

Chapter 112. Historic District Preservation

[HISTORY: Adopted by the Mayor and Council of the Borough of Madison 12-13-1999 by Ord. No. 39-99.^[1] Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 75.

Housing standards — See Ch. 113.

Official map — See Ch. 131.

Land development — See Ch. 195.

[1] *Editor's Note: This ordinance also superseded former Ch. 112, Historic District Preservation, adopted 10-13-1993 by Ord. No. 31-93, as amended 12-27-1993 by Ord. No. 39-93.*

§ 112-1. Purpose and objectives.

The purpose of this chapter is to assist implementation of the historic preservation element of the Master Plan, to provide guidance in achieving preservation of historic resources in the designated Historic District and to advance the following public purposes:

- A. To promote the use of historic districts for the education, pleasure and welfare of the citizens of the Borough and its visitors and to promote civic pride in the Borough's historic resources.
- B. To foster private reinvestment in the historic district and sites and balance the purposes of historic preservation with current needs.
- C. To encourage preservation of sites of historic, archaeological, cultural, social and architectural significance.
- D. To encourage the continued use of historic sites and to facilitate their appropriate reuse.
- E. To maintain and promote an appropriate and harmonious setting for existing historic resources within the Borough.
- F. To recognize and preserve historic resources in the Borough as an essential element of municipal character and identity which contributes to the reputation of Madison as a place of beauty and architectural value.
- G. To encourage appropriate alterations to historic sites and new construction which is in keeping with the character of historic districts and sites.

§ 112-2. Definitions.

ADDITION — An extension or increase in building size, floor area or height.

ADMINISTRATIVE OFFICER

For purposes of this Historic Preservation Ordinance, the Borough Engineer shall be the administrative officer.

ALTERATION

As applied to a building or structure, a change or rearrangement in the structural parts or in the means of egress or an enlargement, whether by extending on a side or by increasing in height or the moving from one location or position to another, or the change in appearance of the exterior surface of any improvement.

CERTIFICATE OF HISTORIC REVIEW

A document issued by the Historic Preservation Commission confirming their review of any alteration or addition to a site or a property within the Historic District. Such review is based upon plans presented for the preservation, restoration, rehabilitation or alteration of an existing property, or the demolition, addition, removal, repair or remodeling of any feature on an existing building within the Historic District or for any new construction within the Historic District.

DEMOLITION

"Demolition" is the total razing, dismantling or more than partial destruction of any historic site or any improvement within the Historic District.

DESIGNATED SITE

A site that has been designated per § 112-4 herein.

GUIDELINES

The guidelines for both the Historic Preservation Commission and applicants for a certificate of historic review shall be the Secretary of the Interior's Standards for Rehabilitation, adopted by reference. Design guidelines developed specifically for the Madison Historic Preservation Commission are set forth herein in § 112-7 and may take precedence over the Secretary of the Interior's Standards where more specifically applicable to the buildings and sites within Madison.

HISTORIC DISTRICT

One or more historic sites and certain intervening or surrounding property significantly affecting or affected by the quality and character of historic site or sites, as specifically designated herein.

HISTORIC SITE

Any real property, man-made structure, natural object or configuration or any portion or group of the foregoing which has been designated in the Master Plan as being of historic, archaeological, cultural, scenic or architectural significance at the national, state or local level, as specifically designated herein. The designation of an historic site or landmark shall be deemed to include the Tax Map lot on which it is located as well as the right-of-way contiguous thereto. When used in this chapter, the word "landmark" may be substituted for historic site.

IMPROVEMENT

Any structure or any part thereof installed upon public or private property and intended to be kept at the location of such construction or installation.

INTEGRITY

The authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's historic or prehistoric period.

INVENTORY

A list of historic properties determined to meet criteria of designation specified herein.

NATIONAL REGISTER CRITERIA

The established criteria for evaluating the eligibility of properties for inclusion in the National Register of Historic Places.

ORDINARY MAINTENANCE AND REPAIR

Repair of any deterioration, wear or damage to a structure in order to return the same as nearly as practicable to its condition prior to the occurrence of such deterioration, wear or damage with material and workmanship of the same quality. Ordinary maintenance shall further include replacement of exterior elements or accessory hardware, including signs, using the same materials and workmanship and having the same appearance.

