

DATE: January 9, 2020

TO: Landmarks Ordinance Review Committee (LORC)

FROM: Dave Mollenhoff, Chair
Madison Alliance for Historic Preservation

SUBJECT: Historic Preservation Ordinance

The Madison Alliance for Historic Preservation (“Alliance”) is committed to achieving a state-of-the-art historic preservation ordinance for the City of Madison. Some of you may remember that we played a key role in developing the first phase of the city’s historic preservation ordinance, which was unanimously approved by the Common Council in 2015.

You are now charged with developing a second phase of the ordinance, related to individual historic districts. We think we can help with that, too. Our volunteer members have broad experience in historic preservation, property development, property management, architecture, law, land use planning, public administration and city government, as well as deep familiarity with Madison’s historic neighborhoods and historic preservation processes. We have spent a great deal of time researching the issues and building consensus around a clear draft proposal.

Madison currently has 5 historic districts, including Mansion Hill, Third Lake Ridge, University Heights, Marquette Bungalows and First Settlement. Other districts are likely to be created in the future. The 5 current districts have diverse historic preservation goals, land use patterns, architectural styles, property characteristics and development challenges. Current district standards address some common themes, but vary within and between districts – reflecting the underlying diversity of the districts themselves. We think that makes sense.

We believe that the current district ordinances should be systematically updated and, where appropriate, made more consistent. But we oppose monolithic, top-down, “one-size-fits-none” general standards for all current and future historic districts. That simply will not work. Standards must be sensitive to the very real differences that exist *within* and *between* districts. What is appropriate for the Mansion Hill district may be inappropriate for the Marquette Bungalows district, and *vice versa*. Commercial areas may require different treatment than residential areas. An ordinary house that happens to be located in a historic district may require different treatment than a national landmark. Property owners need standards that are clear, transparent and practical – not vague and open to arbitrary reinterpretation. In short, each district needs its own standards that clearly address the needs, conditions and goals of that district. We offer the following recommendations:

- 1. Adopt guiding principles (NOT uniform standards) for all historic districts.** Sound guiding principles will encourage reasonable consistency and a basic level of protection in all districts, while allowing needed flexibility within and between districts. Guiding principles are not binding on property owners except as implemented by district-specific standards. Our proposed guiding principles are outlined in *Attachment #1 (Historic District Checklist)*.
- 2. Use district-specific standards, rather than uniform general standards.** It is unworkable to impose uniform standards on all properties in all historic districts; and trying to mix uniform general standards with variable district-specific standards will merely create confusion and legal uncertainty. We recommend a more common sense approach, relying on district-specific standards that take account of general guiding principles. According to the Wisconsin Historical Society, “a commission will want to consider its community’s unique character and needs when creating criteria for its local historic districts.” See *Attachment #2 (District-Specific vs. General Standards)*.

3. Use district stakeholder committees to propose district-specific standards. Process matters! It is no accident that district stakeholder committees developed 4 out of Madison's 5 historic districts. That is the best way to achieve neighborhood buy-in and ensure that district standards are appropriate to the purposes, needs and context of the district. Neighborhood input is normally sought whenever neighborhood plans and standards are being developed. We propose the following process to update Madison's current historic district ordinances:

- District alders would appoint district committees for the historic districts that they represent. District committees would represent a variety of stakeholder interests.
- District committees would consider overall guiding principles for historic districts, but would be free to propose standards (and accompanying guidelines) that reflect individual district needs and context. City staff would assist as appropriate. The committees could seek focused neighborhood input.
- The Landmarks Commission and City Plan Commission would review district committee recommendations, and make their recommendations to the Common Council.
- The Common Council would adopt, by ordinance, district-specific standards that it approves.

Consider the example of Third Lake Ridge, arguably the most complex of Madison's current historic districts. We believe that the Third Lake Ridge ordinance should be updated, based on the recommendations of the Build II stakeholder group (not our own whims). The Build II plan was adopted by the Common Council but never implemented by ordinance as directed by the Council. A district ordinance update is quite feasible, as our own review shows, and the Build II standards are far more helpful than the general standards proposed by city staff. See *Attachment #3 (The Third Lake Ridge Example: Why District-Specific Standards Are Needed)*.

4. Keep current district-specific standards in effect, pending the orderly review process described above. Current district standards were developed by district stakeholders, and have served reasonably well for decades. They should be updated and improved, as necessary, but should not be arbitrarily discarded in favor of monolithic, top-down, "one-size-fits-none" standards.

5. Reorganize and update Chapter 41, MGO (Historic Preservation). In the coming weeks, we will offer comprehensive ordinance language to implement the common sense process described above, and to make the ordinance more user-friendly overall. Our proposed reorganization is described in *Attachment #4 (Historic Preservation Ordinance)*. Our proposal will include much clearer definitions, and will *italicize* defined terms in the ordinance text to ensure consistency and ease of reference. See *Attachment #5 (Definitions)*.

