

Ordinance No. 5-18-699
Monona Common Council

**AN ORDINANCE AMENDING CHAPTER 480-20 OF THE CODE OF ORDINANCES
REGARDING HISTORIC CONSERVATION**

WHEREAS, the purpose and intent of the historic conservation ordinance is the protection, enhancement, perpetuation and use of improvements of special character or special historical interest or value that are in the public interest; and,

WHEREAS, the Landmarks Commission discussed this topic at its April 11, 2018 meeting and is recommending the Code of Ordinances be amended to reflect these changes; and,

WHEREAS, the Plan Commission held a prehearing conference to discuss this topic at their meeting on February 12, 2018 and held a public hearing at their meeting on May 14, 2018 which was preceded by a published Class II notice in Monona's *The Herald Independent* newspaper; and.

NOW, THEREFORE, the Common Council of the City of Monona, Dane County, Wisconsin, do hereby ordain as follows:

SECTION 1: Chapter 480, Section 20 of the Code of Ordinances is hereby amended to read as stated in the attached exhibit.

SECTION 2: Chapter 480, Section 20, Sub. S (1) of the City of Monona Code of Ordinances Fees, Fines, and Penalties Schedule is hereby amended to add the following fees: General Penalty for Failure to Obtain Certificate of Appropriateness – Not to Exceed \$50 / Day.

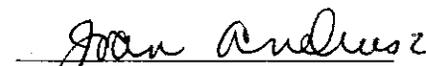
SECTION 3: This Ordinance shall take effect upon passage and publication as provided by law.

Adopted this 4th day of June, 2018.

BY ORDER OF THE CITY COUNCIL
CITY OF MONONA, WISCONSIN


Mary K. O'Connor
Mayor

ATTEST:


Joan Andrusz
City Clerk

Approval Recommended by: Landmarks Commission 4/11/2018 and Plan Commission with Amendments 5/14/2018

Drafted by: Sonja Kruesel, City Planner 5/16/2018

Council Action:

Date Introduced: 5-21-18

Date Approved: 6-4-18

Date Disapproved: _____

§ 480-20 **Historic preservation.**
[Amended 1-19-2016 by Ord. No. 1-16-673]

A. Purpose and intent. The protection, enhancement, perpetuation and use of improvements of special character or special historical interest or value are in the public interest. The purpose of historic conservation is to:

- (1) Protect, enhance and perpetuate improvements and districts which represent or reflect elements of the City's cultural, social, economic, political and architectural history;
- (2) Safeguard the City's historic and cultural heritage, as embodied and reflected in such landmarks and historic districts;
- (3) Stabilize and improve property values;
- (4) Foster civic pride in the beauty and noble accomplishments of the past;
- (5) Protect and enhance the City's attractions to residents, tourist and visitors, and serve as a support and stimulus to business and industry;
- (6) Strengthen the economy of the City; and
- (7) Promote the use of historic districts and landmarks for the education, pleasure and welfare of the people of the City.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

LANDMARK STRUCTURE

Any improvement which has a special character or special historic interest or value as part of 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 chapter.

LANDMARK SITE

Any parcel of land of historic significance due to a substantial value in tracing the history of aboriginal people or upon which an historic event has occurred, and which has been designated as a landmark site under this chapter, or a parcel or part thereof on which is situated a landmark.

HISTORIC DISTRICT

Any area designated pursuant to the provisions of this chapter that contains two or more historic improvements or sites as well as those abutting improvement parcels which the Commission determines should fall under the provisions of this section to assure that their appearance and development is harmonious with such landmarks or landmark sites.

CONTRIBUTING RESOURCES

Contributing resources are the buildings, objects, sites and structures that played a role or, more simply, existed at the time the event associated with the proposed historic landmark occurred. The resources' status as contributing shall be identified on the official landmark designation.

NONCONTRIBUTING RESOURCES

Noncontributing resources are the buildings, objects, sties, and structures that did not exist at the time the event(s) associated with the proposed historic landmark occurred or have lost integrity from that historic period.

CERTIFICATE OF APPROPRIATENESS

The certificate issued which approves alteration, rehabilitation, construction, reconstruction or razing of a historic structure or site or any improvement in a historic district.

