

**CITY OF MADISON, WISCONSIN**

A SUBSTITUTE ORDINANCE \_\_\_\_\_

Creating Chapter 41, Historic Preservation, and repealing and amending Section 33.19 of the Madison General Ordinances to include only the creation of the Landmarks Commission.

PRESENTED  
REFERRED

July 1, 2014  
Ad Hoc Landmarks  
Ordinance Review  
Committee; Landmarks  
Commission

Drafted by: John Strange

Date: June 26, 2015

SPONSOR: Aids. Rummel, Bidar-Sielaff,  
Clear, King & Schmidt

LEGISTAR # 34577  
**DRAFT**

DRAFTER'S ANALYSIS: See Drafter's Memorandum.

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The Common Council of the City of Madison ordains as follows:

1. Chapter 41 entitled "Historic Preservation" of the Madison General Ordinances is created to read as follows:

**"CHAPTER 41**

**HISTORIC PRESERVATION ORDINANCE**

**SUBCHAPTER A: GENERAL PROVISIONS**

**41.01 POLICY AND PURPOSE.** The Common Council recognizes that the City of Madison contains buildings, structures, signs, features, improvements, sites, and areas that have significant architectural, archaeological, anthropological, historical, and cultural value. The Common Council further recognizes that these historic resources represent the City's unique heritage, contribute to the health, prosperity, safety and welfare of the City's residents, and serve as a source of great interest to the City's residents and visitors. Therefore, the Common Council hereby finds that it is in the public interest to identify, protect, preserve, promote, conserve and use historic resources within the City.

The purpose of this section is therefore to:

- (1) Accomplish the identification, protection, promotion, preservation, conservation and use of the City's historic resources, as embodied and reflected in the city's landmarks and historic districts.
- (2) Ensure the harmonious, orderly, and efficient growth of the City that sensitively incorporates historic structures and artifacts.
- (3) Enhance the visual and aesthetic character of the City by ensuring that new design and construction, when it happens, complements the City's historic resources.
- (4) Provide a framework for reinvestment in the City's historic districts, where appropriate, that ensures new design and construction, when it happens, complements the City's historic resources.
- (5) Safeguard the City's historic resources and investment in them by establishing an obligation to maintain them, and encouraging the vigorous enforcement of this ordinance.

**Approved as to form:**

- (6) Recognize that the city's historic resources are economic assets that can attract residents and visitors, create jobs, stabilize and improve property values, and stimulate business and industry.
- (7) Foster civic pride in the beauty and noble accomplishments of the past.
- (8) Promote the use of and investment in historic districts and landmarks for the education, pleasure and welfare of the people of the City.
- (9) Provide a clear regulatory framework for implementing, balancing, and accomplishing the public policy announced in this section.

**41.02 DEFINITIONS.** In this chapter:

Addition means any act or process that changes one or more of the architectural features of a structure by adding to, joining with or increasing the size or capacity of the structure.

Alteration means any change, addition or modification to an improvement or grading (see improvement and addition).

Architectural Features means the distinguishing exterior elements of a building or structure including shape, size, design, style, fenestration, materials, and decorative details.

Building means any structure having a roof that may provide shelter, support, protection, or enclosure of persons, animals, or property of any kind. (see structure).

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

Certificate of Appropriateness means an official form issued by the Landmarks Commission stating that the proposed work on a designated landmark or on a building in a historic district is in accord with the requirements of this ordinance and that (1) the proposed work may be completed as specified in the certificate; and (2) that the Building Inspector may issue any permits needed to do the work specified in the certificate.

Character (of a building and a historic district) means the sum of all physical and temporal attributes in a historic place which can include setting, history, property types, form, proportion, architectural style, construction methods, and materials.

Construction means the erection of any new structure or the alteration of any existing structure. (See structure and alteration).

Landmarks Commission or Commission means the Landmarks Commission created under M.G.O. Sec. 33.19.

Demolish means the act or process that removes or destroys in whole or in part a building, structure, or resource.

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

Development means any improvement or alteration to an existing improvement.

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 (of a building) means the vertical distance in feet measured from the arithmetic mean ground level adjoining the structure to the highest point of the roof or parapet of a building, whichever is higher, or to the top of a structure.

Historic District means an area designated by the Common Council pursuant to Subchapter G of this ordinance.

Historic Resource means any building, structure, sign, feature, improvement, site, and area having significant architectural, archaeological, anthropological, historical, and cultural value. Historic Resources include properties designated as landmarks and as historic resources specifically identified in a historic district ordinance.

Improvement means any structure, landscape feature or object intended to enhance the value or utility of a property. (See structure, landscape feature and object.)

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 the lot or parcel identified in a landmark designation. If a landmark designation does not identify a lot or parcel, 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.

Landscape means the improvements, topography, plants and open spaces in an area and their arrangement and patterns. (See improvement).

Landscape Feature means any improvement to the natural landscape including plants, gardens, parks, greenways and landscaping around structures (see improvement).

Lot means a tract of land, designated by metes and bounds, land survey, minor land division or plat, and recorded in the office of the county register of deeds.

Master means an architect or designer of recognized greatness who is responsible for a large body of published work or notable structures.

Natural Feature means any native plant community, geological feature, or other natural element. Examples include prairies, oak savannas, water elements, topography, or rock outcroppings.

Object means any improvement that is of relatively small scale or of simple construction for primarily ornamental or artistic purposes including fountains, monuments, or sculptures. (See improvement).

Owner means any person having legal possession, custody, or control of an improvement on a landmark site or in an historic district.

Period of Significance means the duration of time measured by a beginning and ending year when a historic district is associated with important events, activities, persons, or attained characteristics which qualify it for historic district status. Specific periods of significance are identified for each Historic District in Subchapter G.

Person means an individual, corporation, partnership, limited liability company, cooperative, trust, association or business entity. For purposes of repeated violations of the provisions of this chapter, any corporation, partnership, limited liability company, cooperative, trust, association or business entity is considered the same as another corporation, partnership, limited liability company, cooperative, trust, association or business entity if they share at least one (1) officer.

Preservation means the act or process of applying measures necessary to sustain the existing form, integrity, and materials of a historic property or historic resource.

Preservation Planner means the person designated under Section 41.05.

Reconstruction means the act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and its historic location.

Rehabilitation means the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features of the property which convey its historical architectural and cultural values.

Restoration means the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period.

Secretary of the Interior's Standards for the Treatment of Historic Properties means the principles developed by the National Park Service (36 C.F.R. 68.3, as may be amended) to help protect historic properties by promoting consistent preservation practices and providing guidance to historic building owners and building managers, preservation consultants, architects, contractors, and project reviewers on how to approach the treatment of historic properties. The Secretary of the Interior Standards for Treatment of Historic Properties may also be referred to in this ordinance as "Secretary of the Interior's Standards."

Site means any location of a significant event, a prehistoric or historic occupation or activity where the location itself maintains value or significance. Examples include Indian trails, effigy mounds, battlegrounds, or locations of former structures.

