

9 March, 2015

TO: Ad Hoc Landmarks Ordinance Review Committee
FROM: Madison Trust for Historic Preservation
RE: Recommended revision to Definitions section of draft Landmarks Ordinance, with minor recommended revisions to 41.08(1) and 41.10(1)(d).

Red text represents recommended changes to the draft ordinance.

Blue text is commentary, not ordinance language

“Building,” “Structure,” “Improvement”

It is important to the practical applicability of this ordinance that the terms “building” and “structure” are clearly differentiated. The terms are differentiated in 41.01 and 41.07(1), but “structure” is used synonymously with “building” through the rest of the ordinance.

*Differentiating “building” and “structure” will allow the use of one term to refer generally to landscape features like effigy mounds, bridges, walkways, retaining walls, etc. It will provide clarity when referring to different types of features of historic resources like parks, mound groups, and buildings with significant associated landscapes (e.g. Breese Stevens Field). It will also be consistent with the definitions in the federal National Historic Preservation Act. **Building** is one class, **structure** is another class, and **improvement** is a category that includes them both. Definitions for all three are included in our recommendations for 41.02 Definitions below.*

41.02 DEFINITIONS. In this section, unless the context clearly requires otherwise:

Addition means any new construction that is physically attached to an existing building, and that increases the interior space accessible by occupants without exiting the building. *[Note: The term “addition” used in this manner does not appear in Subchapters A-F of the draft Chapter 41, but it is used in Designated Historic District Subchapters and should therefore be included in the definitions section for Chapter 41]*

Alteration means an act or process, other than demolition, that changes the appearance of exterior features of a building or structure.

Building means any improvement constructed or erected primarily for purposes of sheltering human activity. Examples include house, office building, school, train station, library.

Building Inspector means the Director of the Building Inspection Division or designee.

Character refers to the composition of physical features of a building or structure that comprise its visual appearance, including its overall shape, materials, craftsmanship, decorative details and their arrangement, interior spaces and features, as well as its relationship to its site and associated landscape features.

Commission means the Landmarks Commission created under this section.

Demolition by Neglect. The process of allowing landmarks, landmark sites or properties in historic districts to decay, deteriorate, become structurally defective, or otherwise fall into disrepair.

Development means any new structure or exterior alteration to an existing structure.

Gross volume means the entire volume of space occupied by a building or structure, existing or proposed, measured in three dimensions from the outside surface of its exterior materials.

Guideline means a principle put forward to help determine a course of action. Under this ordinance, guidelines adopted in an historic district shall serve as a collective set of principles to promote architectural compatibility of new construction and exterior alterations in an historic district.

Height (relative to whole buildings or structures) means the distance from grade level at the point closest to the building or structure where the parcel on which it stands or is proposed to be built meets the public right-of-way, to the highest point of its roof, or any structural or decorative component rising above its roof, whichever is higher. If no public right-of-way meets the parcel within 40 feet of any part of the building, then height is measured from grade level adjacent to the building or structure. *[Note: This definition needs to be augmented to accommodate buildings and structures on sloping sites where the height differs significantly per elevation. We do not have a recommendation for that aspect of the definition.]*

Historic character refers to those aspects of a building's or structure's character (see *character* above) that are extant from its period of significance. **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 building, 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. **Owner** means any person having legal possession, custody, or control of an improvement on a landmark site or in an historic district.

Master (relative to a builder, designer, or architect) *[used in 41.07(3)(e), and 41.12(1)(e)]* means a builder, designer, or architect of consummate skill or generally recognized greatness in their field, and whose work is distinguishable from others by its characteristic style and quality. *[Note: The Downtown Historic Preservation Plan of 1994 includes a list of architects and builders considered "masters" who practiced in Madison prior to WWII. Identification of post-WWII masters should be a product of any survey undertaken pursuant to 33.19(2)(b) Powers and Duties of the Landmarks Commission.]*

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.

Standard means a rule that is required. Under this ordinance, all standards adopted in an historic district must be complied with in every instance of development in that district.

Structure means any **thing improvement** constructed or erected **primarily for purposes other than sheltering human activity**, the use of which requires more or less permanent location on the ground, and in the case of flood areas, in the stream bed or lake bed. **Examples include: fence, dam, retaining wall, effigy mound, walking path, storage shed, chicken coop.**

Visually Related Area (VRA) means properties constructed during the period of significance (Mansion Hill: 1850-1930; Third Lake Ridge: 1850-1929; University Heights: 1893-1928; Marquette Bungalows: 1924-1930; First Settlement: 1850-1920) that are within two hundred

(200) feet of the boundary of a lot. The VRA shall not include the building proposed to be demolished as part of any application for which VRA is being calculated. Outside of an historic district, no property other than a landmark, or landmark site shall be evaluated in the application of the VRA.

41.08 (1) [*“Preservation Restrictions”*]

(1) At the time of designation, or at any time thereafter, the owner of record of any landmark or landmark site may request that the Commission recommend the placement of additional restriction(s), **in the form of an easement, deed restriction or other similar legal instrument**, on the landmark or landmark site identifying elements or features of the landmark or landmark site that shall not be altered without a Certificate of Appropriateness from the Commission.

41.10(1)(d) [*“preserve”*]

(d) 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 abide by the regulations to which the property is subject**, even though he or she has made reasonable attempts in good faith to find and attract such a buyer.