

DATE: February 23, 2019

TO: Landmarks Ordinance Review Committee (LORC)

FROM: James Matson, Madison Alliance for Historic Preservation

SUBJECT: **Historic Preservation Ordinance**

The Madison Alliance for Historic Preservation hereby offers, as promised at the Feb. 12 LORC meeting, a preliminary discussion draft of proposed ordinance amendments related to historic districts. This is **not** a final draft ordinance proposal, but rather a suggested **starting point** that streamlines the current ordinance while maintaining current historic district standards. We expect and hope that this preliminary discussion draft will be improved over time, as you and interested stakeholders (including our Alliance) work to address the needs and challenges facing Madison's historic districts.

This draft lays out some basic features of a workable ordinance, but allows for many details and refinements to be added later. This draft:

- **Provides some basic minimum standards for *all* historic districts.** These include basic standards related to the compatibility of new construction and exterior alterations within historic districts. These are largely based on existing ordinance criteria, and reflect generally accepted preservation principles. Because they apply to all historic districts, they are naturally somewhat general.
- **Allows for supplementary, district-specific standards that address individual district goals, characteristics and concerns.** District-specific standards may vary in content, coverage and level of detail, based on individual district needs. We avoid highly detailed, "one-size-fits-all" requirements for all properties in all historic districts, as initially suggested by the consultant.
- **Streamlines and clarifies current district-specific ordinances, without changing their substantive content.** This draft includes the Mansion Hill District as an example; others will follow. At this time, some districts (like Mansion Hill) have very sparse district-specific standards, while others (like University Heights) have very extensive and detailed standards. Although there is much room for improvement in current district-specific standards, that will require further careful study and public input.
- **Incorporates, by reference, discretionary guidelines that can help to interpret and apply ordinance standards where appropriate.** The guidelines are not, themselves, enforceable ordinance standards. This draft incorporates, as examples, established guideline documents such as the *Secretary of Interior's Guidelines for Historic Rehabilitation* and the *Mansion Hill Design Criteria (for that district)*. The city may wish to "boil down" the voluminous federal guidelines for convenient local use, and may also wish to include some key guidelines as ordinance *standards* (not just guidelines); but that will require careful review, selection and editing.
- **Suggests possible revisions to current definitions, to add clarity.**

This draft is intentionally brief. It incorporates the above features with very modest amendments to the current ordinance. But again, this is just a suggested **starting point**. Additional content will require additional drafting.

Madison Historic Preservation Ordinance

Draft Amendments Proposed by the Alliance for Historic Preservation

***Note: This is a preliminary draft for discussion purposes only.
It does not necessarily represent the final position
of the Alliance for Historic Preservation***

Plain Language Analysis

This ordinance amends Chapter 41 of the Madison General Ordinances, related to Historic Preservation. In particular, this ordinance modifies portions of Chapter 41 related to *historic districts*. To date, the City of Madison has created 5 historic districts, each having its own unique characteristics. Current districts include:

- The Mansion Hill Historic District
- The Third Lake Ridge Historic District
- The University Heights Historic District
- The Marquette Bungalows Historic District
- The First Settlement Historic District

This ordinance spells out basic standards for all historic districts, including basic standards for new construction and exterior alterations in those districts. District-specific ordinances may supplement, modify, create exemptions from, or add detail to these general standards. This ordinance also streamlines and clarifies current district-specific ordinances, without changing the substantive *content* of those ordinances. Current development standards in district-specific ordinances should be reviewed and updated as necessary; but that will require further district-specific analysis.

A historic district typically includes landmarks and other designated *historic resources* (including buildings constructed during the district's specified *period of significance*). But not all buildings in a historic district are themselves *historic resources*. This ordinance spells out basic minimum standards for *all* development in a historic district, to protect the overall character of the district. Additional standards apply to the construction and alteration of properties that are located in close proximity to *historic resources*.