We believe that the approach we have outlined will provide Madison with a clear, state-of-the-art historic preservation process that protects and showcases Madison's historic assets, encourages investment in historic districts, accommodates responsible development and improvements, considers the legitimate needs of all stakeholders, respects neighborhood diversity, and allows for needed adjustments over time.

We hope that this material is helpful to you. Thank you for your consideration, and for all your diligent work on this important project.

cc: Mayor Satya Rhodes Conway
Shiva Bidar, Common Council President
Heather Bailey, Amy Scanlon, Bill Fruhling, John Strange

Attachment #1

HISTORIC DISTRICT CHECKLIST

This CHECKLIST identifies key topics that should be considered in a *historic district* ordinance. Ordinance *standards* may vary within and between *historic districts*, based on individual district needs and context. This CHECKLIST does not mandate or limit the content of district *standards*, or interpret existing district *standards*.

Historic District Description

A district ordinance must:

1. Clearly delineate the street or other boundaries of the *historic district*, including the boundaries of any designated sub-districts.
2. Summarize the purpose and rationale for the *historic district*. The purpose and rationale must meet the criteria in Sec. 41.09(2), MGO.
3. Identify, with beginning and ending dates, the *historic district's period of significance*.
4. Identify *historic resources* in the *historic district*. These must include *landmarks*, *landmark sites*, and *structures* built during the district's *period of significance*, and may include other features or plots of land whose unique historic significance is clearly documented.
5. Include a district map that clearly identifies the boundaries of the district, the boundaries of any designated sub-districts, and the locations of designated *historic resources* in the district.
6. Establish historic preservation *standards* for the district. See Sec. 41.10, MGO and CHECKLIST below.
7. Make consistent use of defined terms (see Sec. 41.02, MGO). Defined terms, when used, should be *italicized* in the ordinance text.

District Standards: Key Considerations

1. General Considerations

Historic district standards should be designed to preserve the district's *character* and *historic resources* (see Guiding Principles, Sec. 41.10, MGO). The *standards* should be as clear and definite as possible, and should reflect the needs and context of the *historic district*. Different *standards* may apply to different sub-districts, land use categories and types of *structures*, as appropriate. The *standards* may be accompanied by *guidelines* to help property owners understand and comply with the *standards*. The following topics should be considered (terms defined in Sec. 41.02, MGO are *italicized*):

2. New Construction

Standards should ensure that new construction is *visually compatible* with the *historic district*, and with *historic resources* located within 200 feet of the construction site. Consider the following factors:

- **Primary Structures:**

- A *structure's* actual and apparent size, as indicated by its *height*; number of stories above grade; *gross volume*; *bulk*; *street facade area*; and relationship to the *lot* on which it is located, as indicated by its *lot* coverage and the size of its front, side and rear yards (setbacks).
- A *structure's* overall form as indicated by its shape, *massing*, ratio of width to *height*, symmetry or asymmetry, roof *character*, and the articulation of its *street facade* and other *visible facades* (including visual patterns created by building planes, wall recesses, wall protrusions, window and door openings, and *architectural features*).
- The *character* of a *structure's* roof, as reflected in its shape, style, pitch and surface materials, as well as roof features such as dormers, skylights, chimneys, rooftop decks, green roofs, and attached appurtenances.
- A *structure's* exterior wall and foundation surfaces, including surface materials, textures, detailing and trim.
- The *character* of a *structure's* doors and windows, including the *character* of related features such as storm doors, storm windows, trim and shutters. Relevant considerations may include size, shape, style, proportion, materials and placement, as well as the patterns created by door and window openings on *visible facades*.
- The nature, size, appearance and placement of a *structure's* exterior *architectural features* and appurtenances such as entryways, porches, balconies, decks, railings, stairways, rescue platforms, fire escapes, accessibility features, *signs*, awnings, lighting fixtures, *HVAC equipment*, electrical equipment, elevator equipment, solar equipment and telecommunications equipment.
- A *structure's* sensitivity to its site and surrounding *landscape*. Relevant considerations may include the nature, size, appearance and location of its parking accommodations, refuse storage facilities, *landscape features* and drainage systems, as well as its sensitivity to existing *landscape features* and *natural features* that materially contribute to the *character* of the *historic district*.
- The *structure's* relationship to each *block face* of which it is part, including its effect on the collective visual pattern formed by the sizes of, shapes of, directional expression of, and distances between existing *structures* represented in the *block face*.

- **Accessory Structures** (e.g., free-standing garages):

- An *accessory structure's* *visual compatibility* with the *primary structure* and nearby *historic resources*, as reflected in its actual and apparent size, shape, design, materials and features (see considerations for *primary structures*),
- The *structure's* location, access, and visibility from *developed public right-of-ways*.