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 building or improvement attached to land. (See building and improvement).

Visually Compatible means harmonious with location, context, setting, and historic character.

#### **41.03 GENERAL ADMINISTRATIVE PROVISIONS.**

- (1) Computing time periods. In computing any period of time prescribed by this ordinance, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included. When the period of time prescribed or allowed is less than eleven (11) days, Saturdays, Sundays and holidays shall be excluded from the computation.
- (2) Conflicting Regulations. Where the regulations imposed by this ordinance are either more or less restrictive than regulations in other ordinances or laws, including Chapter 28, the regulations which are more restrictive or which impose higher standards or requirements shall prevail, unless an exception to this provision is specifically noted.
- (3) Separability. A court decision invalidating any provision or application of this chapter does not invalidate any other provision or application of this chapter, except as specifically provided by law or court order.
- (4) Imminent threat to life, health or property. This chapter does not limit, or require Landmarks Commission approval for, any construction, reconstruction, alteration or demolition that is specifically ordered by a court or governmental agency to prevent an imminent threat to life, health or property.
- (5) Measuring 200 feet around properties. Certain provisions of this chapter reference properties that are within 200 feet of a subject property. Under this chapter, measurements around properties shall be taken from the lot lines of the subject property 200 feet in all directions. Any improvements located on lots that fall within this measurement shall be considered within 200 feet of the subject property.
- (6) Transition rule. The comprehensive revision of the Historic Preservation ordinance is happening in two phases, best described as Subchapters A-F (Phase I) and Subchapter G (Phase II), with the formal adoption of Phase I happening before the formal adoption of Phase II. The revision of Subchapters A-F was not intended to change the substance of the historic district ordinances contained in Subchapter G. Thus, if conflicts exist between standards contained in Subchapters A-F and standards contained in Subchapter G, the standards in Subchapter G shall prevail. Upon the formal adoption of Phase II, staff shall ensure that this transition rule is removed from the chapter.

#### **SUBCHAPTER B: LANDMARKS COMMISSION**

**41.04 LANDMARKS COMMISSION.** The Landmarks Commission shall do all of the following with advice and assistance from the Preservation Planner.

- (1) Administer this chapter.
- (2) Carry out its responsibilities under sections 28.144, 28.185(7)(a)4., and 33.19(2) of the Madison General Ordinances.

**41.05 PRESERVATION PLANNER.** The Preservation Planner is a staff member of the Department of Planning and Community and Economic Development. The Preservation Planner shall staff the Landmarks Commission and carry out the duties that the Landmarks Commission properly delegates to the Preservation Planner under this chapter. In carrying out those duties, the Preservation Planner shall exercise his or her own professional judgment and expertise, consistent with this chapter and subject to general oversight by the Landmarks Commission.

#### **41.06 PUBLIC HEARINGS; AND HEARING NOTICES.**

- (1) Hearings; general. The Landmarks Commission shall hold a public hearing whenever a hearing is required by this chapter, and may hold other hearings as necessary to carry out its responsibilities under sec. 41.04. When necessary to carry out its responsibilities under sec. 41.04, the Commission may subpoena witnesses and relevant evidence.
- (2) Hearing Notices; general. The Landmarks Commission shall give advance public notice of each hearing held by the Commission. The notice shall comply with Wis. Stat. § 19.84, and shall also comply with subs. (3) and (4) if applicable. The notice shall include all of the following information, and any other information required under this chapter:
  - (a) The time, place and purpose of the hearing.
  - (b) If the hearing pertains to a specific site or structure, the location of that site or structure.
  - (c) If the hearing pertains to a historic district, the identity of that district.

- (3) Publication; when required. The Landmarks Commission shall publish advance notice of the following hearings in the official City newspaper or other medium as allowed by law:
  - (a) Any hearing on the proposed designation of a landmark under sec. 41.07, on the proposed rescission of a landmark designation under sec. 41.08;
  - (b) Any hearing on a proposed certificate of appropriateness under Subchapter F;
  - (c) Any hearing on a proposed variance under sec. 41.19; and
  - (d) Any hearing on the proposed creation or amendment of a historic district under Subchapter D.
- (4) Mail notice to property owners; when required. In addition to giving public notice under this section, the Commission shall in the following cases mail an equivalent notice to the following persons at least 10 days prior to the hearing date:
  - (a) If the hearing pertains to a specific site or structure:
    - 1. Each owner of record of the lot on which that site or structure is located.
    - 2. Each owner of record of each lot located within 200 feet of the lot on which the site or structure is located.
  - (b) If the hearing pertains to the creation or amendment of a historic district:
    - 1. All owners of record of lots located wholly or in part within the historic district.
    - 2. The Alder of each aldermanic district in which any part of the historic district is located.
  - (c) If the hearing pertains to a proposed certificate of appropriateness or variance, to the Alder in whose aldermanic district the affected site or structure is located.

### **SUBCHAPTER C: LANDMARKS**

#### **41.07 DESIGNATING LANDMARKS.**

- (1) Designation. The Common Council, after considering the recommendation of the Landmarks Commission, may designate a landmark according to this section.
- (2) Standards. A site, improvement, or site with improvements may be designated as a landmark if the proposed landmark meets any of the following criteria:
  - (a) It is associated with broad patterns of cultural, political, economic or social history of the nation, state or community;
  - (b) It is associated with the lives of important persons, or with important event(s) in national, state or local history;
  - (c) It has important archaeological or anthropological significance;
  - (d) It embodies the distinguishing characteristics of an architectural type inherently valuable for the study of a period, style, method of construction, or of indigenous materials or craftsmanship; or
  - (e) It is representative of the work of a master builder, designer or architect.
- (3) Nomination. Any person may nominate a site, improvement, or site with improvements for designation as a landmark. The person shall submit the nomination to the City Planning Division, to the attention of the Preservation Planner, on a nomination form approved by the Landmarks Commission. The nomination shall clearly identify the proposed landmark, landmark site, and document why it qualifies under sub. (2). The Preservation Planner may ask the person to submit additional information and documentation, as needed to complete or clarify the nomination. When the Preservation Planner determines that the nomination is complete, the Preservation Planner shall refer the nomination to the Landmarks Commission.
- (4) Landmarks Commission review and public hearing. Whenever the Landmarks Commission receives a complete, accurate nomination under sub. (3), the Commission shall review the nomination. As part of the review, the Commission shall schedule a public hearing and publish a hearing notice according to sec. 41.06. The Commission may also conduct its own investigation of the facts, as it deems necessary.
- (5) Landmarks Commission action. After the Landmarks Commission holds a public hearing and completes its review under sub. (4), it shall submit to the Common Council a recommendation supporting or opposing the proposed landmark designation. The Commission may support the proposed landmark designation subject to terms and conditions that are consistent with this chapter. The Commission shall report its recommendation, along with reasons for it, to the Common Council. At least 10 days before any meeting at which the Common Council may act on the Commission's recommendation, the Commission shall send

a notice of the recommendation to each owner of record of each lot on which the proposed landmark is located.