Historic district standards overlay zoning codes applicable to historic districts, and may be more restrictive than zoning codes. This ordinance will include a map of each historic district, showing district boundaries and the location of designated *historic resources* within the district. As used in this ordinance, the following terms have the following definitions:

Note: *The following definitions are taken from the current ordinance. Some suggested amendments are shown, and some additional definitions may be needed.*

- ***Alteration*** means any change, addition or modification to an improvement or grading.
- ***Architectural feature*** 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.
- **Bulk** means ~~the size and setbacks of buildings or structures and the location of such buildings or structures with respect to one another~~ a structure's apparent size relative to its site and surrounding context, as reflected by all of the following:
 - Height and gross volume.
 - The location of exterior walls, at all levels, relative to lot lines, adjacent streets and adjacent structures.
 - Ratio of floor area to lot area.
 - Setbacks and open spaces.
 - Lot area per dwelling unit.

Note: *This revised, and more detailed, definition of "bulk" is consistent with the definition found in the Madison zoning code.*

- **Character** means ~~the sum of all, in the case of a structure, the impression created by the structure's combined~~ physical attributes in a historic place (including a building or historic district) which can include ~~setting, property types, form, proportion, architectural style, construction methods, and materials~~ including setting, property type, height, bulk, gross volume, directional orientation, overall design and proportions, architectural features, surface textures and materials, rhythm of solids to voids, roof design, proportions and relationships between doors and windows, street setbacks, landscaping and surrounding open spaces. In the case of a historic district, character means the impression created by the combined physical attributes of all designated historic resources within the district.
- **Construction** means the erection of any new structure or the alteration of any existing structure.
- **Development** means any improvement, or any alteration to an existing improvement.
- **Guideline** means a principle put forward to help determine a course of action. Guidelines may be used to help interpret standards to which the guidelines are relevant, but are not themselves standards. Under this ordinance, guidelines ~~Guidelines adopted in under this Chapter for a historic district shall serve as a collective set of principles may be used,~~ where applicable, to promote architectural the compatibility of new construction and exterior alterations in a the historic district.

Note: See suggested definition of "standard" below.

- **Gross volume** means the entire volume measured in cubic feet enclosed by a structure including attached structures, dormers, attics, crawl spaces, ~~or and~~ penthouses. Gross volume is measured from the outside surface of the exterior walls including any portions above existing grade to the roofline. It does not include courtyards with no roof, balconies, canopies, or portions below grade. ~~Decorative or structural features that extend beyond the plane of the outside face of the exterior wall, ; nor does it include features such as trim, cornices, pilasters, buttresses and overhangs are not included that extend beyond the plane of the outside face of the exterior wall.~~
- **Height** means the vertical distance in feet measured from the arithmetic mean ground level adjoining the structure to the highest point of the structure. In the case of a building, the highest point of the structure means the highest point of the roof or parapet of a building, whichever is higher, ~~or to the top of a structure.~~
- **Historic resource** means ~~any a~~ building, structure, sign, feature, improvement, site, or area having significant architectural, archaeological, anthropological, historical, or cultural value, which has been designated as a landmark or which is designated as a historic resource by a historic district ordinance. ~~Historic resources include properties designated as landmarks or historic resources in a historic district ordinance.~~

Note: Ordinances creating historic districts under must identify historic resources within the district (see Sec. 41.11(1)(c) of the current ordinance). These may include, but are not limited to, landmarks as well as non-landmark structures erected during the historic district's "period of significance."

- **Improvement** means any structure, landscape feature or object intended to enhance the value or utility of a property.
- **Landmark** means any ~~land or 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 that~~ has been designated as a landmark pursuant to the provisions of this chapter, under Sec. 41.07 or a prior ordinance, or 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 chapter.
- **Landmark Site** means the lot or parcel identified in the official landmark designation maintained by the City Planning Division. 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 is~~ situated, and any abutting lot, or part thereof, used as and constituting that constitutes and is used as 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.
- **Period of significance** means ~~the duration of time between beginning and ending years the time period, specified in the ordinance creating a historic district, during which a the~~ the time period, specified in the ordinance creating a historic district, during which a the historic district is was associated with the important events, activities, persons, or attained characteristics ~~which that~~ qualify it the district for historic district status. ~~Specific periods of significance are identified for each historic district.~~
- **Standard** means a rule ~~that is required~~ legal requirement. ~~Under this ordinance, all standards adopted in a historic district must be complied with in every instance of development in that district (unless the Landmarks Commission grants a formal variance).~~
- **Structure** means any building or improvement attached to land.
- **Visually compatible** means ~~harmonious with location, context, setting and in character.~~ Except as otherwise required by this chapter, a structure need not replicate or mimic historic structures, or create a false impression of age, in order to be visually compatible with historic structures.