2. Additions and Alterations:

- *Visual compatibility*, as reflected in actual and apparent size, shape, design, materials and features (see considerations for new construction of *primary structures*).
- Identification and preservation of *historically representative* features of *historic resources*.
- Repair or replacement of *historically representative* features, when necessary, with materials or features of like appearance.

- Consistency with *standards* for new *structures*. *Additions* and *alterations* should not cause a violation of those *standards*, or aggravate a prior nonconformity.
- For a *landmark* or *landmark site*, compliance with the *Secretary of Interior's Standards*.
- Demolition *standards* if needed to supplement Sec. 41.15(2)(b), MGO.

3. Repair and Maintenance:

- Compliance with Chapters 18 (Plumbing Code), 19 (Electrical Code), 27 (Housing and Property Maintenance Code), 29 (Building Code), 30 (HVAC Code) and 31 (*Sign Control Ordinance*), MGO. The *Building Inspector* (not the *Landmarks Commission*) enforces these ordinance chapters. *Historic district standards* may cross-reference, but should not repeat, these provisions.
- Use of *visually compatible* materials that do not contribute to the deterioration of exterior surfaces or *historically representative* exterior features.
- Identification and preservation of *historically representative* features of *historic resources*.
- Repair or replacement of *historically representative* features and materials, when necessary, with features and materials of like appearance.
- Use of non-destructive materials and methods to clean masonry or other vulnerable exterior surfaces.
- For a *landmark* or *landmark site*, compliance with the *Secretary of Interior's Standards*.
- Duty to avoid *demolition by neglect*.

Attachment #2

DISTRICT-SPECIFIC vs. GENERAL STANDARDS

The Consultant's Proposal:

The City's consultant proposed detailed uniform standards for all current and future historic districts. That will not work, for many reasons:

- The detailed standards do not take account of key differences within and between districts. The result: "One-size-fits-none."
- The standards fail to address new construction – a critical shortcoming.
- The narrowly conceived standards fail to protect the overall character of historic districts.
- Ordinary houses are unfairly subjected to the same detailed standards that apply to national landmarks.
- Current district-specific standards, developed by district stakeholders, are arbitrarily discarded.
- "Top down" approach undermines neighborhood support.

The City Staff Proposal:

City staff (taking their cue from the consultant) propose uniform standards for all historic districts, but acknowledge that some district-specific standards may also be needed. That approach is also unworkable, for various reasons:

- The proposed general standards still fail to account for key differences within and between districts, and are inconsistent with city development plans (e.g., for Third Lake Ridge).
- The general standards are too vague, too detailed, or simply inappropriate for individual districts, based on varying district needs and context.
- Combining general and district-specific standards will create confusion and uncertainty: Which standards apply? Do district-specific standards expand or limit the general standards (or *vice-versa*)? Which standards control if there is a conflict? How do we know if there is a conflict? Does it depend on how the standards are interpreted? Who decides?
- Current district-specific standards, which have served for decades, are arbitrarily discarded.
- "Top-down" approach undermines neighborhood support.

The Alliance Proposal:

The Alliance for Historic Preservation offers a more workable approach:

- *Guiding Principles and a Checklist will guide the development of district-specific standards.* The Guiding Principles and Checklist will encourage reasonable consistency and a basic level of protection in all districts, but will not dictate or limit individual district standards. This avoids unworkable, "one-size-fits-none" standards.
- *District standards will reflect sound guiding principles, but will be built "from the ground up" to reflect district needs.* District stakeholder committees, appointed by district alders, will recommend district standards based on district needs and context (city staff may assist). Committees will include a balance of stakeholders, and will be aided by the Guiding Principles and Checklist. Committee recommendations will be subject to review by the Landmarks Commission and City Plan Commission, and approval by the Common Council.
- *District standards will be user-friendly.* Standards will be more clearly focused and practical, because they will reflect district needs and context. There will be no confusing overlap or conflict between general and district-specific standards. Locally appropriate guidelines and examples will help property owners understand and comply with district standards.
- *Current district standards will remain in effect, pending an orderly update process.* Current standards, which have served for decades, will not be abruptly or arbitrarily discarded.

Attachment 3

THE THIRD LAKE RIDGE EXAMPLE: WHY DISTRICT-SPECIFIC STANDARDS ARE NEEDED

The attached chart compares the city staff's proposed uniform standards for new construction in historic districts (7-30-19) to the BUILD II standards for new commercial construction on Williamson Street (part of the Third Lake Ridge Historic District). BUILD II provides district-specific standards that vary by block and by use. The chart compares these general vs. district-specific standards with respect to 2 key parameters: building size and placement.