PRESERVATION

The act or process of applying measures to sustain the existing form, integrity and material of a building or structure and the existing form and vegetative cover of a site. It may include initial stabilization work, where necessary, as well as ongoing maintenance of the historic building's materials.

PROTECTION

The act or process of applying measures designed to affect the physical condition of a property by defending or guarding it from deterioration, loss or attack or to cover or shield the property from danger or injury.

RECONSTRUCTION

The act or process of reproducing by new construction the exact form and detail of a vanished building, structure or object, or any part thereof, as it appeared at a specific period of time.

REHABILITATION

The act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural and cultural values.

REPAIR

Any work done on an improvement that is not an addition and does not change the exterior appearance of any improvement; provided, however, that any such repairs must be done with materials and workmanship of the same quality.

RESTORATION

The act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

STREETSCAPE

The visual character of the street, including but not limited to the architecture, building setbacks and height, fences, storefronts, signs, lighting, parking areas, materials, color, sidewalks, curbing and landscaping.

STRUCTURE

A combination of materials to form a construction for occupancy use or ornamentation, whether installed on, above or below the surface of a parcel of land. The word "structure" shall also include any building or improvement with a roof.

§ 112-3. Historic Preservation Commission.

- A. Responsibilities. The Historic Preservation Commission shall have the following duties and responsibilities:
- (1) To identify, record and maintain a system for survey and inventory of all buildings, sites, places, improvements and structures of historical or architectural significance based on the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (Standards and Guidelines for Identification); and to aid the public in understanding their worth, methods of preservation, techniques of gathering documentation and related matters.
 - (2) To make recommendations to the Planning Board on the historic preservation plan element of the Master Plan and on the implications for preservation of historic sites of any other Master Plan elements.
 - (3) To advise the Planning Board on the inclusion of historic sites and landmarks in the recommended capital improvement program.
 - (4) To participate in the Technical Coordinating Committee and advise the Planning Board and Zoning Board of Adjustment pursuant to N.J.S.A. 40:55D-110.
 - (5) To provide written reports pursuant to N.J.S.A. 40:55D-111 on the application of the Zoning Ordinance provisions concerning historic preservation.
 - (6) To carry out such other advisory, educational and informational functions as will promote historic preservation in the Borough.
- B. Establishment.
- (1) Members. The Historic Preservation Commission, previously established by ordinance and appointed by the Mayor, is hereby continued consistent with N.J.S.A. 40:55D-107 et seq. The Commission shall consist of seven regular members and two alternate members. Members shall serve without compensation. At least one member shall be designated of each of the following classes:
[Amended 6-27-2005 by Ord. No. 30-2005]
 - (a) Class A. A person who is knowledgeable in building design and construction or architectural history and who may reside outside the municipality.
 - (b) Class B. A person who is knowledgeable or with a demonstrated interest in local history and who may reside outside the municipality.
 - (c) Class C. Citizens of the municipality who shall hold no other municipal office, position or employment except for membership on the Planning Board or Zoning Board of Adjustment. At least one Class C member shall be the owner of commercial property within Madison.
 - (d) Alternate members shall meet the qualifications of Class C members. At the time of appointment, alternate members shall be designated as "Alternate No. 1" and "Alternate No. 2." Of the seven regular members, a total of at least one less than a majority shall be of Classes A and B.
 - (2) Terms.
 - (a) There shall be no change in the term of office of those members serving on the Commission at the time this chapter becomes effective. Thereafter, the term of a regular member shall be four years; the term of an alternate member shall be two years.
[Amended 12-8-2003 by Ord. No. 54-2003]
 - (b) A vacancy occurring otherwise than by expiration of term shall be filled within 60 days for the unexpired term only.
 - (3) Alternates. The alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.
 - (4) Budget. The governing body shall make provision in its budget and appropriate funds for the expenses of the Historic Preservation Commission. The Commission may employ, contract for and fix the compensation of experts and other staff and services as it shall deem necessary. The Commission shall obtain its legal counsel from the municipal attorney at the rate of compensation determined by the governing body, unless the governing body, by appropriation, provides for separate legal counsel for the Commission. Expenditures pursuant to this subsection shall not exceed, exclusive of gifts or grants, the amount appropriated by the governing body for the Commission's use.
 - (5) Rules of Commission.
 - (a) The Commission shall elect a Chairman and Vice-Chairman from its members and select a Secretary who may or may not be a member of the Commission or a municipal employee.