Note: See suggested definition of "character" above.

Certain provisions of this ordinance refer to historic resources that are within 200 ft. of a subject property. According to the Sec. 41.03(5) of the current ordinance, that 200 ft. distance is measured in all directions from the lot lines of the subject property.

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

SECTION 1. Section 41.18(1)(a) and (b) of the Madison General ordinances are amended to read:

(a) In the case of exterior alteration to a designated landmark, the proposed work would meet the standards set forth, as standards, in the United States Secretary of the Interior's Standards for ~~Rehabilitation~~ the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings (2017). Guidelines set forth in the same document may be used to help interpret and apply the

standards. The document may be viewed, and downloaded without charge, at [insert specific city website address].

(b) In the case of exterior alteration or construction of a structure on a landmark site, the proposed work would meet the standards set forth, as standards, in the United States Secretary of the Interior's Standards for ~~Rehabilitation~~ the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings (2017). Guidelines set forth in the same document may be used to help interpret and apply the standards. The document may be viewed, and downloaded without charge, at [insert specific city website address].

Note: *The above amendments merely update and clarify current cross-references.*

SECTION 2. Subchapter 41D(title) of the Madison General Ordinances is amended to read:

SUBCHAPTER 41D: - HISTORIC DISTRICTS; GENERAL

SECTION 3. Section 41.11 of the Madison General Ordinances is amended to read:

41.11 HISTORIC DISTRICT ORDINANCE REQUIREMENTS.

(1) **General.** An ordinance creating a historic district under Sec. 41.10 shall do all of the following:

(a) Clearly delineate the boundaries of the historic district.

(b) ~~Specify the rationale for creating the historic district.~~ Specify a period of significance for the historic district.

Note: *The rationale for a historic district should be spelled out in the city's comprehensive historic preservation plan, not the ordinance. The plan should also describe the general character and historic features of the district. Relevant information related to each historic district – key plan provisions, district map, period of significance, development standards (from the ordinance), development guidelines (incorporated by reference in the ordinance), and other relevant material should be readily accessible at a “one stop” location on the city website. The material should be provided in a user-friendly format, organized by historic district.*

(c) Identify historic resources in the historic district, including landmarks, landmark sites, and properties constructed during the district's period of significance.

(d) Establish development standards and guidelines for reviewing proposed development in the district, ~~as provided in sub. (2) below~~ under Sec. 41.12 and Subchapter F. The standards and guidelines under subs. (2) and (3) apply to all historic districts, except that a district-specific ordinance under this subsection may supplement, modify, create exemptions from, or add detail to those standards and guidelines as appropriate for that historic district.

Note: *Under current Sec. 41.12, no person may do any of the following in a historic district without a certificate of appropriateness from the Landmarks Commission under Subchapter F:*

- *Construct a new structure.*
- *Materially alter the exterior of an existing structure.*
- *Demolish or relocate an existing structure.*
- *Install a sign.*
- *Divide any lot, consolidate any lot, or voluntarily grant any easement on any lot, if doing so may distract from the historic character of the district.*

(2) Development Standards and Guidelines. ~~In any proposed ordinance under this section, the Landmarks Commission should consider including the following as standards or guidelines. Except as otherwise provided by a district-specific ordinance under sub. (1), development in a historic district shall meet the following standards:~~

~~(a) *New construction.* Any New construction in a historic district shall be visually compatible with the historic character of the district, and shall not detract from that historic character. A new structure located on a lot that lies within two hundred (200) feet of a landmark or designated historic resource shall be visually compatible with that landmark or historic resource, particularly in regards with respect to:~~

- ~~1. Bulk and massing Height, bulk, gross volume, overall design and overall proportions.~~
- ~~2. In the street elevation of a structure, the facade's proportion of width to height Directional expression and proportions of street facades.~~
- ~~3. The proportions and relationships between doors and windows in the street and publicly visible facade street facades.~~
- ~~4. The proportion and rhythm of solids to voids, including voids created by openings in the between facades and setbacks within facades.~~
- ~~5. Colors and patterns used on all facades Architectural features.~~
- ~~6. The design of the roof Roof design.~~
- ~~7. The landscape Landscape treatment.~~
- ~~8. The texture and materials used in all facades. Surface textures and materials.~~