BUILD II (formally known as *Design Guidelines & Criteria for Preservation: Williamson Street, 600-1100 Blocks*), was created under Common Council directive through a process that sought broad public input. Because of this broad public input, and because the Council directed that BUILD II recommendations be implemented by ordinance, BUILD II standards provide a useful comparison to the uniform general standards now proposed by city staff.

- The BUILD II land use plan was adopted by the Common Council in 2005. The plan was created, in part, by a Dane County Better Urban Infill Development ("BUILD") grant, matched by funds from the City of Madison, the Marquette Neighborhood Association, and the Greater Williamson Street Business Association. The BUILD program's purpose is:

“... to **plan and implement infill development** through planning grants. Infill development is defined as the economic use of vacant land, or restoration or rehabilitation of existing structures or infrastructure, in already urbanized areas where water, sewer, and other public services are in place, **that maintains the continuity of the original community fabric**. BUILD grants help pay for planning consultants who assist communities with preparation of infill plans.” (emphasis added)
- An advisory committee oversaw the creation of the BUILD II plan. This 12-person advisory committee was made up of 2 Marquette Neighborhood Association representatives, 2 Common Wealth Development representatives, one Greater Williamson Street Business Association representative, one Landmark representative, 5 property owners in the targeted area, 2 residents in the area, and the District Alder. The advisory committee held approximately 30 public meetings, including 5 public forums. Based on this process, the BUILD II advisory committee recommended updated standards for the Third Lake Ridge historic district. The committee recommended specific updated standards for new construction, additions and alterations in that part of the historic district covered by BUILD II. Those standards were included in the BUILD II plan adopted by the Common Council.
- The Common Council resolution adopting BUILD II (RES-05-00074) resolved that:
“Planning Unit staff is hereby directed to prepare the necessary ordinance amendments to update the Third Lake Ridge Historic District Ordinance.” To date, that has not been done.

The attached comparison makes abundantly clear that the district-specific BUILD II standards would give clear, detailed guidance to property owners, developers, contractors, architects and Landmarks Commissioners. By contrast, the uniform standards now proposed by staff are so vague that they are nearly meaningless.

Current staff proposal vs. BUILD II standards for new construction on Williamson Street

July 30 staff proposal	BUILD II standards
<p>Visual Size When determining visual compatibility for visual size, the Landmarks Commission shall consider factors such as massing, building height in feet and stories, the gross area of the front elevation (i.e., all walls facing the street), street presence, and the dominant proportion of width to height in the façade.</p> <p>Architectural Expression When determining visual compatibility for architectural expression, the Landmarks Commission shall consider factors such as the building's modulation, articulation, building planes, proportion of building elements, and rhythm of solids to voids created by openings in the façade.</p>	<p>Height In general, maximum 2½ stories above grade. Exceptions:</p> <ol style="list-style-type: none"> 1. A flat-roofed building on the north side of the 800 or 900 blocks may extend 3 stories above grade. 2. North 600 and 700 blocks, back half (along the bike path) 5 stories/54 feet. <ul style="list-style-type: none"> - 2 bonus stories, up to a maximum of 85 feet/7 stories, for preservation, affordable housing, structured parking 3. North 600 block, front half along Williamson, western approximate 2/3 maximum of 4 stories, eastern approximate 1/3 3 stories (preservation of the Capitol view) 4. North 700 block, front half along Williamson, western approximate 3/4 maximum of 5 stories/54 feet, eastern approximate 1/4 ½ stories <ul style="list-style-type: none"> - 3 stories at mid-block along the Livingston side street, with 1 bonus story for preservation, affordable housing, structured parking 5. North 700 block, back half (along the bike path) 5 stories 6. South 600 block 4 stories 7. South 700 block (Elks Club property), 4 stories. <ul style="list-style-type: none"> - 1 bonus story available for a project that incorporates significant publicly accessible green space along Lake Monona. 8. North 800-1100 blocks back half (along the bike path) 3 stories. <ul style="list-style-type: none"> - 1 bonus story for preservation, affordable housing, structured parking - Bonus story in 800 and 900 blocks (which are closer to Williamson than the 1000 and 1100 blocks) must be stepped back at least 45 feet from the property line for residential structures and 30 feet for mixed use, flat roofed structures. The fourth story must be stepped back from the street such that it cannot be seen at sidewalk level from the opposite side of the street 9. Corner features on corner buildings can be higher if the features are comparable in scale to historically representative corner features on Williamson Street. <p>Street Façades</p> <ol style="list-style-type: none"> 1. Maximum of 60 feet in width <ul style="list-style-type: none"> - A residential street façade more than 25 feet wide shall be divided into visually distinct masses that are no more than 25 feet wide and that are visually separated from each other by at least 5 feet. - Commercial mixed-use articulation and breaks buildings must be sufficient to maintain the rhythm of masses and spaces of existing commercial and mixed-use buildings in the visually related area <p>Residential facades</p> <ol style="list-style-type: none"> 1. Articulated with dormers, bays, porches, recesses, or other architectural features to visually reduce the apparent mass of the new building and to blend with the details of older existing residential buildings within the visually related area. 2. One or more porches and at least one entry door on the main street facade. 3. The main front entrance shall be scaled large enough to be a focal point on the facade. 4. Finished first floor elevation of the street façade shall be at least 18 and not more than 48 inches above grade (does not apply to north 700 block). <p>Commercial/Mixed-use facades</p>