- C. Historic structure, site, and district designation criteria. For the purposes of this chapter, a historic structure, site, or district designation may be placed on any site, natural or improved, including any building, improvement or structure located thereon, or any area of particular historic, architectural, or cultural significance to the city, which:
- (1) Exemplify or reflect the broad cultural, political, economic or social history of the nation, state or community; or
 - (2) Are associated with the lives of important persons or with important events in national, state or local history; or
 - (3) Embody the distinguishing characteristics of an architectural type inherently valuable for a study of a period, style, method of construction or of indigenous materials or craftsmanship; or
 - (4) Are representative of the notable work of a master builder, designer or architect; or
 - (5) Exhibit important archaeological or anthropological significance.
- D. Nomination. Any person, or the Landmarks Commission, may nominate a building or structure, site, or historic district for designation as a landmark. The person or Commission shall submit the nomination to the City Planning Division, to the attention of the City Planner, on a nomination form approved by the Landmarks Commission. The nomination shall clearly identify the proposed landmark structure, landmark site, or historic district and document why it qualifies under Subsection C. The City Planner may ask the person or Commission to submit additional information and documentation as needed to complete or clarify the nomination. When the City Planner determines that the nomination is complete, the City Planner shall refer the nomination to the Landmarks Commission. Any property nominated for landmark status located within a redevelopment area or tax increment financing district shall also be referred to the Community Development Authority for review and recommendation prior to Common Council action.
- E. Landmarks Commission review and public hearing of nomination. Whenever the Landmarks Commission receives a complete, accurate nomination under Subsection D, the Commission shall review the nomination. As part of its review, the Commission shall hold a public hearing, preceded by a Class I notice and notice to the owner of record of the proposed landmark, and to the owner of record of each lot located within 200 feet of the lot on which the proposed landmark is located. If any person or persons other than the owner of record files the nomination, the owner of record shall be notified of the nomination via certified mail no later than ten days' prior to the public hearing.
- F. Designation. After the Landmarks Commission holds a public hearing and completes its review under Subsection E, the Commission shall file a report recommending approval, disapproval, or approval subject to conditions. Final approval of the designation shall be granted by the Common Council. Once designated, such historic structures, sites, and districts shall be subject to all provisions of this chapter.
- G. Notification and recording of designation. The City Clerk shall promptly notify the Building Inspector of each landmark designation, as well as the owner of record of the site. The City Clerk shall record the designation with the Dane County Register of Deeds at the City's expense.
- H. Voluntary supplemental restrictions. 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, to enhance the preservation and protection of the landmark.
- I. Recognition of landmarks. Whenever the Common Council designates a landmark under Subsection F, the Landmarks Commission may affix a plaque identifying the property as a landmark to the landmark or landmark site with the permission of the owner or, in the absence of permission, in the public right-of-way as approved by the Public Works Director. The plaque shall be placed so that it is easily visible to passing pedestrians. In the case of a landmark structure, the plaque or sign 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 or sign shall include the common name of the landmark and other information that the Commission considers appropriate. If the Commission determines that, because the landmark is ecologically or culturally sensitive, a plaque or sign would be inappropriate, no plaque or sign is required. No person may remove or modify a plaque without approval of the City Planner.

- J. Amending or rescinding a landmark designation. Any person may petition the Landmarks Commission to amend or rescind a Landmark Designation. The process for amending a landmark shall be the same as for designating a landmark under Subsections **D** through **G** above.
- K. Regulation of construction, reconstruction or alterations. If an application for a zoning or building permit for exterior work involves a landmark structure, landmark site, or a contributing resource within a historic district, the permit shall first be referred to the Landmarks Commission for consideration of a Certificate of Appropriateness. No permit may be issued until the Commission has issued a Certificate of Appropriateness under Subsection **N**. In cases where a building permit is not required, ordinary maintenance and repairs may be undertaken without a certificate of appropriateness provided that the work involves repairs to existing features of a historic structure or site or the replacement of elements of a structure with pieces and materials identical in appearance and provided that the work does not change the exterior appearance of the structure or site. This consideration shall be based on the considerations below, and the United States Secretary of the Interior's Standards for Rehabilitation, 36 CFR 67.
 - (1) Whether the proposed work would detrimentally change, destroy or adversely affect any architectural feature of the landmark; and
 - (2) In the case of a new construction, whether the exterior of such construction would be in harmony with the external appearance of other landmarks on the site; and
 - (3) Whether the proposal would significantly alter or destroy the historic characteristics of the landmark or the landmark site.
- L. Regulation of demolition. No permit to demolish all or part of a historic structure or contributing resource in a historic district, shall be granted by the Building Inspector except as follows:
 - (1) No person in charge of an historic structure shall be granted a permit to demolish such property under any circumstances without first receiving the written approval of the Commission.
 - (2) At the time a person applies for a permit to demolish such property, an application shall be forwarded to the Commission. The Commission may refuse to grant written approval of a period of up to six months from the time of the application, during which time the Commission and the applicant shall undertake serious and continuing discussions for the purpose of finding a method to save the property. The six-month period may be extended by mutual agreement of the applicant and the Commission. If the time period is not extended, the Commission's denial of the Certificate of Appropriateness shall become final unless a formal application for funds from any governmental unit or nonprofit to preserve the property is pending. The Commission's denial of a Certificate of Appropriateness may be appealed to the Common Council within 60 days of a final denial under Subsection **N**. If a mutually agreeable method of saving the property or an application for funds is apparent after the six-month period, but is then unsuccessful within a period of sixty (60) days following the end of the required time period, the Commission's denial of the Certificate of Appropriateness stands and the applicant may appeal to the Council under Subsection **N**.
 - (3) In determining whether to issue a certificate of appropriateness for any demolition, the Commission shall consider the following:

- (a) Whether the building or structure is of such an architectural or historic significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the people of the City of Monona and the State.
- (b) Whether the demolition of the subject property would be contrary to the purpose and intent of this chapter.
- (c) Whether the building or structure is of such old and unusual or uncommon design, texture and / or material that it could not be reproduced or reproduced only with great difficulty and / or expense.
- (d) Whether the retention of the building or structure would promote the general welfare of the people of the City of Monona and the State by encouraging study of American history, architecture, and design or by developing an understanding of American culture and heritage.
- (e) Whether the building or structure is in such deteriorated condition that it is not structurally or economically feasible to preserve or restore it, provided that any hardship claimed by the owner is not self-created, or is a result of failure to maintain the property in good repair.

M. Certificate of Appropriateness. If the Commission determines that the application for a certificate of appropriateness and the proposed changes are consistent with the character and features of the property or district, and considering the matters referred to in Subsection **K**, it shall issue the certificate of appropriateness. The Commission shall make this decision within 45 days of filing of the application. The issuance of a certificate of appropriateness shall not relieve the applicant from obtaining other permits and approvals required by the city. If the Commission fails to issue a certificate of appropriateness, the Commission shall, at the request of the applicant, cooperate and work with the applicant in an attempt to obtain a certificate of appropriateness within the guidelines of this chapter.

N. Appeals. Should the Commission fail to issue a certificate of appropriateness due to the failure of the proposal to conform to the guidelines, the applicant may appeal such decision to the Common Council in accordance with Chapter 68 of the Wisconsin Statutes by filing a written notice with the City Clerk within 30 days after expiration of the applicable period set forth in Subsections **L** and **M** above.

O. Sale of historic structures and historic sites. Any person who is listed as the owner of record of an historic structure at the time of its designation, who can demonstrate to the Commission that by virtue of such designation, he or she is unable to find a buyer willing to pay fair market value and to preserve such structure or site, even though he or she has made reasonable attempts in good faith to find and attract such a buyer, may petition the Commission for a rescission of its designation. In the event of such rescission, the Commission shall notify the Building Inspector as well as the owner of record of the site, and shall cause the rescission to be recorded with the Dane County Register of Deeds at the city's expense.

P. Conditions dangerous to life, health, or property. Nothing contained in this chapter shall prohibit the construction, reconstruction, alteration or demolition of any historic structure pursuant to the order of any appropriate City or State governmental official, or any court order having jurisdiction, for the purpose of remedying conditions determined to be dangerous to life, health, or property. In such cases, no approval from the Commission shall be required.

Q. Duty to maintain in good repair. Every person in charge of a historic structure or historic site shall keep in good repair all of the exterior portions of such improvement and 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. This provision shall be in addition to all other provisions of law requiring such improvement to be kept in good repair.

R. Variances.

- (1) General. A property owner who applies for a certificate of appropriateness may request a variance. The Landmarks Commission may grant a variance from the standards in Subsection **K** for any of the following reasons:
 - (a) Economic hardship under 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 to 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 to which the variance request pertains.
 - (d) The type of variance requested under sub. (1).
 - (e) The specific variance requested.
 - (f) The circumstances and supporting evidence that justify the requested variance.
 - (g) Any other materials requested by the City Planner or Landmarks Commission.
- (3) Hearing, decision, and appeal.
 - (a) The Landmarks Commission shall hold a public hearing on each variance request. The Commission shall give notice of the hearing as provided in Subsection **E**. 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 may be appealed to the Common Council as provided under Subsection **M**.
- (4) Economic hardship variance. The Landmarks Commission may grant a variance if all of the following apply:
 - (a) Strict literal application of the standards in Subsection **K** 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. Are not caused by the owner's failure to maintain the property as required by this chapter; 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. Required documentation may include as determined by City staff or the Landmarks Commission:
1. Property purchase costs;
 2. Rental income;
 3. Real estate listings, disclosure statements, asking prices, and purchase offers;
 4. Tax assessments and real estate listings 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 as reasonable 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 Subsection **K** 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 as part of the original design.
 - (b) The proposed alteration complies with all other applicable standards under Subsection **K**.
 - (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 Subsection **K** 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 Subsection **K**.
 - (c) The design does not allow material deviations from historic district standards and guidelines in the Secretary of Interior Standards for Rehabilitation 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 Subsection **K**, 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 substantially outweigh the strong public interest in preserving historic resources expressed in this chapter.
- (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 chapter.