~~(b) *Exterior alterations; all structures.* Exterior alterations to existing structures in a historic district shall be visually compatible with the historic character of the district, and shall not detract from that historic character. Exterior alterations to a structure located on a lot that lies within two hundred (200) feet of a landmark or designated historic resource shall be visually compatible with that landmark or historic resource, particularly with respect to:~~

- ~~1. Height, bulk, gross volume, overall design and overall proportions.~~
- ~~2. Directional expression and proportions of street facades.~~
- ~~3. The proportions and relationships between doors and windows in street facades.~~
- ~~4. The proportion and rhythm of solids to voids created by facade openings or setbacks.~~
- ~~5. Architectural features.~~
- ~~6. Roof design.~~
- ~~7. Landscape treatment.~~
- ~~8. Surface textures and materials.~~

~~(b) The existing rhythm created by existing structure masses and spaces between them shall be preserved.~~

~~(c) The amount, shape, and pattern of open spaces shall be sensitive to the character of the district.~~

~~(d) The landscape plan shall be sensitive to the individual structure, its occupants and their needs.~~

~~(e) All street facades 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.~~

~~(f) Architectural details should be incorporated as necessary to relate the new with the old and to preserve and enhance the historic character of the district.~~

~~(g) Gross volume, height, and other quantitative measurements of the a proposed structure shall be sensitive to similar quantitative measurements of historic resources within two hundred (200) feet of the proposed structure.~~

(c) Exterior alterations to historic resources. Exterior features of a historic resource that are important in defining its historic character and contribution to the historic district shall be identified and preserved in any alteration to that historic resource. Alterations to landmarks shall comply with applicable standards referenced in Sec. 41.18.

(d) Alterations may not cause or aggravate nonconformities.

1. Alterations to an existing structure that was constructed in compliance with par. (a) may not cause that structure to violate any provision of par. (a) that would apply if the entire altered structure were being newly constructed.

2. Alterations to an existing structure that is, with respect to par. (a), a prior nonconforming structure may not aggravate the prior nonconformity.

Note: *The Landmarks Commission may grant a variance from one or more mandatory standards under sub. (2), using the variance procedure under section 41.19. A district-specific ordinance under sub. (1) may supplement or modify the standards under sub. (2), as appropriate for that historic district. Standards for the alteration of landmarks under Sec. 41.18 incorporate by reference the standards set forth (as standards) in the U.S. Secretary of Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings (2017).*

(3) Development Guidelines. The Landmarks Commission may consider, as guidelines for the interpretation of standards under sub. (2), relevant portions of the U.S. Secretary of Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings (2017). That document may be viewed, and downloaded without charge, at [insert specific city website address].

Note: *Guidelines are interpretive aids, not mandatory standards. The city may wish to "boil down" and edit the voluminous federal standards and guidelines for convenient local use, and may also wish to include some key standards and guidelines from the federal document as Madison ordinance standards (not just guidelines); but that will require careful review, selection and editing.*

SECTION 4. Subchapter G of the Madison General Ordinances is amended to read:

SUBCHAPTER 41G: ~~DESIGNATED HISTORIC DISTRICTS, HISTORIC DISTRICT ORDINANCES;~~ DISTRICT-SPECIFIC REQUIREMENTS

Note: *This draft incorporates, into each district-specific ordinance, the basic standards that apply to all districts under Sec. 41.11(2) above. This draft does not create any new district-specific standards, beyond the basic minimum standards provided for all districts under Sec. 41.11(2). This draft incorporates, into each district-specific ordinance, the basic guidelines that apply to all districts under Sec. 41.11(3) above. It also adds some (already familiar) district-specific guidelines. This overall approach is illustrated for the Mansion Hill district (see below); draft revisions for other districts would follow a similar pattern. Some districts (like Mansion Hill) have very sparse district-specific standards at this time; others (like University Heights) have extensive and detailed district-specific standards. Current district-specific standards should be carefully reviewed, updated and reorganized as necessary.*

41.22 - MANSION HILL HISTORIC DISTRICT.