	<ol style="list-style-type: none"> 1. First floor storefronts shall be broken into bays similar in width to those on existing pre-1945 storefronts (does not apply to north 700 block). 2. Storefronts shall have the general historic pattern of large storefront windows, low kick panels, transom windows, side pilasters and cornices. 3. Finished first floor elevation shall be as close to grade as possible, and shall meet ADA requirements for entrances. 4. For corner buildings, angled corner entrances are encouraged. 5. For buildings with multiple commercial tenants, a sign band should be included in the design to maintain consistency in the building design. <ul style="list-style-type: none"> - Internal sign illumination, if any, shall be appropriately subdued and shall illuminate only characters or letters – not background. 6. Parapet caps or cornices should be incorporated to terminate the top of façade 7. The first floor window sill height shall be 18” to 36” above grade. 8. Primary entranceways should be easily identifiable as a focal point of the building. Recessed entrances are encouraged.
<p>Street Setback When determining visual compatibility for street setbacks, the Landmarks Commission shall consider factors such as the average setback of historic resources on the same block face within two hundred (200) feet, and the setback of adjacent structures.</p> <p>Building Placement. When determining visual compatibility for building placement, the Landmarks Commission shall consider factors such as lot coverage, setbacks, building orientation, and historic relationships between the building and site.</p>	<p>Street Setbacks</p> <ol style="list-style-type: none"> 1. The street façade of a residential structure, other than a mixed-use structure, shall be located at least 15 feet from the public right-of-way that it faces. <ul style="list-style-type: none"> - A shorter setback of not less than 6 feet is allowed if the setback is not less than the average setback of other residential structures on the block face. - A one-story unenclosed porch, including stairs, may encroach up to 6 feet into the setback but may not be located less than 6 feet from the public right-of-way. 2. Commercial or mixed-use structure shall be located 2 feet from the public right-of-way that it faces, except that a setback of up to 8 feet may be allowed to accommodate outdoor retail space. <p>Side yard setbacks</p> <ol style="list-style-type: none"> 1. Non-corner lots less than 44 feet wide shall have at least 4 feet on each side, with the sum of the side lot setbacks at least 10 feet. 2. Non-corner over 44 feet wide shall have at least 6 feet on each side, with the sum of the side lot setbacks at least 16 feet. 3. Side lots for corner properties is 8 feet for the side facing the street for residential and 2 feet for commercial and mixed-use. <p>Rear yard setbacks</p> <ol style="list-style-type: none"> 1. Minimum 35 feet <ul style="list-style-type: none"> - 16 feet fine if the structure has underground or structured parking - 10 feet for the back half of the 600 block and for the 700 block

Attachment #4

HISTORIC PRESERVATION ORDINANCE

We propose to reorganize Madison's Historic Preservation Ordinance as shown below. This organization is simple, clear, and user-friendly. It incorporates **new material** highlighted in **yellow**, but also reorganizes existing material for clarity and ease of reference. For example, we have consolidated current property owner responsibilities in Subchapter E, for the convenience of property owners.