- (6) Common Council action. After considering the Landmarks Commission's report recommendation under sub. (5), and based on the standards under sub. (2), the Common Council shall vote to designate or decline to designate the property as a landmark. The City Clerk shall promptly notify the Director of the Building Inspection Division and the City Assessor of each designation. The City Clerk shall cause the designation to be recorded at City expense, with the Dane County Register of Deeds.
- (7) Voluntary designation of additional Landmark Preservation Restriction(s). The Common Council may at any time supplement the terms of a landmark designation pursuant to an agreement between the landmark owner and the Landmarks Commission, in order to enhance the preservation and protection of the landmark.
- (8) Recognition of Landmarks. Whenever the Common Council designates a landmark under sub. (6), the Landmarks Commission shall affix, to the landmark or landmark site, a plaque identifying the property as a landmark. The plaque shall be placed so that it is easily visible to passing pedestrians. In the case of a landmark structure, the plaque shall include the accepted name of the landmark, the date of its construction, and other information that the Landmarks Commission considers appropriate. In the case of a landmark that is not a structure, the plaque shall include the common name of the landmark and other information that the Commission considers appropriate. If the Commission determines that a plaque would be inappropriate, because the landmark is ecologically or culturally sensitive, no plaque is required. No person may remove or alter a plaque without approval of the Preservation Planner.
- (9) Amending a Landmark Designation. Any person may petition the Landmarks Commission to amend a Landmark Designation. The process for amending a landmark shall be the same as for designating a landmark under subsections (1)-(6) above.

#### **41.08 RESCINDING A LANDMARK DESIGNATION.**

- (1) Common Council may rescind. The Common Council, after considering the recommendation of the Commission under sub. (4) below, may rescind a landmark designation.
- (2) Requesting rescission.
  - (a) 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. The request shall explain the grounds for the proposed rescission, and shall include documentation to show that the proposed rescission satisfies the standards under sub. (3)(a) below.
  - (b) Any person who is listed as the owner of record may petition for rescission of the designation. The request shall explain the grounds for the proposed rescission, and shall include documentation to show that the proposed rescission satisfies the standards under sub. (3)(b) below.
  - (c) The Preservation Planner may ask the landmark owner to submit additional information, as needed, to complete or clarify the request.
- (3) Standards.
  - (a) A request to rescind a landmark designation under sub. (2)(a) above shall be approved only if the owner of record at the time of designation demonstrates that he or she is unable to find a buyer willing to abide by the regulations to which the project is subject, 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:
    1. Comparable real estate listings showing current market values;
    2. Current real estate listing including disclosure statement;
    3. Dates of real estate agent showings;
    4. Original listing date;
    5. Original listing amount and dates of subsequent changes;
    6. Value of improvements made to the property during ownership;
    7. Current assessed value;
    8. Whether the owner has received a fair and reasonable offer to purchase the structure; and
    9. List of routine maintenance and associated costs during ownership.

- (b) A request to rescind a landmark designation under sub. 2(b) above shall be approved only when the physical appearance of the site has changed substantially such that the site no longer meets the standards set forth for designation in Section 41.07 of this ordinance, provided that such change was not due to the owner of record's failure to maintain the property as required by this ordinance.
- (3) Landmarks Commission review and public hearing. When the Preservation Planner finds that a request under sub. (2) above is complete, the Preservation Planner shall refer the request to the Landmarks Commission. The Commission shall review and hold a public hearing on the request for rescission. The Commission shall give prior notice of the hearing as provided in s. 41.06. The Commission may gather other information, in addition to hearing testimony and evidence, which may be relevant to its evaluation of the request.
- (4) Landmark Commission action. After holding a public hearing and completing its review under sub. (2) above, the Landmarks Commission shall determine whether the requested rescission meets applicable standards under sub. (2). The Commission shall report its finding, along with reasons for it, to the Common Council. At least 10 days before any meeting at which the Common Council may act on the Commission's findings, the Commission shall send written notice of its findings to each owner of record of each lot on which the landmark is located.
- (5) Common Council action. After considering the Commission's report under sub. (4) and applying the standards under sub. (2), the Common Council may act on the Commission's findings, and considering the standards contained in this ordinance, the Common Council may rescind a landmark designation. The City Clerk shall notify the Director of the Building Inspection Division and the City Assessor of each rescission. The City Clerk shall cause the rescission to be recorded, at City expense, with the Dane County Register of Deeds.

**41.09 ALTERING OR DEMOLISHING LANDMARKS.** No person may do any of the following without a Certificate of Appropriateness issued under Subchapter F:

- (1) Add a new structure to a landmark.
- (2) Materially alter the exterior of a landmark.
- (3) Demolish or relocate a landmark or any part of a landmark.
- (4) Install a sign on the exterior of a landmark, or on a landmark site.
- (5) Divide any lot comprising all or part of a landmark site, or voluntarily grant any easement on that tax parcel if doing so may impair the preservation, maintenance, exterior appearance or historic character of the landmark.

**SUBCHAPTER D: HISTORIC DISTRICTS**

**41.10 DESIGNATING AND AMENDING HISTORIC DISTRICTS.**

- (1) Authority to Designate or Amend Historic Districts. The Common Council, after considering the recommendations of the Landmarks Commission and the City Plan Commission under this section, may by ordinance do any of the following according to this section:
  - (a) Designate a clearly defined area as a historic district.
  - (b) Amend the designation of an existing historic district. An amendment may include a boundary adjustment or an amendment of standards specific to that historic district, provided that the amendment complies with this section.
- (2) Criteria to Designate or Amend Historic Districts. To be designated as a historic district, the defined area shall be of particular historic, architectural, or cultural significance to the City of Madison, and shall meet at least one of the following criteria:
  - (a) Is associated with broad patterns of cultural, political, economic or social history of the nation, state or community;
  - (b) Is associated with the lives of important persons, with important event(s) in national, state or local history;
  - (c) Is associated within an area of particular archaeological or anthropological significance;
  - (d) Embodies the distinguishing characteristics of an architectural type inherently valuable for the study of a period, style, method of construction, or of indigenous materials or craftsmanship;
  - (e) Is representative of the work of a master builder, designer or architect.
- (3) Process to Designate or Amend Historic Districts.
  - (a) Nomination. Any person may request the designation or amendment of a historic district. The person shall submit the request to the City Planning Division, to the

attention of the Preservation Planner, on a form provided by the Commission. The request shall clearly describe the proposed historic district or amendment, and shall clearly explain and document why the proposed historic district designation or amendment qualifies and should be approved under this section. The Preservation Planner shall promptly notify the Commission of each request and shall review the request for completeness. The Preservation Planner may ask the requester to submit additional information and documentation as needed. When the Preservation Planner finds that the request is reasonably complete, the Preservation Planner shall refer the request to the Landmarks Commission.