S. Penalties for failure to obtain a certificate of appropriateness.

- (1) General penalty. Any person who, without obtaining a certificate of appropriateness, performs acts requiring a certificate of appropriateness or who violates the terms of the certificate of appropriateness shall be subject to the forfeiture set forth in the forfeiture schedule.
- (2) Permits. The Building Inspector shall not issue a permit allowing alteration, construction, demolition, removal, or for any other action for which a certificate of appropriateness is required unless the certificate has been approved by the Commission and issued by the City Planner.
- (3) Prohibition. No owner, operation, or person in charge of a landmark structure, landmark site, or contributing resource 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 a certificate has been approved by the Commission.
- (4) Penalty for work done without Certificate of Appropriateness. In addition to any other penalty provided in this chapter, the Landmarks Commission may order the removal or modification of any alteration, construction or other work that was performed without a required certificate, or that was not performance in compliance with the conditions of an issued certificate, when such work does not meet the applicable standards for a certificate under Subsection **K**. Alternatively, the Commission may order renovation to make such work comply with those standards.

1 *The following Code does not display images or complicated formatting. Codes should be viewed online.*
2 *This tool is only meant for editing.*

3 § 480-20 **Historic-~~conservation~~ preservation.**
4 **[Amended 1-19-2016 by Ord. No. 1-16-673]**

5 A. Purpose and intent. The protection, enhancement, perpetuation and use of improvements of special
6 character or special historical interest or value are in the public interest. The purpose of historic
7 conservation is to:

- 8 (1) Protect, enhance and perpetuate improvements and districts which represent or reflect elements of
9 the City's cultural, social, economic, political and architectural history;
- 10 (2) Safeguard the City's historic and cultural heritage, as embodied and reflected in such landmarks and
11 historic districts;
- 12 (3) Stabilize and improve property values;
- 13 (4) Foster civic pride in the beauty and noble accomplishments of the past;
- 14 (5) Protect and enhance the City's attractions to residents, tourist and visitors, and serve as a support and
15 stimulus to business and industry;
- 16 (6) Strengthen the economy of the City; and
- 17 (7) Promote the use of historic districts and landmarks for the education, pleasure and welfare of the
18 people of the City.

19 B. Definitions. As used in this section, the following terms shall have the meanings indicated:

20 **LANDMARK STRUCTURE**

21 Any improvement which has a special character or special historic interest or value as part of the
22 development, heritage or cultural characteristics of the City, state or nation, and which has been
23 designated as a landmark pursuant to the provisions of this chapter.

24 **LANDMARK SITE**

25 Any parcel of land of historic significance due to a substantial value in tracing the history of
26 aboriginal people or upon which an historic event has occurred, and which has been designated as a
27 landmark site under this chapter, or a parcel or part thereof on which is situated a landmark.

28 **HISTORIC DISTRICT**

29 Any area designated pursuant to the provisions of this chapter that contains two or more historic
30 improvements or sites as well as those abutting improvement parcels which the Commission
31 determines should fall under the provisions of this section to assure that their appearance and
32 development is harmonious with such landmarks or landmark sites.

33 **CONTRIBUTING RESOURCES**

34 Contributing resources are the buildings, objects, sites and structures that played a role or, more
35 simply, existed at the time the event associated with the proposed historic landmark occurred. The
36 resources' status as contributing shall be identified on the official landmark designation.

37 **NONCONTRIBUTING RESOURCES**

38 Noncontributing resources are the buildings, objects, sties, and structures that did not exist at the
39 time the event(s) associated with the proposed historic landmark occurred or have lost integrity from
40 that historic period.

41 **CERTIFICATE OF APPROPRIATENESS**

42 The certificate issued which approves alteration, rehabilitation, construction, reconstruction or
43 razing of a historic structure or site or any improvement in a historic district.