CHAPTER 41: HISTORIC PRESERVATION

SUBCHAPTER A – GENERAL PROVISIONS

41.01 Policy and Purpose

41.02 Definitions

42.03 General Administrative Provisions

SUBCHAPTER B – LANDMARKS COMMISSION

41.04 Landmarks Commission

41.05 Preservation Planner

41.06 Public Hearings and Hearing Notices

SUBCHAPTER C – DESIGNATING LANDMARKS

41.07 Designating a Landmark

41.08 Rescinding a Landmarks Designation

SUBCHAPTER D – CREATING AND MODIFYING HISTORIC DISTRICTS

41.09 Creating and Modifying Historic Districts; General

41.10 Historic District Standards; Guiding Principles and Checklist

SUBCHAPTER E – PROPERTY OWNER RESPONSIBILITIES

41.11 Owners of Landmarks and Landmark Sites

41.12 Owners of Property in Historic Districts

SUBCHAPTER F – PROJECT APPROVALS

41.13 Requesting Approval

41.14 Review and Decision

41.15 Approval Criteria

41.16 Approval Terms, Conditions and Effect

SUBCHAPTER G – VARIANCES AND APPEALS

41.17 Variances; General

41.18 Variance Criteria

41.19 Appeals to the Common Council

SUBCHAPTER H – ENFORCEMENT

41.20 Public Interest in Enforcement

41.21 Enforcement Roles

41.22 Demolition by Neglect; Enforcement

41.23 Civil Forfeitures

41.24 Remedial Orders

SUBCHAPTER I – HISTORIC DISTRICTS

41.25 Mansion Hill Historic District

41.26 Third Lake Ridge Historic District

41.27 University Heights Historic District

41.28 Marquette Bungalows Historic District

41.29 First Settlement Historic District

APPENDIX A - HISTORIC DISTRICT CHECKLIST

APPENDIX B - HISTORIC DISTRICT MAPS

Chapter 41 as it is today	Staff proposal, 07-30-19	Alliance proposal, 01-09-20
SUBCHAPTER 41A: GENERAL PROVISIONS 41.01 Policy and Purpose 41.02 Definitions 41.03 General Administrative Provisions SUBCHAPTER 41B: LANDMARKS COMMISSION 41.04 Landmarks Commission 41.05 Preservation Planner 41.06 Public Hearings and Hearing Notices SUBCHAPTER 41C: LANDMARKS 41.07 Designating landmarks 41.08 Rescinding a landmark designation 41.09 Altering or demolishing landmarks SUBCHAPTER 41D: HISTORIC DISTRICTS 41.10 Creating and amending historic districts 41.11 Historic district ordinance requirements 41.12 Constructing, altering, or demolishing structures in historic districts SUBCHAPTER 41E: MAINTAINING LANDMARKS, LANDMARK SITES AND HISTORIC DISTRICTS 41.13 Public interest in preservation and maintenance 41.14 Maintenance obligation; enforcement penalties 41.15 Demolition by neglect SUBCHAPTER 41F: CERTIFICATES OF APPROPRIATENESS—PROJECTS ON LANDMARKS, LANDMARK SITES AND IN HISTORIC DISTRICTS 41.16 Certificate of appropriateness required 41.17 Obtaining a certificate of appropriateness 41.18 Standards for granting a certificate of appropriateness 41.19 Variances 41.20 Appeal to the common council 41.21 Penalties for failure to obtain a certificate of appropriateness SUBCHAPTER G. DESIGNATED HISTORIC DISTRICTS, HISTORIC DISTRICT ORDINANCES 41.22 Mansion Hill Historic District 41.23 Third Lake Ridge Historic District 41.24 University Heights Historic District 41.25 Marquette Bungalow District 41.26 First Settlement Historic District	SUBCHAPTER 41A: GENERAL PROVISIONS 41.01 Policy and Purpose 41.02 Definitions 41.03 General Administrative Provisions SUBCHAPTER 41B: LANDMARKS COMMISSION 41.04 Landmarks Commission 41.05 Preservation Planner 41.06 Public Hearings and Hearing Notices SUBCHAPTER 41C: CERTIFICATES OF APPROPRIATENESS – PROJECTS ON LANDMARKS, LANDMARK SITES AND IN HISTORIC DISTRICTS 41.16 Certificate of Appropriateness Required 41.17 Obtaining Certificate of Appropriateness 41.18 Standards for Granting Certificate of Appropriateness 41.19 Variances 41.20 Appeal to Common Council 41.21 Penalties for Failure to Obtain Certificate of Appropriateness SUBCHAPTER 41D: MAINTENANCE OF LANDMARKS, LANDMARK SITES AND HISTORIC DISTRICTS 41.13 Public Interest in Preservation and Maintenance 41.14 Maintenance Obligation; Enforcement; Penalties 41.15 Demolition By Neglect SUBCHAPTER 41E: LANDMARKS 41.07 Designating Landmarks 41.08 Rescinding a Landmark Designation 41.09 Altering or Demolishing Landmarks 41.XX Standards for Alterations and Additions and New Construction (SOI standards) SUBCHAPTER 41F: HISTORIC DISTRICTS 41.10 Creating and Amending Historic Districts 41.12 Constructing, Altering or Demolishing Structures in Historic Districts 41.XX Identification of Historic Districts (References to Plan, Period of Significance, etc.) 41.XX Standards for Maintenance 41.XX Standards for Repairs 41.XX Standards for Additions 41.XX Standards for New Structures	SUBCHAPTER A – GENERAL PROVISIONS 41.01 Policy and Purpose 41.02 Definitions 42.03 General Administrative Provisions SUBCHAPTER B – LANDMARKS COMMISSION 41.04 Landmarks Commission 41.05 Preservation Planner 41.06 Public Hearings and Hearing Notices SUBCHAPTER C – DESIGNATING LANDMARKS 41.07 Designating a Landmark 41.08 Rescinding a Landmark Designation SUBCHAPTER D—CREATING AND MODIFYING HISTORIC DISTRICTS 41.09 Creating and Modifying Historic Districts, General 41.10 Historic District Standards, Guiding Principles SUBCHAPTER E – PROPERTY OWNER RESPONSIBILITIES 41.11 Owners of Landmarks and Landmark Sites 41.12 Owners of Property in Historic Districts SUBCHAPTER F- PROJECT APPROVALS 41.13 Requesting Approval 41.14 Review and Decision 41.15 Decision Criteria 41.16 Approval Terms, Conditions and Effect SUBCHAPTER G – VARIANCES AND APPEALS 41.17 Variances; General 41.18 Variance Criteria 41.19 Appeals to the Common Council SUBCHAPTER H – ENFORCEMENT 41.20 Public Interest in Enforcement 41.21 Enforcement Roles 41.22 Demolition by Neglect; Enforcement 41.23 Civil Forfeitures 41.24 Remedial Orders SUBCHAPTER I – HISTORIC DISTRICTS 41.25 Mansion Hill Historic District 41.26 Third Lake Ridge Historic District 41.27 University Heights Historic District 41.28 Marquette Bungalows Historic District 41.29 First Settlement Historic District APPENDIX A: HISTORIC DISTRICT CHECKLIST APPENDIX B: HISTORIC DISTRICT MAPS