- (b) Review by Landmarks Commission. If a complete and accurate nomination is submitted to the Commission, the Landmarks Commission shall schedule a public hearing. Notice shall be given according to Section 41.06 of this ordinance. Following the public hearing, the Landmarks Commission shall vote to recommend, reject or withhold action on the ordinance. This recommendation shall be forwarded to the City Plan Commission and the Common Council. The Landmarks Commission recommendation shall be accompanied by a proposed Historic District ordinance pursuant to Section 41.11 below.
- (c) Review by City Plan Commission. The City Plan Commission shall review the proposed ordinance creating or amending the historic district and make a recommendation to the Common Council within thirty (30) days of the public hearing before the Common Council. The Plan Commission may extend this time by referral.
- (d) Adoption or Rejection by Common Council. The Common Council, upon receipt of the recommendations from the Landmarks Commission and Plan Commission, shall hold a public hearing. Notice shall be given according to Section 41.06 of this ordinance. Following the public hearing, the Common Council shall designate, amend, or reject the historic district ordinance.

**41.11 CREATING HISTORIC DISTRICT ORDINANCE.** Each Historic District Ordinance adopted under sec. 41.10(3)(d) shall explain the basis for the designation, identify specific historic resources in the district, and provide specific standards and guidelines for reviewing development in the district. In any proposed ordinance under this section, the Landmarks Commission should consider including the following as standards or guidelines:

- (1) Any new structure proposed within 200 feet of historic resources shall be visually compatible with those historic resources in regards to:
  - (a) Height.
  - (b) Scale and Proportion.
  - (c) In the street elevation(s) of a structure, the proportion of width to height in all facade(s).
  - (d) The proportions and relationships between doors and windows in the street and publicly visible facade(s).
  - (e) The proportion and rhythm of solids to voids, created by openings in the facade.
  - (f) Colors and patterns used on all facade(s).
  - (g) The design of the roof.
  - (h) The landscape treatment.
  - (i) The texture and materials used in all facade(s).
- (2) The existing rhythm created by existing structure masses and spaces between them shall be preserved.
- (3) The amount, shape, and pattern of open spaces shall be sensitive to the character of the district.
- (4) The landscape plan shall be sensitive to the individual structure, its occupants and their needs.
- (5) All street facade(s) shall blend with other structures via directional expression. When adjacent structures have a dominant horizontal or vertical expression, this expression shall be carried over and reflected.
- (6) Architectural details should be incorporated as necessary to relate the new with the old and to preserve and enhance the inherent characteristics of the area.

**41.12 CONSTRUCTING, ALTERING, OR DEMOLISHING STRUCTURES IN HISTORIC DISTRICTS.** No person may do any of the following in an historic district without a certificate of appropriateness issued under Subchapter F:



- (1) Construct a new structure.
- (2) Materially alter the exterior of an existing structure.
- (3) Demolish or relocate an existing structure.
- (4) Install a sign.
- (5) Divide any tax parcel, consolidate any tax parcels, or voluntarily grant any easement on a tax parcel if doing so may distract from the historic character of the district.

**SUBCHAPTER E: MAINTENANCE OF LANDMARKS,  
LANDMARK SITES AND HISTORIC DISTRICTS**

**41.13 PUBLIC INTEREST IN PRESERVATION AND MAINTENANCE.** The Common Council finds it is in the public interest to preserve and maintain landmarks, landmark sites, and improvements in a historic district, and to vigorously enforce the provisions of this and other ordinances.

**41.14 OBLIGATION TO MAINTAIN; ENFORCEMENT; PENALTIES.**

- (1) Obligation to Maintain. Every owner of an improvement on a landmark site or in an historic district shall:
  - (a) Protect against exterior decay and deterioration;
  - (b) Keep any structure free from structural defects; and
  - (c) Maintain all interior portions thereof which, if not so maintained, may cause or tend to cause the exterior portions of such improvement to fall into a state of disrepair.
- (2) Enforcement. The Building Inspector is authorized to enforce the provisions of this ordinance. Upon written official notice of the Building Inspector, the owner shall repair such decay, deterioration, or structural defects to bring the improvement into compliance with this ordinance. The Building Inspector shall notify the Preservation Planner of all official notices issued to owners of landmarks or improvements in historic districts and whether the work required to remedy the violations is completed by the compliance date specified in the official written notice. 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. However, the Building Inspector may not waive the provisions of this Ordinance.
- (3) Penalties for Violations. Violations of the provisions in this ordinance shall be subject to a minimum forfeiture of two hundred fifty dollars (\$250) and a maximum forfeiture of five hundred dollars (\$500) for each separate violation. A second violation within thirty-six (36) months shall be subject to a minimum forfeiture of five hundred dollars (\$500) and maximum forfeiture of one thousand dollars (\$1000) for each separate violation. A third violation within thirty-six (36) months shall be subject to a minimum forfeiture of one thousand dollars (\$1000) and maximum forfeiture of two thousand dollars (\$2000) for each separate violation. Each and every day during which a violation continues shall be deemed to be a separate violation. All fines imposed under this ordinance shall be tripled if the Court makes an additional finding that the subject property is undergoing Demolition by Neglect as defined by this ordinance. A finding of Demolition by Neglect by the Landmarks Commission as provided in Section 41.15 below shall be prima facie evidence of Demolition by Neglect for purposes of any civil court action.

**41.15 DEMOLITION BY NEGLECT.** It shall be unlawful for the owner of a landmark, improvement on a landmark site, or improvement in an historic district to allow the landmark or improvement to undergo Demolition by Neglect.

- (1) Notice of Demolition by Neglect. In addition to the penalties imposed in Section 41.14 above, if the Building Inspector believes that a landmark or improvement is undergoing Demolition by Neglect, he or she shall provide written notification of Demolition by Neglect to the Owner of the landmark or improvement and the Landmarks Commission.
- (2) Public Hearing. Upon receiving a Notice of Demolition by Neglect from the Building Inspector, the Landmarks Commission shall set a time, date, and place for a public hearing