(1) Purpose and Intent Creation. ~~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. There is hereby created a *Mansion Hill Historic District*. The boundaries of the district are shown in the map attached as *Appendix B.1* to this chapter, and are more specifically described in the legal description on file with the City of Madison Planning Division. The purposes and characteristics of this district are described in the *City of Madison Comprehensive Historic Preservation Plan (2019)*, which is also on file with the Planning Division and available online at *[insert specific city website address]*.~~

Note: *The district map in Appendix B.1 should identify district boundaries, as well as the location of historic resources designated under sub. (3). This draft ordinance amendment assumes that the city will adopt an updated (and comprehensive) historic preservation plan prior to or at the same time as this ordinance amendment, and that the plan will include a rationale for each historic district that is consistent with past plans, descriptions, and rationale statements. This draft does not contemplate any change in current historic district boundaries.*

(2) Criteria for Creation of Mansion Hill Historic District. ~~In that the Mansion Hill Historic District reflects a pattern in the broad social history of Madison, the State and the Nation, and in that elements within the District meet the other three designation criteria, namely that many of the structures in the District:~~

~~(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 a historic district.~~

Note: *General criteria for the creation of historic districts are already spelled out in Sec. 41.10. The rationale for creating a specific historic district should be spelled out in the city's comprehensive historic preservation plan (see cross-reference in sub. (1)), not in the ordinance.*

(2) Historic Period of Significance. The historic period of significance for the Mansion Hill Historic District is 1850 through 1930.

(3) Historic Resources in the Mansion Hill Historic District. The following properties are hereby designated as historic resources within the Mansion Hill Historic District, pursuant to Sec. 41.11(1)(b):

(a) Designated Landmarks landmarks, and the landmark sites associated with those landmarks.

(b) Designated Landmark sites.

(c) Properties Buildings and related structures constructed during the district's period of significance, 1850-1930 under sub. (2).

(c) [Other properties that should be specifically designated as historic resources?]

(4) Development Standards. Development in the Mansion Hill Historic District shall comply with all of the following standards:

(a) The general standards under Sec. 41.11(2).

Note: *A district-specific ordinance may provide exemptions from the general standards under Sec. 41.11(2), as appropriate for the district. The general standards under Sec. 41.11(2) equal or exceed the current district-specific standards for the Mansion Hill Historic District.*

(b) The supplementary district-specific standards provided in sub. (5).

(4)(5) Standards for Review of Development in the Mansion Hill Historic District.

(a) Any new structure located within two hundred (200) feet of other historic resources shall be visually compatible with those historic resources in the following ways:

1. Height.
2. Gross Volume.
3. In the street elevation(s) of a structure, the proportion of width to height in the facade(s).
4. The proportions and relationships of width to height of the doors and windows in street facade(s).
5. The proportion and rhythm of solids to voids created by openings in the façade.

(b) 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.

Note: *The current district-specific standards for the Mansion Hill district, set forth in renumbered sub. (5), should be reviewed and updated as appropriate. The general standards proposed under Sec. 41.11(2) equal or exceed the current district-specific standards for the Mansion Hill Historic District.*

~~**(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.~~

Note: *See updated plan reference in sub. (1).*

(6) Development Guidelines.

(a) When interpreting and applying the development standards under this section, the Landmarks Commission may consider, as guidelines, relevant portions of the following documents:

1. The *U.S. Secretary of Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings* (2017)

2. The *Mansion Hill Design Criteria* (2009).

(b) The guidelines under par. (a) may be viewed, and downloaded without charge, at [insert specific city website address].

Note: *The guidelines identified under sub. (5)(a)1 are those that apply to all historic districts, pursuant to Sec. 41.11(3). The guidelines identified under sub. (5)(a)2 are specific to the Mansion Hill Historic District, and are most directly relevant to historic resources within the district.*

41.23 – THIRD LAKE RIDGE HISTORIC DISTRICT....

41.24 – UNIVERSITY HEIGHTS HISTORIC DISTRICT....

41.25 - MARQUETTE BUNGALOWS HISTORIC DISTRICT....

41.26 – FIRST SETTLEMENT HISTORIC DISTRICT....