Attachment #5

DEFINITIONS

Our draft ordinance will improve current Chapter 41 definitions. Better definitions will make a better, more readable, more concise, and more internally consistent ordinance. Defined terms will be *italicized* in the ordinance text, for ease of reference. We have simplified and clarified nearly all of the current definitions, and eliminated some that are no longer needed or used. Our proposed definitions are as follows (**new defined terms** are highlighted in **yellow**).

DEFINITIONS. In this Chapter:

Accessory structure means a permanent *structure* that is located on the same *lot* as a *primary structure*, but which is separate from and incidental to the use of the *primary structure*. *Accessory structure* includes things like detached garages, parking facilities and storage sheds that are attached to land.

Addition means a material exterior expansion of a *structure*.

Alteration means a material change to the exterior of a *structure*.

Architectural feature means a distinguishing exterior element of a *structure*, such as a dormer or other roof feature, chimney, porch, entryway, balcony, deck, window, door, railing, column, stairway, trim or decorative element. It includes *historically representative* roofing or siding on a *historic resource*.

Block face means the *street facades* of all *structures* on a block whose addresses have the same street name.

Building means a permanent roofed *structure* that is attached to land.

Building Inspector means the Director of the Building Inspection Division of the *City* of Madison Department of Planning, Community and Economic Development, or his or her or designee.

Bulk means a *structure's* apparent size relative to its site and context, as reflected by all of the following:

- (a) Its *height* and *gross volume*.
- (b) The location of its exterior walls, at all levels, relative to *lot* lines, adjacent streets and adjacent *structures*.
- (c) The sizes of its front, side and rear yards.

Certificate of appropriateness means a certificate issued under Subchapter F, authorizing a project that meets applicable historic preservation *standards* under this Chapter.

Character means the overall visual impression created by the exterior attributes and setting of a *structure*, place or thing. In the case of a *historic district*, it means the overall visual impression created by the combined exterior attributes and settings of all *historic resources* in the district.

City means the City of Madison.

City Plan Commission means the Commission created under Sec. 16.01, MGO.

City Planning Division means the Planning Division of the *City* Department of Planning, Community and Economic Development.

Demolition by neglect means knowingly or negligently allowing a *landmark*, a *historic resource*, a *structure* on a *landmark site*, or a *structure* in a *historic district* to decay, deteriorate, become structurally defective, or otherwise fall into serious disrepair.

Developed public right-of-way means a public right-of-way that has been developed to accommodate public vehicular, bicycle or pedestrian traffic. It includes streets, mass transit lines, paved bicycle paths and paved sidewalks, but does not include service alleys. In the case of a street, it includes the street, street terraces, and all paved bicycle paths and paved sidewalks that run along the street.

Guideline means a suggestion or example used to help interpret and implement a *standard* to which it is relevant, but that is not directly enforceable as a *standard*.

Gross volume means the total volume in cubic feet that is encompassed by the exterior surfaces of a *structure* from grade to roofline, including the volumes of component features such as dormers, attics, penthouses, attached garages, crawl spaces under enclosed portions of the *structure*, and above-grade portions of parking facilities located under enclosed portions of the *structure*. It does not include open porches or decks, crawl spaces under open porches or decks, roofless courtyards, open balconies, open canopied areas, or portions of a *structure* that are below grade; nor does it include features such as trim, cornices, pilasters, buttresses and overhangs that extend beyond the outside surfaces of exterior walls.