44 ~~C. Designation. The Common Council, after considering the recommendation of the Landmarks~~
45 ~~Commission under Subsection G below, may designate a landmark according to this section.~~

46 ~~DC. Historic structure, site, and district designation criteria. Landmarks and landmark sites designation~~
47 ~~criteria. For the purposes of this chapter, a historic structure, site, or district designation may be~~
48 ~~placed on any site, natural or improved, including any building, improvement or structure located~~
49 ~~thereon, or any area of particular historic, architectural, or cultural significance to the city, which:~~
50 ~~The Landmarks Commission may designate as a landmark or landmark site any site, natural or~~
51 ~~improved, including any building, improvement or structure located thereon, or any area of~~
52 ~~particular historical, architectural or cultural significance to the City, such as historic structures or~~
53 ~~sites, which:~~

- 54 (1) Exemplify or reflect the broad cultural, political, economic or social history of the nation, state or
55 community; or
- 56 (2) Are associated with the lives of important persons or with important events in national, state or local
57 history; or
- 58 (3) Embody the distinguishing characteristics of an architectural type inherently valuable for a study of a
59 period, style, method of construction or of indigenous materials or craftsmanship; or
- 60 (4) Are representative of the notable work of a master builder, designer or architect; or
- 61 (5) Exhibit important archaeological or anthropological significance.

62 ~~ED. Nomination. Any person, or the Landmarks Commission, may nominate a building or structure, site,~~
63 ~~improvement or site with improvements or historic district for designation as a landmark. The person~~
64 ~~or Commission shall submit the nomination to the City Planning Division, to the attention of the~~
65 ~~City Planner, on a nomination form approved by the Landmarks Commission. The nomination shall~~
66 ~~clearly identify the proposed landmark structure, landmark site, or historic district and document~~
67 ~~why it qualifies under Subsection DC. The City Planner may ask the person or Commission to~~
68 ~~submit additional information and documentation as needed to complete or clarify the nomination.~~
69 ~~When the City Planner determines that the nomination is complete, the City Planner shall refer the~~
70 ~~nomination to the Landmarks Commission. Any property nominated for landmark status located~~
71 ~~within a redevelopment area or tax increment financing district shall also be referred to the~~
72 ~~Community Development Authority for review and recommendation prior to Common Council~~
73 ~~action.~~

74 ~~FE. Landmarks Commission review and public hearing of nomination. Whenever the Landmarks~~
75 ~~Commission receives a complete, accurate nomination under Subsection ED, the Commission shall~~
76 ~~review the nomination. As part of its review, the Commission shall hold a public hearing on the~~
77 ~~nomination, preceded by a Class 2-I notice and notice to the notice to each owner of record of the~~
78 ~~proposed landmark, on each lot on which the proposed landmark is located and to each the owner of~~
79 ~~record of each lot located within 200 feet of the lot on which the proposed landmark is located. If~~
80 ~~any person or persons other than the owner of record files the nomination, the owner of record shall~~
81 ~~be notified of the nomination via certified mail no later than ten days' prior to the public hearing. The~~

82 ~~Commission may also conduct its own investigation of the facts, as it deems necessary.~~

83 ~~GF. Landmarks action~~Designation. After the Landmarks Commission holds a public hearing and
84 completes its review under Subsection ~~FE~~, the Commission shall file a report recommending
85 approval, disapproval, or approval subject to conditions. Final approval of the designation shall be
86 granted by the Common Council. Once designated, such historic structures, sites, and districts shall
87 be subject to all provisions of this chapter. ~~report to the Common Council a recommendation~~
88 ~~supporting or opposing the proposed landmark designation. The Commission shall send notice of the~~
89 ~~recommendation to each owner of record on each lot on which the proposed landmark is located and~~
90 ~~to each owner of record of each lot located within 200 feet of any lot on which the site or structure is~~
91 ~~located at least 10 days before any meeting at which the Common Council may act on the~~
92 ~~Commission's recommendation.~~

93 ~~H.G. Notification and recording of designation. The City Clerk shall promptly notify the Building~~
94 ~~Inspector of each landmark designation, as well as the owner of record of the site. The City Clerk~~
95 ~~shall record the designation with the Dane County Register of Deeds at the City's expense.~~
96 ~~—Common Council action. After considering the Landmark Commission's report recommendation~~
97 ~~under Subsection G, and based on the standards under Subsection D, the Common Council shall~~
98 ~~vote to designate or decline to designate the property as a landmark. The City Clerk shall promptly~~
99 ~~notify the Building Inspector of each landmark designation. The City Clerk shall record the~~
100 ~~designation with the Dane County Register of Deeds at the City's expense.~~

101 ~~H.~~ Voluntary supplemental restrictions. The Common Council may at any time supplement the terms of
102 a landmark designation, pursuant to an agreement between the landmark owner and the Landmarks
103 Commission, to enhance the preservation and protection of the landmark.

