

**PROPOSED REVISIONS TO LANDMARKS DESIGNATION AND RESCISSION  
SECTIONS OF LANDMARKS ORDINANCE**

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

- 1. Proposed landmarks should be of special significance based on historical or cultural events or individuals, or based on significant architectural design or materials.** (See *Section 7(c) below*). The following provisions reflect this:
  - a. The property must “be of special significance in terms of its historical, prehistorical, architectural, archaeological, and/or cultural importance, and possess integrity of design, setting, workmanship, materials, feeling and/or association.” *Raleigh Ord. 10-1053(a)*.
  - b. The property must meet one of the following criteria:
    - i. Exemplify or possess “special character, or historic or aesthetic interest or value as part of the political, economic, or social history” of the city;
    - ii. Be identified with “persons or events significant in local, state, or national history;”
    - iii. Embody the “distinguishing characteristics of a type, period or method of construction or design style” or be “representative of the work of a designer, architect or builder;”
    - iv. Represent an “established and familiar visual feature of the community by virtue of its unique location or singular physical characteristic;”
    - v. Yield “information important in prehistory or history.”  
*N.Y. Model Ord. 11(a)*.
  
- 2. If a person or group other than the owner of record nominates a property, the owner of record should have the opportunity to determine whether to consent to the designation.** (See *Section 7(d) below*). The following provision reflects this:
  - a. “For Historic Landmark or Conservation Landmark designation, the property owner must consent, in writing, to the Historic Landmark or Conservation Landmark Designation.” *Portland Ord. 33.846.030(C)(3)*.
  
- 3. The requirements for rescission should recognize that an owner of record may acquire a landmark other than by inheritance.** (See *Section 8(a)(1) below*).
  
- 4. The requirements for rescission should recognize that not all real estate transactions are conducted through agent showings and listings.** (See *Section 8(a)(4) below*).

The following revisions to these sections reflect these principles:

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**(7) Designation of Landmarks.**

(a) Nomination. The Landmarks Commission and the Common Council may consider nominations for landmark designation. Any site, natural or improved, including any building, improvement or structure located thereon, or any area of particular historic, architectural, archeological, anthropological, or cultural significance to the City of Madison may be nominated as a Landmark. An individual or group may nominate a property for consideration by submitting an application and a nomination on a form provided by the Commission.

(b) Public Hearing. If a complete, accurate application is submitted to the Commission, a public hearing shall be scheduled. Notice shall be given according to Subsection (6). In addition to the notified persons, the Commission may hear witnesses and shall have the power to subpoena such witnesses and records as it deems necessary. The Commission may conduct an independent investigation into the proposed designation.

(c) Standards. The Commission may recommend designation as a landmark if it determines that the nominated area or structure:

1. ~~Is associated with broad~~ Exemplifies significant patterns of cultural, political, economic or social history of the nation, state or community; or

2. ~~Is associated with~~ Was a significant part of the lives of important persons, ~~or of with~~ important event(s) in national, state or local history; or

3. Is ~~associated with~~ part of an area of particular archaeological or anthropological significance;

4. Embodies the distinguishing characteristics of an architectural type inherently valuable for the study of a period, style, method of construction, or of indigenous materials or craftsmanship; or

5. Is representative of the significant work of a master builder, designer or architect.

(d) Notification of Property Owner. The Commission shall send notification to the owner of record of its recommendation for or against designation. Notification of the Commission's recommendation shall be sent to the property owner within ten (10) days of Commission's decision and at least ten (10) days before any meeting at which the Common Council may act on the Commission's recommendation. If the owner of record is not the individual or group who nominated the property, the owner of record must consent, in writing, to the recommendation of the Commission before the Common Council may act on the recommendation.

(e) Report to Common Council. The Commission shall report its recommendation, along with the reasons for it, to the Common Council. After considering the Commission's report, and considering the standards contained in this ordinance, the Common Council may designate the property as a landmark. The City Clerk shall notify the Director of the Building Inspection Division and the City Assessor of all designations. The City Clerk shall cause such designation to be recorded, at City expense, in the Dane County Register of Deeds office.

(f) Voluntary Designation of Additional Preservation Restriction(s).

1. At the time of designation, or at any time thereafter, the owner of record of any landmark may request that the Commission recommend the placement of additional restriction(s) on the landmark identifying elements or features of the landmark that shall not be altered without a Certificate of Appropriateness from the Commission.

2. The Commission shall identify specific standards for approval of such a Certificate.
3. The Commission shall submit recommendations for Additional Preservation Restrictions along with the standards for approval of a Certificate of Appropriateness to the Common Council. The Council shall approve, approve with modifications, or deny such restrictions or standards.