Height of a *structure* means the vertical distance in feet measured from the *structure's* arithmetic mean grade level, calculated on the basis of grade level measurements taken at no more than 10 foot intervals around the foundation perimeter, to the highest point of the *structure*. The highest point of a *building* is the highest point of its roof or parapet, whichever point is higher.

Historic district means a district created pursuant to Sec. 41.09 or a prior *City* ordinance. Current *historic districts* are identified in Subchapter I.

Historic resource means a *landmark*, or any property that is designated as a *historic resource* in a *historic district* ordinance under Subchapter I.

Note: A *historic district ordinance* must designate “historic resources” in the *historic district*. These include *landmarks*, *landmark sites*, and *structures* built during the *district's* “period of significance,” and may include other features or plots of land whose unique historic significance is clearly documented.

Historically representative means original to a *historic resource* or characteristic of a *historic district's* period of significance.

HVAC equipment means external equipment related to the heating, ventilation, or air conditioning of a *structure*.

Landmark means any *structure*, *landscape feature*, or plot of land that has been designated as a *landmark* under Sec. 41.07 or a prior *City* ordinance.

Landmark site means the *lot* or *lots* on which a *landmark* is located.

Landmarks Commission means the Commission created under Sec. 33.19, MGO.

Landscape means the natural landscape and human modifications to it. *Landscape* includes land topography, *natural features*, *landscape features*, open spaces and the relationships between them.

Landscape feature means a built feature, other than a *primary structure* or *accessory structure*, which is integral to a *landscape*. It includes things like effigy mounds, driveways, paved walkways, in-ground stairways, patios, ornamental *structures*, fountains, monuments, sculptures, fences and retaining walls, as well as groupings of such features that have a collective identity.

Lot means a tract of land, designated by metes and bounds, land survey, minor land division or plat recorded with the Dane County Register of Deeds.

Massing means the geometrical configuration of a *structure's* *gross volume*. For example, the *massing* of a Queen Anne style house differs from the *massing* of a plain cube that has the same *gross volume* as the house.

Master means an architect or designer of recognized greatness who is responsible for a body of published work or *structures* that are notable for their quality, innovation, or level of proficiency within the profession or craft.

Natural feature means a distinctive natural element of a *landscape*, such as a distinctive geological feature, natural landform, natural water element, or native plant community. *Natural feature* may include things like rock outcroppings, streams, ponds, springs, oak savannas and native prairies.

Owner of a property means the property's *owner* of record, or a *person* who exercises legal custody, management or control of the property on behalf of the *owner* of record. If a property has more than one *owner*, each *owner* is jointly and severally responsible for complying with *owner* obligations under this Chapter.

Period of significance means the time period, specified in the ordinance creating a *historic district*, during which the *historic district* was associated with the important events, activities, *persons*, or characteristics that qualify the district for *historic district* status.

Person means an individual, corporation, partnership, limited liability company, cooperative, trust, association, business entity, state, municipality or special purpose district organized under state law.

Note: "Special purpose districts" include things like school districts or sewerage districts that are organized under state law and have certain legal attributes of persons.

Preservation Planner means the individual designated under Sec. 41.05(1).

Primary structure means a *structure* that accommodates the principal use of the *lot* on which the *structure* is located.

Secretary of Interior's Standards means the *standards* set forth 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), 36 C.F.R. 68. The *Secretary of Interior's Standards*, to the extent that they are incorporated by reference in this Chapter, are enforceable *standards* for the purposes incorporated. The *guidelines* included with the *Secretary of Interior's Standards* may be used where relevant to interpret and implement the incorporated *standards*, but are not themselves enforceable *standards* except as otherwise specifically provided in this Chapter.

Sign means a graphic display for which a permit is required under Chapter 31, MGO.

Standard means a legal requirement under this Chapter related to a *landmark*, a *landmark site*, or property in a *historic district*.

Street façade means the facade of a *structure* that faces the street identified in the *structure's* street address. If a *structure* is located on a corner lot, the façade that faces the second street forming the corner constitutes an additional and separate *street façade*. *Street façade* includes a steep, street-facing lower pitch of a mansard roof that is visually equivalent to a wall.

Street façade area means the combined total area, in square feet, of all street-facing walls on a *street façade*.

Structure means any *building* or other permanent built form that is attached to land and extends above grade.

Visible façade of a *structure* means that portion of any façade that is readily visible from a *developed public right-of-way*, lake or river that is directly adjacent to the *lot* on which the *structure* is located, except that it does not include a rear façade that is only visible from a bike path, walkway or service alley.

Visually compatible means harmonious in *character*. A *structure* need not convey a false impression of age, or directly mimic a historic style, in order to be *visually compatible* with a *historic resource* or *historic district*.