- as required by Section 41.06 of this Chapter. The public hearing shall take place not less than forty-five (45) nor more than ninety (90) days after the Landmarks Commission receipt of a Notice of Demolition by Neglect. The purpose of the hearing is for the Landmarks Commission to determine whether the improvement is undergoing Demolition by Neglect.
- (3) Determination of the Landmarks Commission. If after proper notice and hearing, the Landmarks Commission determines that the landmark or improvement is undergoing Demolition by Neglect, it shall report its determination to the Common Council, Building Inspector, and Office of the City Attorney. A determination that an improvement is undergoing Demolition by Neglect is also a determination that a public nuisance exists under Sec. 27.05(3).
  - (4) Appeal of Determination of the Landmarks Commission.
    - (a) An appeal from the decision of the Landmarks Commission regarding Demolition by Neglect may be taken to the Common Council by the applicant, the Alderperson of the district in which the subject property is located, or by the owners of twenty percent (20%) of the number of parcels of property within two hundred (200) feet of the subject property.
    - (b) Such appeal shall be initiated by filing a petition to appeal, which shall include the identity and address of the petitioners, specify the grounds for appeal, and be filed with the City Clerk within ten (10) days of the Landmarks Commission decision. 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.
    - (c) The Council may, by favorable vote of two-thirds (2/3) of its members, reverse or modify the decision of the Landmarks Commission, with or without conditions, or refer the matter back to the Commission with or without instructions, if it finds that the Commission's decision is contrary to the applicable standards of Subchapter E.
  - (5) Authorization of Repairs. Upon a finding of Demolition of Neglect by the Landmarks Commission, the Building Inspector may proceed under the non-summary abatement procedures set forth in Sec. 27.05(3)(e) to repair the landmark or improvement to abate the nuisance. The cost of any such repairs shall be paid by the Owner or shall be imposed as a special charge against the property and collected pursuant to the provisions of Sec. 4.09(13) and Wis. Stat. § 66.0627.
  - (6) Acquisition by City. Upon a finding of Demolition by Neglect by the Landmarks Commission, the Common Council may authorize the acquisition of property by the City under Wis. Stat. § 66.1111(2), including through the initiation of condemnation proceedings under Wis. Stat. § 32.06.

## **SUBCHAPTER F: CERTIFICATE OF APPROPRIATENESS**

### **41.16 CERTIFICATE OF APPROPRIATENESS REQUIRED.**

A Certificate of Appropriateness approved by the Landmarks Commission is required for the following proposed actions:

- (1) Exterior alteration of a designated landmark or structure within an historic district;
- (2) Construction of new structure on a landmark site or in an historic district;
- (3) Demolition or removal of all or part of a landmark or structure in an historic district;
- (4) Erecting or affixing a sign on a landmark site or in an historic district;
- (5) Alteration of part of a landmark designated as an Additional Preservation Restriction; or
- (6) Land divisions and combinations involving a landmark site or in an historic district.

### **41.17 PROCESS.**

- (1) Application. The owner of a property may apply for a Certificate of Appropriateness. An application for a Certificate of Appropriateness shall be filed with the Planning Department, c/o the Preservation Planner. The application shall be considered filed when it is stamped "accepted" by the Preservation Planner. The timelines applicable in sub. (4) below shall not begin until an application is filed. Every application shall include at least the following information unless otherwise indicated by the Preservation Planner:
  - (a) Completed Application document.
  - (b) Narrative Description of the project.
  - (c) Scalable drawing set reduced to 11" x 17" which includes floor plans, elevations and details to convey relevant information.

- (d) Any other information requested by the Preservation Planner to convey the aspects of the project.
- (e) Signature of the property owner.
- (2) Public Hearings. The Commission shall hold a Public Hearing and provide Class 2 Notice according to Section 41.06 of this ordinance for applications involving the following:
  - (a) Demolition or removal of all or part of a landmark;
  - (b) Demolition or removal of a structure in an historic district;
  - (c) Construction of a new principal structure in an historic district;
  - (d) Construction of an accessory structure with a footprint larger than one hundred (100) square feet, not including decks and open porches, in an historic district;
  - (e) Land divisions and combinations; and
  - (f) Exterior alteration of a structure in an historic district that increases the footprint of the structure more than one hundred (100) square feet, not including decks and open porches.
- (3) Administrative Approval. The Landmarks Commission may authorize the Preservation Planner, or other designee(s) to approve certain projects, provided that the Commission shall first adopt written policies establishing which projects can be administratively approved, and the process to be followed.
- (4) Issuance of Certificate of Appropriateness. The Landmarks Commission shall approve or deny a Certificate of Appropriateness, based upon the applicable standards in subsection (12) of this ordinance, within sixty (60) days of the filing of an accepted application. Failure to approve a Certificate of Appropriateness within sixty (60) days shall be deemed a denial, effective on the last day of the determination period. The determination period may be extended an additional sixty (60) days by written agreement of the applicant. Upon approval of the Certificate by the Commission, the Preservation Planner or designee shall issue a Certificate of Appropriateness. A Certificate of Appropriateness shall expire two (2) years from the date of issuance unless a building permit is obtained within such period.

#### **41.18 STANDARDS.**

- (1) For Exterior Alteration or Construction. The Landmarks Commission shall approve a Certificate of Appropriateness for exterior alteration or construction only if:
  - (a) In the case of exterior alteration to a designated landmark, the proposed work would meet the Secretary of the Interior's Standards for Rehabilitation.
  - (b) In the case of exterior alteration or construction of a structure on a landmark site, the proposed work would meet the Secretary of the Interior's Standards for Rehabilitation.
  - (c) In the case of exterior alteration or construction on any property located in an historic district, the proposed exterior alteration or construction meets the adopted standards and guidelines for that district.
  - (d) In the case of any exterior alteration or construction for which a Certificate of Appropriateness is required, the proposed work will not frustrate the public interest expressed in this ordinance for protecting, promoting, conserving, and using the City's historic resources.
- (2) For Demolition or Removal. 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 all 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 a landmark's designation has been rescinded;
  - (c) 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;
  - (d) Whether demolition or removal of the subject property would be contrary to the policy and purpose of this ordinance and/or to the objectives of the historic preservation plan for the applicable historic district as duly adopted by the Common Council;
  - (e) Whether the structure is of such old and unusual or uncommon design, method of construction, or material that it could not be reproduced or be reproduced only with great difficulty and/or expense;

- (f) 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;
  - (g) The condition of the property, provided that any deterioration of the property which is self-created or which is the result of demolition by neglect under this ordinance cannot qualify as a basis for the issuance of a Certificate of Appropriateness for demolition or removal;
  - (h) 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,
  - (i) 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.
- (3) For Signs. The commission shall approve a Certificate of Appropriateness for signs, unless it finds that the size or design of the sign(s) would adversely affect the historic fabric of the structure or the district; that the sign(s) fails to comply with Chapter 31 of the Madison General Ordinances; or that the sign(s) fails to comply with specific Standards or Guidelines for signs adopted in each historic district under this ordinance.
- (4) For Alterations under Additional Preservation Restriction. The commission shall approve a Certificate of Appropriateness for an alteration under an additional historic preservation restriction unless it finds the alteration would adversely affect a significant architectural feature of the structure.
- (5) For Land Divisions and Combinations. The commission shall approve a Certificate of Appropriateness for a land divisions, combinations, and subdivision plats of landmarks sites and properties in historic districts, unless it finds that the proposed lot sizes adversely impact the historic character or significance of a landmark, are incompatible with adjacent lot sizes, or fail to maintain the general lot size pattern of the historic district.