104 ~~J.~~ Recognition of landmarks. Whenever the Common Council designates a landmark under Subsection
105 ~~HF~~, the Landmarks Commission ~~shall~~ may affix a plaque identifying the property as a landmark to
106 the landmark or landmark site with the permission of the owner or, in the absence of permission, in
107 the public right-of-way as approved by the Public Works Director. The plaque shall be placed so that
108 it is easily visible to passing pedestrians. In the case of a landmark structure, the plaque or sign shall
109 include the accepted name of the landmark, the date of its construction, and other information that
110 the Landmarks Commission considers appropriate. In the case of a landmark that is not a structure,
111 the plaque or sign shall include the common name of the landmark and other information that the
112 Commission considers appropriate. If the Commission determines that, because the landmark is
113 ecologically or culturally sensitive, a plaque or sign would be inappropriate, no plaque or sign is
114 required. No person may remove or modify a plaque without approval of the City Planner.

115 ~~KJ.~~ Amending or rescinding a landmark designation. Any person may petition the Landmarks
116 Commission to amend or rescind a Landmark Designation. The process for amending a landmark
117 shall be the same as for designating a landmark under Subsections ~~E-D~~ through ~~H-G~~ above.

118 ~~LK. Determination of effect on proposed use or improvement~~Regulation of construction, reconstruction
119 or alterations. If an application for a zoning or building permit for exterior work, ~~building or~~
120 ~~demolition permit under this chapter~~ involves a landmark structure, landmark site, or a contributing
121 resource within a historic district, the permit shall first be referred to the Landmarks Commission for
122 consideration of a Certificate of Appropriateness. No permit may be issued until the Commission
123 has issued a Certificate of Appropriateness under Subsection N. In cases where a building permit is
124 not required, ordinary maintenance and repairs may be undertaken without a certificate of
125 appropriateness provided that the work involves repairs to existing features of a historic structure or
126 site or the replacement of elements of a structure with pieces and materials identical in appearance
127 and provided that the work does not change the exterior appearance of the structure or site. This
128 consideration shall be based on the considerations below, and the United States Secretary of the
129 Interior's Standards for Rehabilitation, 36 CFR 67. ~~or landmark site designated as such, the~~

130 ~~Landmarks Commission shall determine:~~

- 131 (1) Whether the proposed work would detrimentally change, destroy or adversely affect any
132 architectural feature of the landmark; and
- 133 (2) In the case of a new construction, whether the exterior of such construction would be in harmony
134 with the external appearance of other landmarks on the site; and
- 135 (3) Whether the proposal would significantly alter or destroy the historic characteristics of the landmark
136 or the landmark site.

137 ~~M. Action on permit application. The permit application shall be first referred to the Landmarks
138 Commission for consideration. The Landmarks Commission shall make a determination as to the
139 matters referred to in Subsection L and shall forward its determination to the appropriate body for
140 action in accordance with § 480-54 (zoning permits in single family and two family residence
141 districts), § 480-55 (zoning permits in all other districts), § 175-8 (building permits), and § 175-29
142 (demolition permits). Notwithstanding the previous sentence, upon the recommendation of the
143 Landmarks Commission and after consideration of the purpose and intent of this section, the
144 Landmarks Commission shall refer the application with an advisory report to the Common Council
145 for consideration of acquisition or preservation of the landmark or landmark site. The City Planner
146 shall provide notice to the State Historic Preservation Officer of any proposed action which would
147 affect a designated landmark in accordance with § 66.1111, Wis. Stats.~~

148 L. Regulation of demolition. No permit to demolish all or part of an historic structure or contributing
149 resource in an historic district, shall be granted by the Building Inspector except as follows:

150 (1) No person in charge of an historic structure shall be granted a permit to demolish such property
151 under any circumstances without first receiving the written approval of the Commission.

152 (2) At the time a person applies for a permit to demolish such property, an application shall be
153 forwarded to the Commission. The Commission may refuse to grant written approval of a period of
154 up to six months from the time of the application, during which time the Commission and the
155 applicant shall undertake serious and continuing discussions for the purpose of finding a method to
156 save the property. The six-month period may be extended by mutual agreement of the applicant and
157 the Commission. If the time period is not extended, the Commission's denial of the Certificate of
158 Appropriateness shall become final unless a formal application for funds from any governmental unit
159 or nonprofit to preserve the property is pending. The Commission's denial of a Certificate of
160 Appropriateness may be appealed to the Common Council within 60 days of a final denial under
161 Subsection N. If a mutually agreeable method of saving the property or an application for funds is
162 apparent after the six-month period, but is then unsuccessful within a period of sixty (60) days
163 following the end of the required time period, the Commission's denial of the Certificate of
164 Appropriateness stands and the applicant may appeal to the Council under Subsection N.

