of par. 1., except that balusters on fire escapes and second exit platforms may be metal with one-by-one plain vertical balusters, painted to blend with the colors of the structure. Twisted or other decorative wrought iron is prohibited.
16. Lighting Fixtures. Lighting fixtures that are visible from the street shall be of a design that is compatible with the historic appearance of the structure.
17. Permanently Installed Air Conditioners. Permanently installed air conditioners shall be as inconspicuous as possible. Ground air conditioners shall be screened with landscaping where possible.
18. Shutters. The installation of new shutters requires approval of the Landmarks Commission. Shutters will be permitted, provided they are compatible with the historic character of the structure and are of a size that, if the shutters were workable, would cover the window opening.
19. Repairs. Repairs to structures shall either match the existing or the original appearance. Restoration to the original appearance is encouraged.
20. Alterations to Post-1930 Structures. Alterations to structures that post-date 1930 shall be compatible with the original character of the structure and shall not detract from the historic character of older structures in the district.

Alterations that bring the structure into compliance with the regulations of this section regarding siding, decks, foundations, porches, the proportion of windows and doors, and the proportion of solids to voids of the street facades of such structures are encouraged. It is not the intent of this ordinance to create fake historic structures, but to allow modern style structures to retain their essential style while still blending with the appearance of historic structures in the district.

- (f) Criteria for the Review of Accessory Structures, Fences and Retaining Walls.
1. Accessory Structures. Accessory structures shall be compatible with the design of the existing structure on the zoning lot, shall not exceed fifteen (15) feet in height and shall be as unobtrusive as possible. Garage doors shall either be entirely flat or shall have approximately square panels. Horizontally paneled doors are prohibited. Windows shall be either double or single-hung units of a similar proportion to the windows on the structure or shall be six-paned (three panes across and two panes high) units similar to those seen on 1920s era garages. Siding may either match the siding on the structure or be narrow-gauge clapboard, vertical board-and batten, or a smooth stucco or stucco-like applied material. The roof shape shall have a pitch and style similar to the roof shape on the structure. The roof material shall match as closely as possible the material on the structure. Alteration of existing accessory structures shall comply with this subdivision and with subdivision (d).
 2. Fences. Chain link and rustic style fences, such as rough sawn wood or split rails, are prohibited in the front yard.
 3. Retaining Walls in Front Yards. For retaining walls in front yards, railroad ties, landscape timbers, boulders, and concrete blocks are prohibited. Poured concrete walls with a smooth rubbed finish and under twenty-four (24) inches in height, flagstone and stone ashlar are permitted. Proposals to construct front yard retaining walls of other materials must be submitted to Landmarks Commission for approval prior to installation.
- (g) Reference to Plan. The history of the First Settlement Historic District is derived from the Downtown Historic Preservation Plan, City of Madison Department of Planning and Community and Economic Development, 1998.”

2. The City Attorney is directed to make corresponding changes to other City ordinances to reflect these changes related to the Landmarks Commission ordinance.