#### **41.19 VARIANCE.**

- (1) General. A property owner who applies for a Certificate of Appropriateness under Subchapter F may request a variance from one or more standards under sec. 41.18. The Landmarks Commission may vary one or more standards under sec. 41.18 for any of the following reasons:
- (a) Economic hardship sub. (4) below.
  - (b) Historic design under sub. (5) below.
  - (c) Alternative design under sub. (6) below.
  - (d) Projects which are necessary for the public interest under sub. (7) below.
- (2) Variance Request. A property owner shall make a variance request under sub. (1) above on a form approved by the Landmarks Commission. The request shall include:
- (a) The name and address of the property owner.
  - (b) The location of the property to which the request pertains.
  - (c) The certificate of appropriateness application under sec. 41.17 to which the variance request pertains.
  - (d) The type of variance requested under sub. (1).
  - (e) The specific standard or standards under sec. 41.18 from which the owner requests a variance.
  - (f) The circumstances and supporting evidence that justify the requested variance.
  - (g) Any other materials requested by the Preservation Planner or Landmarks Commission.
- (3) Hearing, decision, and appeal.
- (a) The Landmarks Commission shall hold a public hearing on each variance request under sub. (1). The Commission shall give notice of the hearing as provided in sec. 41.06. The Commission may combine the hearing with a hearing on the proposed certificate of appropriateness to which the variance request pertains, provided that the hearing notice identifies both items.
  - (b) After it holds a public hearing on a variance request, the Commission shall grant or deny the request.

- (c) The Commission's decision under par. (b) may be appealed to the Common Council, as provided under sec. 41.20.
- (4) Economic hardship variance. The Landmarks Commission may grant a variance from a standard under sec. 41.18 if all of the following apply:
  - (a) Strict literal application of the standard would deny the property owner a reasonable rate of return on investment, or would impose upon the property owner an unreasonable and unnecessary financial hardship.
  - (b) The circumstances justifying the variance are unique to the property in question, and,
    1. Were not caused by the owner's failure to maintain the property according to sections 41.14 and 41.15; and
    2. Does not apply to a substantial portion of the historic district or historic resources within 200 feet of the subject property; and
    3. Will not alter the historic character of the historic district or historic resources within 200 feet of the subject property.
  - (c) The property owner documents the circumstances justifying the variance. The Landmarks Commission may publish evidentiary guidelines to assist property owners, and to ensure the Commission receives adequate documentation for variances granted under this subsection. Required documentation includes:
    1. Property purchase costs;
    2. Rental income;
    3. Real estate listings, disclosure statements, asking prices, and purchase offers;
    4. Tax assessments and real estate listing for comparable properties;
    5. Improvements made, and improvement costs incurred, during ownership;
    6. Routine maintenance costs incurred during ownership;
    7. Costs to comply with the standard from which a variance is requested;
    8. Other documentation reasonably requested by the Landmarks Commission
- (5) Historic design variance. The Landmarks Commission may grant a variance allowing, as part of the alteration of an existing structure, elements otherwise prohibited under sec. 41.18 if all of the following apply:
  - (a) The property owner provides photographic or other evidence to show that other local structures, of similar age and style, incorporated similar elements.
  - (b) The proposed alteration complies with all other applicable standards under sec. 41.18.
  - (c) The alteration will not destroy significant architectural features on the building.
- (6) Alternative design variance. The Landmarks Commission may grant a variance allowing, in a new or altered structure, elements that are otherwise prohibited under sec. 41.18 if all of the following apply:
  - (a) The elements will enhance the quality of the design.
  - (b) The design complies with all other applicable standards under sec. 41.18.
  - (c) The design does not allow material deviations from historic district standards and guidelines that would undermine the character or purpose of the historic district.
  - (d) The design will have a beneficial effect on the historic character of the area within 200 feet of the subject property.
- (7) Public interest variance. The Landmarks Commission may grant a variance allowing the construction of a new structure, or the alteration, demolition or removal of an existing structure, which would otherwise be prohibited under sec. 41.18, if the Commission finds that a variance is necessary in the public interest. A variance is necessary in the public interest if the Commission finds all of the following:
  - (a) The proposed building, object, site or structure provides unique, high priority benefits to the general public.
  - (b) The benefits to the general public under sub. (7)(a) above substantially outweigh the strong public interest in preserving historic resources expressed in this ordinance.
  - (c) There are no reasonable alternatives to granting a variance that would allow the proposed project to occur in the city and satisfy the standards of this ordinance.

#### **41.20 APPEAL.**

- (1) The applicant, the Alderperson of the district in which the subject property is located, or the owners of twenty percent (20%) of the number of parcels of property within two hundred

- (200) feet of the subject property may appeal the decision of the Landmarks Commission to approve or deny a Certificate of Appropriateness or Variance Request.
- (2) The appellant(s) shall file a petition of appeal with the City Clerk within ten (10) days of the Landmarks Commission's final decision. The petition shall indicate the identity and address of the petitioners and the specific grounds for appeal.
  - (3) Once a petition is filed, the City Clerk shall file the petition with the Common Council. The Common Council shall set the appeal for a public hearing.
  - (4) After a public hearing, the Common Council may, by favorable vote of two-thirds (2/3) of its members, reverse or modify the decision of the Landmarks Commission, with or without conditions, or refer the matter back to the Commission with or without instructions, if it finds that the Commission's decision is contrary to the applicable standards under s. 41.18, 41.19, or any district-specific standards contained in Subchapter G.

#### **41.21 PENALTIES FOR FAILURE TO OBTAIN CERTIFICATE OF APPROPRIATENESS.**

- (1) Permits. The Director of the Building Inspection Division shall not issue a permit allowing alteration, construction, demolition, removal, or for any other action 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.
- (2) 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.
- (3) 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 standards for a Certificate under Subchapter F of this ordinance, or under the Additional Preservation Restriction specific to that landmark. Alternatively, the Commission may order renovation to make such work comply with those standards.

### **SUBCHAPTER G: DESIGNATED HISTORIC DISTRICTS, HISTORIC DISTRICT ORDINANCES**

#### **41.22 MANSION HILL HISTORIC DISTRICT.**

- (1) 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 Subchapter D of this Chapter.
- (2) Standards 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 standards, namely that many of the structures in the District:
  - (a) Are identified with historic personages or with important events in national, state or local history;
  - (b) 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;
  - (c) 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.
- (3) Historic Resources in the Mansion Hill Historic District.
  - (a) Designated Landmarks.
  - (b) Designated Landmark sites.
  - (c) Properties constructed during the period of significance, 1850-1930.
- (4) Standards for Review of Development in the Mansion Hill Historic District.

- (1) Any new structure located within 200 feet of other historic resources shall be visually compatible with those historic resources in the following ways:
  - (a) Height
  - (b) Gross Volume
  - (c) In the street elevation(s) of a structure, the proportion of width to height in the facade(s).
  - (d) The proportions and relationships of width to height of the doors and windows in street facade(s).
  - (e) The proportion and rhythm of solids to voids created by openings in the façade.
- (2) 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.
- (5) 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.