(g) Recognition of Landmarks. After a landmark has been properly designated in accordance with this subsection, the Commission shall cause to be prepared and erected on such property at City expense, a suitable plaque declaring that such property is a landmark. Such plaque shall be so placed as to be easily visible to passing pedestrians. In the case of a landmark structure, the plaque shall state the accepted name of the landmark, the date of its construction, and other information deemed proper by the Commission. In the case of a landmark which is not a structure, such plaque shall state the common name of the landmark and such other information deemed appropriate by the Commission. However, if the landmark is ecologically or culturally sensitive such that the Commission determines placement of a plaque is inappropriate, no plaque is required. No person shall remove or alter a plaque without approval of the Preservation Planner.

#### **(8) Rescission.**

(a) By Owner of Record at Time of Designation.

1. Any person who is listed as the owner of record of a landmark at the time of its designation who has held continuous ownership since designation, and any person who has inherited the landmark from such person or otherwise acquired the landmark in the chain of title, may petition for rescission of the designation under this subdivision by submitting an application to the Landmarks Commission.
2. Upon receipt of a complete application the Commission shall schedule a public hearing. Notice shall be given according to Subsection (6).
3. The Commission shall conduct the hearing, may hear witnesses, and shall have the power to subpoena such witnesses and records as it deems necessary. The Commission may conduct an independent investigation into the proposed rescission.
4. A landmark designation may be rescinded under this subdivision (a) only if the owner demonstrates that he or she is unable to find a buyer willing to preserve-acquire such landmark at fair market value, 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~~that may include the following:
  - a. Comparable real estate listings showing current market values;
  - b. Current real estate listing including disclosure statement;
  - ~~c. Dates of real estate agent showings;~~
  - ~~d. Original listing date;~~
  - ~~e. Original listing amount and dates of subsequent changes;~~
  - ~~f. Value of improvements made to the property during ownership;~~
  - gc. Current assessed value; and
  - ~~dh.~~ Whether the owner has received a fair and reasonable offer to purchase the structure; and.
  - ~~i. List of routine maintenance and associated costs during ownership.~~

5. The Commission may recommend for or against the rescission of the designation of the property as a landmark based on the standard(s) in subparagraph (8)(a)4. of this ordinance. The Commission shall send notification to the owner of record of its recommendation for or against rescission within ten (10) days from the first regularly scheduled Commission meeting following the public hearing.

6. The Commission shall report its recommendation, along with the reasons for it, to the Common Council. After considering the Commission's report, and considering the standard(s) for rescission contained in this ordinance, the Common Council may rescind the designation of the property as a landmark. The City Clerk shall notify the Director of the Building Inspection Division and the City Assessor. The City Clerk shall cause such rescission to be recorded, at City expense, in the Dane County Register of Deeds office.

7. Following any rescission under this subdivision, the Common Council may not re-designate the subject property a landmark for a period of not less than five (5) years following the date of rescission, unless requested by the owner of record.

(b) Due to Substantially Changed Physical Appearance.

1. The owner of record or the City Preservation Planner may petition the Commission for rescission of a landmark designation under this subdivision by submitting a letter of intent to the Landmarks Commission.

2. Upon receipt of the letter of intent, the Commission shall schedule a public hearing. Notice shall be given according to Subsection (6) of this ordinance.

3. The Commission shall conduct the hearing, may hear witnesses, and shall have the power to subpoena such witnesses and records as it deems necessary. The Commission may conduct an independent investigation into the proposed rescission.

4. A landmark designation may be rescinded under this subdivision (8)(b) of this ordinance 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 subdivision (7)(c) of this ordinance, provided that such change was not due to the owner of record's failure to maintain the property in good repair.

5. The Commission may recommend for or against the rescission of the designation of the property as a landmark, based on the standard(s) in subparagraph (8)(b)4. of this ordinance. The Commission shall send notification to the owner of record of its recommendation for or against rescission. Notification shall be sent within ten (10) days of Commission's decision and at least ten (10) days before any meeting at which the Common Council may act on the Commission's recommendation.

6. The Commission shall report its recommendation, along with the reasons for it, to the Common Council. After considering the Commission's report, and considering the standard(s) for designation and rescission contained in this ordinance, the Common Council may rescind the designation of the property as a landmark. The City Clerk shall notify the Director of the Building Inspection Division and the City Assessor. The City Clerk shall cause such rescission to be recorded, at City expense, in the Dane County Register of Deeds office.