165 (3) In determining whether to issue a certificate of appropriateness for any demolition, the
166 Commission shall consider the following:

167 (a) Whether the building or structure is of such an architectural or historic significance that its
168 demolition would be detrimental to the public interest and contrary to the general welfare of the
169 people of the City of Monona and the State.

170 (b) Whether the demolition of the subject property would be contrary to the purpose and intent of
171 this chapter.

172 (c) Whether the building or structure is of such old and unusual or uncommon design, texture and /

173 or material that it could not be reproduced or reproduced only with great difficulty and / or
174 expense.

175 (d) Whether the retention of the building or structure would promote the general welfare of the
176 people of the City of Monona and the State by encouraging study of American history,
177 architecture, and design or by developing an understanding of American culture and heritage.

178 (e) Whether the building or structure is in such deteriorated condition that it is not structurally or
179 economically feasible to preserve or restore it, provided that any hardship claimed by the owner is
180 not self-created, or is a result of failure to maintain the property in good repair.

181 M. Certificate of Appropriateness. If the Commission determines that the application for a certificate
182 of appropriateness and the proposed changes are consistent with the character and features of the
183 property or district, and considering the matters referred to in Subsection K, it shall issue the
184 certificate of appropriateness. The Commission shall make this decision within 45 days of filing
185 of the application. The issuance of a certificate of appropriateness shall not relieve the applicant
186 from obtaining other permits and approvals required by the city. If the Commission fails to issue a
187 certificate of appropriateness, the Commission shall, at the request of the applicant, cooperate and
188 work with the applicant in an attempt to obtain a certificate of appropriateness within the
189 guidelines of this chapter.

190 N. Appeals. Should the Commission fail to issue a certificate of appropriateness due to the failure of
191 the proposal to conform to the guidelines, the applicant may appeal such decision to the Common
192 Council in accordance with Chapter 68 of the Wisconsin Statutes by filing a written notice with
193 the City Clerk within 30 days after expiration of the applicable period set forth in Subsections L
194 and M above.

195 O. Sale of historic structures and historic sites. Any person who is listed as the owner of record of an
196 historic structure at the time of its designation, who can demonstrate to the Commission that by
197 virtue of such designation, he or she is unable to find a buyer willing to pay fair market value and
198 to preserve such structure or site, even though he or she has made reasonable attempts in good
199 faith to find and attract such a buyer, may petition the Commission for a rescission of its
200 designation. In the event of such rescission, the Commission shall notify the Building Inspector as
201 well as the owner of record of the site, and shall cause the rescission to be recorded with the Dane
202 County Register of Deeds at the City's expense.

203 P. Conditions dangerous to life, health, or property. Nothing contained in this chapter shall prohibit
204 the construction, reconstruction, alteration or demolition of any historic structure pursuant to the
205 order of any appropriate City or State governmental official, or any court order having
206 jurisdiction, for the purpose of remedying conditions determined to be dangerous to life, health, or
207 property. In such cases, no approval from the Commission shall be required.

208 Q. Duty to maintain in good repair. Every person in charge of a historic structure or historic site shall
209 keep in good repair all of the exterior portions of such improvement and all interior portions
210 thereof, which, if not so maintained, may cause or tend to cause the exterior portions of such
211 improvement to fall into a state of disrepair. This provision shall be in addition to all other
212 provisions of law requiring such improvement to be kept in good repair.

213 R. Variances.

214 (1) General. A property owner who applies for a certificate of appropriateness may request a
215 variance. The Landmarks Commission may grant a variance from the standards in Subsection K
216 for any of the following reasons:

- 217 (a) Economic hardship under sub. (4) below.
- 218 (b) Historic design under sub. (5) below.
- 219 (c) Alternative design under sub. (6) below.
- 220 (d) Projects which are necessary for the public interest under sub. (7) below.

221 (2) Variance request. A property owner shall make a variance request to the Landmarks
222 Commission. The request shall include:

- 223 (a) The name and address of the property owner.
- 224 (b) The location of the property to which the request pertains.
- 225 (c) The certificate of appropriateness application to which the variance request pertains.
- 226 (d) The type of variance requested under sub. (1).
- 227 (e) The specific variance requested.
- 228 (f) The circumstances and supporting evidence that justify the requested variance.
- 229 (g) Any other materials requested by the City Planner or Landmarks Commission.

230 (3) Hearing, decision, and appeal.