#### **41.23 THIRD LAKE RIDGE HISTORIC DISTRICT.**

- (1) 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 Subchapter D of this Chapter.
- (2) Standards 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 standards in subsections (4) and (6), namely that many of the structures and sites in the District:
  - (a) Are identified with historic personages or with important events in state or local history; and
  - (b) 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.
- (3) Historic Resources in the Third Lake Ridge Historic District.
  - (a) Designated Landmarks.
  - (b) Designated Landmark Sites.
  - (c) Properties constructed during the period of significance, 1850-1929.
- (3) Standards for New Structures in the Third Lake Ridge Historic District - Parcels Zoned for Employment Use. Any new structure on parcels zoned for employment use that are located within 200 feet of other historic resources shall be visually compatible with those historic resources in the following ways:
  - (a) Gross volume
  - (b) Height
- (4) Standards for Exterior Alterations in the Third Lake Ridge Historic District - Parcels Zoned for Employment Use. Any exterior alterations on parcels zoned for employment use that are located within 200 feet of other historic resources shall be visually compatible with those historic resources in the following ways:
  - (a) Height.
- (5) Standards for New Structures in the Third Lake Ridge Historic District - Parcels Zoned for Mixed-Use and Commercial Use. Any new structures on parcels zoned for mixed-use and commercial use that are located within 200 feet of other historic resources shall be visually compatible with those historic resources in the following ways:
  - (a) Gross Volume
  - (b) Height
  - (c) The proportion and rhythm of solids to voids in the street facade(s)

- (d) The materials used in the street facade(s)
- (e) The design of the roof
- (f) The rhythm of buildings masses and spaces
- (6) Standards for Exterior Alterations in the Third Lake Ridge Historic District - Parcels Zoned for Mixed-Use and Commercial Use.
  - 1) Any exterior alterations on parcels zoned for mixed-use and commercial use that are located within 200 feet of other historic resources shall be visually compatible with those historic resources in the following ways:
    - (a) Height
  - (2) Alterations of street façade(s) shall retain the original or existing historical proportion and rhythm of solids to 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.
- (7) Standards for New Structures in the Third Lake Ridge Historic District - Parcels Zoned for Residential Use. Any new structures on parcels zoned for mixed-use and commercial use that are located within 200 feet of other historic resources shall be visually compatible with those historic resources in the following ways:
  - (a) Gross Volume
  - (b) Height
  - (c) The proportion and rhythm of solids to voids in the street facades.
  - (d) Materials used in the street facades.
  - (e) The design of the roof.
  - (f) The rhythm of buildings and masses.
  - (g) Directional expression
  - (h) Materials, patterns and textures
  - (i) Landscape treatment
- (8) Standards for Exterior Alterations in the Third Lake Ridge Historic District - Parcels Zoned for Residential Use.
  - 1) Any exterior alterations on parcels zoned residential use that are located within 200 feet of other historic resources shall be visually compatible with those historic resources in the following ways:
    - (a) Height
    - (b) Landscape treatment
    - (c) Rhythm of mass and spaces
  - 2) Alterations of the street façade(s) of any existing structure shall retain the original or existing historical proportion and rhythm of solids to voids.
  - 3) Alterations of the street façade(s) of any existing structure shall retain the original or existing historical materials.
  - 4) Alterations of the roof of any existing structure shall retain its existing historical appearance.
  - 5) Alterations of the street facade(s) shall retain the original or existing historical proportional relationships of door sizes to window sizes.
- (9) 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.

#### **41.24 UNIVERSITY HEIGHTS HISTORIC DISTRICT.**

- (1) 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 Subchapter D of this Chapter.
- (2) Standards 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 standards in Sec. 33.19(9) of the Madison General Ordinances, namely that many of the structures in the district:
  - (a) are identified with historic personages or with important events in national, state, or local history;



- (b) 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,
  - (c) 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.
- (3) Historic Resources in the University Heights Historic District.
- (a) Landmarks.
  - (b) Landmark sites.
  - (c)
- (4) Standards 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.
- (a) Principal Structures.
    1. 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.
    2. 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 within 200 feet of the subject property. 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.
    3. 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 within 200 feet of the subject property. 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 200 feet of the subject property 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 200 feet of the subject property..
    4. Roof Shape. The shapes and pitches of roofs shall be similar to the roof shapes and pitches on existing structures within 200 feet of the subject property.
    5. Roof Materials. Roofing materials shall be similar in appearance to roofing materials used on structures within 200 feet of the subject property. 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.
    6. 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.
  - (b) 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.](#)

- (5) Standards for the Review of Exterior Alterations and Repairs in TR-C2, TR-C3, and TR-C4, Zoning Districts.
- (a) 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.
  - (b) 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.
  - (c) 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.
  - (d) 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.
  - (e) 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.
  - (f) 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 and rhythm 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.
  - (g) 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.
  - (h) 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.

(i) Roof Material.

1. 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.
2. 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.
3. 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.

(j) 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.

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

- (a) 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.
- (b) Alterations. Alterations shall be compatible in scale, materials and texture with the existing structure.
- (c) Repairs. Materials used in repairs shall harmonize with the existing materials in texture, color and architectural detail.
- (d) Re-Siding. The standards for the review of re-siding are the same as the standards 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.
- (e) 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.
- (f) 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.
- (g) 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.

**41.25 MARQUETTE BUNGALOWS HISTORIC DISTRICT.**

- (1) 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 Subchapter D of this Chapter.

- (2) Standards 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 standards 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.
- (3) Historic Resources in the Marquette Bungalows Historic District.
  - (a) Landmarks.
  - (b) Landmarks sites.
  - (c)**
- (4) Standards for the Review of New Construction and Fences.
  - (a) 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.
  - (b) New Principal Structures. New principal structures shall match the design of other structures in the district in materials, roof shape, architectural details, the proportion and rhythm 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.
  - (c) 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.
- (5) Standards 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.
  - (a) 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.
  - (b) 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.

- (c) 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.
- (d) 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.
- (e) 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.
- (f) Windows and Doors.
  - 1. General Standards. 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.
  - 2. 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.
  - 3. 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.
  - 4. Rear Facade. Replacement, remodeling or installation of new doors and windows on the rear facade will not be restricted except as discussed under "General Standards" above.
- (g) 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.

- (h) 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 standards listed under "Porches" above.
- (i) 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 and rhythm 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.
- (j) 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.
- (k) 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.
- (l) 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.

#### **41.26 FIRST SETTLEMENT HISTORIC DISTRICT.**

- (1) 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 Subchapter D of this Chapter.
- (2) Standards 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 standards 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.
- (3) Historic Resources in the First Settlement Historic District.
  - (1) Landmarks.
  - (2) Landmark sites.
  - (3)**
- (4) Standards for the Review of New Principal Structures.

- (a) 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 200 feet of the proposed structure. New principal structures shall be compatible with the scale, proportion, and rhythm of masses and spaces of structures within 200 feet of the proposed structure.
  - (b) 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:
    - 1. The material shall be of the highest grade offered by the manufacturer.
    - 2. The material shall have a minimum gauge of .042.
    - 3. The color and sheen of the siding shall be consistent with those used in the era in which adjacent structures were constructed.
    - 4. The siding shall not have a false wood grain.
    - 5. The width of each apparent clapboard shall not exceed four (4) inches.
    - 6. 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.
  - (c) 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.
  - (d) 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.
  - (e) Façade 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 200 feet of the subject property.
  - (f) Windows and Doors. The proportion of width to height of doors and windows and the proportion and rhythm of solids to voids in the front and side facade designs shall be similar to pre-1930 structures within 200 feet of the subject property. 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.
- (5) Standards 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 standards listed below are intended to maintain an historically accurate appearance. Modern materials that do not meet the exact requirements of the standards but which duplicate the historic appearance may be considered on an individual basis in the waiver procedure listed in **Section 33.19(17)** above.
- (a) 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.

- (b) 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.
- (c) 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.
- (d) 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.
- (e) 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.
  - (f) 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.
  - (g) 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.
  - (h) 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.
  - (i) 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.
  - (j). 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.
  - (k) 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.
  - (l) 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.

- (m) 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.
  - (n) 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 and rhythm 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.
  - (o) 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.
  - (p) 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.
  - (q) Permanently Installed Air Conditioners. Permanently installed air conditioners shall be as inconspicuous as possible. Ground air conditioners shall be screened with landscaping where possible.
  - (r) 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.
  - (s) Repairs. Repairs to structures shall either match the existing or the original appearance. Restoration to the original appearance is encouraged.
  - (t) 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 and rhythm 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.
- (6) Standards for the Review of Accessory Structures, Fences and Retaining Walls.
- (a) 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).

- (b) Fences. Chain link and rustic style fences, such as rough sawn wood or split rails, are prohibited in the front yard.
- (c) 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.
- (6) 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. Section 33.19 entitled "Landmarks Commission" of the Madison General Ordinance is repealed and recreated to read as follows:

**"33.19 LANDMARKS COMMISSION.**

- (1) Composition and Terms. A Landmarks Commission is hereby created, consisting of seven (7) members. One (1) shall be a historian; at least one (1) shall be a licensed architect, one (1) shall be a licensed real estate professional; one (1) shall be an alderperson; and three (3) shall be citizen members, at least one of whom has expertise in construction. Each member shall have, to the highest extent practicable, a known interest in historic preservation. Of the membership, at least two (2) shall meet the Professional Qualifications Standards established by the United States Secretary of the Interior for History, Archeology, Architectural History, Architecture, or Historic Architecture. The Mayor shall appoint the commissioners subject to confirmation by the Common Council. The term for each member shall be three (3) years. The terms shall be staggered.
- (2) Powers and Duties. The Landmarks Commission shall:
  - (a) Uphold the Historic Preservation Ordinance with advice from the Preservation Planner and guidance from the Secretary of the Interior's Standards for Rehabilitation.
  - (b) Oversee a survey for the identification of significant properties, structures, sites and areas that exemplify the cultural, social, economic, political or architectural history of the nation, state, or city at least every ten (10) years.
  - (c) Recommend to the Common Council the designation and rescission of landmarks and designation and amendment of historic districts within the City limits of Madison.
  - (d) As provided in Chapter 41, Historic Preservation Ordinance, 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.
  - (e) As provided in Chapter 41, Historic Preservation Ordinance, review and act upon requests for Certificates of Appropriateness for erecting or affixing signs on structures that are landmarks, on landmarks sites, or in an historic district.
  - (f) As provided in Chapter 41, Historic Preservation Ordinance, review requests for demolition or removal and provide an advisory report to Plan Commission regarding the historic value of the property pursuant to Sec. 28.185(7)(a)4.
  - (g) As provided in Chapter 41, Historic Preservation Ordinance, review 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 would 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.
  - (h) As provided in Chapter 41, Historic Preservation Ordinance, review review and act upon request for Certificate of Appropriateness for proposed land divisions,

combinations, and subdivision plats of landmark sites and properties in historic districts to determine whether the proposed lot sizes adversely 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.

- (i) 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.
- (j) Work closely with the City Planning Department to visually define and highlight historic districts.
- (j) Educate landmark owners and the owners of properties in historic districts about resources and incentives available which would assist in carrying out the purpose and intent of Chapter 41, Historic Preservation Ordinance.
- (k) Educate the citizens of Madison about the historic heritage of the city and the landmarks, landmark sites, and historic districts designated under the provisions of Chapter 41, Historic Preservation Ordinance.
- (l) 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.
- (m) Adopt policies and procedures to implement the provisions of Chapter 41, Historic Preservation Ordinance.
- (n) Review proposed historic preservation plans, amendments to historic preservation plans, and amendments to Chapter 41, Historic Preservation Ordinance, and make recommendations to the Common Council.”

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

EDITOR’S NOTE: When the changes provided by this ordinance have been made, the Table of Contents for Chapter 41 will read as follows:

## **CHAPTER 41**

### **HISTORIC PRESERVATION**

#### **Section**

#### **Subchapter A – General Provisions**

- 41.01 Purpose and Intent.
- 41.02 Definitions.
- 41.03 General Administrative Provisions.

#### **Subchapter B – Landmarks Commission**

- 41.04 Landmarks Commission.
- 41.05 Powers and Duties of the Preservation Planner.
- 41.06 Public Hearings; Notice Required.

#### **Subchapter C – Landmarks**

- 41.07 Designation of Landmarks.
- 41.08 Voluntary Designation of Additional Landmark Preservation Restriction(s).
- 41.09 Recognition of Landmarks.
- 41.10 Recission of Landmarks.
- 41.11 Altering or Demolishing Landmarks.

#### **Subchapter D – Historic Districts**

- 41.12 Creation and Amendment of Historic Districts.
- 41.13 Historic District Ordinance Required.
- 41.14 Constructing, Altering, or Demolishing Structures in Historic Districts.

#### **Subchapter E – Maintenance of Landmarks, Landmark Sites and Historic Districts**

- 41.15 Public Interest in Preservation and Maintenance.
- 41.16 Obligation to Maintain; Enforcement; Penalties.
- 41.17 Demolition by Neglect.

**Subchapter F – Certificates of Appropriateness - Projects on Landmarks,  
Landmark Sites and in Historic Districts**

- 41.18 Certificate of Appropriateness Required.
- 41.19 Process.
- 41.20 Standards.
- 41.21 Waiver.
- 41.22 Appeal.
- 41.23 Penalties for Failure to Obtain Certificate of Appropriateness.

**Subchapter G – Designated Historic Districts; Historic District Ordinances**

- 41.24 Mansion Hill Historic District.
- 41.25 Third Lake Ridge Historic District.
- 41.26 University Heights Historic District.
- 41.27 Marquette Bungalows Historic District.
- 41.28 First Settlement Historic District.