- 231 (a) The landmarks Commission shall hold a public hearing on each variance request. The
232 Commission shall give notice of the hearing as provided in Subsection E. The
233 Commission may combine the hearing with a hearing on the proposed certificate of
234 appropriateness to which the variance request pertains, provided that the hearing notice
235 identifies both items.
- 236 (b) After it holds a public hearing on a variance request, the Commission shall grant or
237 deny the request.
- 238 (c) The Commission's decision may be appealed to the Common Council as provided
239 under Subsection M.

240 (4) Economic hardship variance. The Landmarks Commission may grant a variance if all of the
241 following apply:

- 242 (a) Strict literal application of the standards in Subsection K would deny the property
243 owner a reasonable rate of return on investment or would impose upon the property owner
244 an unreasonable and unnecessary financial hardship.
- 245 (b) The circumstances justifying the variance are unique to the property in question, and:
 - 246 1. Are not caused by the owner's failure to maintain the property as required by this
247 chapter; and
 - 248 2. Does not apply to a substantial portion of the historic district or historic resources
249 within 200 feet of the subject property; and
 - 250 3. Will not alter the historic character of the historic district or historic resources
251 within 200 feet of the subject property.
- 252 (c) The property owner documents the circumstances justifying the variance. Required
253 documentation may include as determined by City staff or the Landmarks Commission:
 - 254 1. Property purchase costs;
 - 255 2. Rental income;
 - 256 3. Real estate listings, disclosure statements, asking prices, and purchase offers;

- 257 4. Tax assessments and real estate listings for comparable properties;
258 5. Improvements made and improvement costs incurred during ownership;
259 6. Routine maintenance costs incurred during ownership;
260 7. Costs to comply with the standard from which a variance is requested;
261 8. Other documentation as reasonable requested by the Landmarks Commission.

262 (5) Historic design variance. The Landmarks Commission may grant a variance allowing, as part of
263 the alteration of an existing structure, elements otherwise prohibited under Subsection K if all of
264 the following apply:

- 265 (a) The property owner provides photographic or other evidence to show that other local
266 structures of similar age and style incorporated similar elements as part of the original
267 design.
268 (b) The proposed alteration complies with all other applicable standards under Subsection
269 K.
270 (c) The alteration will not destroy significant architectural features on the building.

271 (6) Alternative design variance. The Landmarks Commission may grant a variance allowing, in a
272 new or altered structure, elements that are otherwise prohibited under Subsection K if all of the
273 following apply:

- 274 (a) The elements will enhance the quality of the design.
275 (b) The design complies with all other applicable standards under Subsection K.
276 (c) The design does not allow material deviations from historic district standards and
277 guidelines in the Secretary of Interior Standards for Rehabilitation that would undermine
278 the character or purpose of the historic district.
279 (d) The design will have a beneficial effect on the historic character of the area within 200
280 feet of the subject property.

281 (7) Public interest variance. The Landmarks Commission may grant a variance allowing the
282 construction of a new structure, or the alteration, demolition, or removal of an existing structure,
283 which would otherwise be prohibited under Subsection K, if the Commission finds that a variance
284 is necessary in the public interest. A variance is necessary in the public interest if the Commission
285 finds all of the following:

- 286 (a) The proposed building, object, site or structure provides unique, high priority benefits
287 to the general public.
288 (b) The benefits to the general public substantially outweigh the strong public interest in
289 preserving historic resources expressed in this chapter.
290 (c) There are no reasonable alternatives to granting a variance that would allow the
291 proposed project to occur in the city and satisfy the standards of this chapter.

292 S. Penalties for failure to obtain a certificate of appropriateness.

293 (1) General penalty. Any person who, without obtaining a Certificate of Appropriateness,
294 performs acts requiring a Certificate of Appropriateness or who violates the terms of the
295 Certificate of Appropriateness shall be subject to the forfeiture set forth in the forfeiture schedule.
296

297 (2) Permits. The Building Inspector shall not issue a permit allowing alteration, construction,
298 demolition, removal, or for any other action for which a Certificate of Appropriateness is required

299 unless the certificate has been approved by the Commission and issued by the City Planner.

300
301 (3) Prohibition. No owner, operation, or person in charge of a landmark structure, landmark site,
302 or contributing resource within an historic district shall cause or permit any painting of signs,
303 alteration, construction, demolition, or removal for which a Certificate of Appropriateness is
304 required unless a Certificate has been approved by the Commission.

305
306 (4) Penalty for work done without Certificate of Appropriateness. In addition to any other penalty
307 provided in this chapter, the Landmarks Commission may order the removal or modification of
308 any alteration, construction or other work that was performed without a required Certificate, or
309 that was not performance in compliance with the conditions of an issued Certificate, when such
310 work does not meet the applicable standards for a Certificate under Subsection K. Alternatively,
311 the Commission may order renovation to make such work comply with those standards.