- (b) The Commission shall adopt written rules for the transaction of its business and for the consideration of applications for certificates of historic review and for designations of historic districts and sites. Such rules shall not be inconsistent with the provisions of this chapter and shall include but not be limited to rules pertaining to all notices and hearings required herein.
 - (c) In order to make available to the public information useful to the preservation and protection of historic districts and sites and to provide the basis for consistency of policy, the administrative officer, on behalf of the Commission, shall maintain complete files and records, including but not limited to data used in the classification of buildings, places and structures, minutes of Commission meetings, applications for certificates of historic review, along with collateral data, decisions and appeals associated therewith, and information, materials and references submitted to the public related to historic preservation. A record of the proceedings shall be kept and made available, but a formal verbatim record shall not be required.
 - (d) The Commission Secretary shall keep minutes and records of all meetings and proceedings, including voting records, attendance, resolutions, findings, determinations, decisions and applications. Copies of all minutes shall be delivered promptly to the Borough Clerk.
 - (e) No member of the Commission shall be permitted to act on any matter in which he or she has, either directly or indirectly, any personal or financial interest. Mere ownership or residence in a designated historic district and/or ownership of a designated historic site or a nondesignated site shall not be deemed a personal or financial interest unless a member resides or owns property within 200 feet of property which is the subject of an application.
 - (f) The office of any member who shall be absent from three consecutive meetings of the Commission without just cause may be deemed vacant, at the discretion of the Mayor, and his or her membership on the Historic Preservation Commission terminated. If the Commission determines that a member is absent from any meeting without just cause, it shall be duly noted in the minutes of that meeting, and it shall be the duty of the Chairperson to so notify that member in writing. The mailing of the minutes of a particular meeting to the Commission members shall constitute written notice to each member. A member of the Commission may, after a public hearing, if requested, be removed by the governing body for cause.
- (6) Meetings; quorum.
- (a) The Historic Preservation Commission shall establish and post in Borough Hall a regular schedule of a minimum of 10 meetings per year. Additional meetings may be called by the Chairman or Vice Chairman when the regular meetings are inadequate to meet the needs of its business, to handle emergencies or to meet time constraints imposed by law.
 - (b) Four members shall constitute a quorum. Ex-officio members are not entitled to vote. A majority vote of those present and voting shall prevail and shall be sufficient to grant or deny a certificate of historic review. Not less than a majority of the appointed membership shall be required to grant or change a historic site or district designation.
 - (c) The Historic Preservation Commission shall prepare an annual report which shall be available to the public and placed on file in the Borough Hall. The report shall detail all activities, including problem solving, advice and support given and success stories.

§ 112-4. Designation of historic sites and districts.

- A. Survey. The Commission shall perform a comprehensive survey of the Borough of Madison to identify historic districts, sites and improvements which are worthy of protection and preservation.
- B. Criteria for designation. The survey shall be used as a basis for identifying sites and districts worthy of designation. The criteria for evaluating and designating historic districts and sites shall be guided by the National Register Criteria. The Commission or any interested party may recommend designation of historic sites or districts that have integrity of location, design, setting, materials, workmanship and association and that meet one or more of the following criteria:
 - (1) Character, interest or value as part of the development, heritage or cultural characteristics of the Borough, State or nation.
 - (2) Association with events that have made a significant contribution to the broad patterns of our history.
 - (3) Association with the lives of persons significant in our past.
 - (4) Embodiment of the distinctive characteristics of a type, period or method of construction, architecture or engineering.
 - (5) Identification with the work of a builder, designer, artist, architect or landscape architect whose work has influenced the development of the Borough, state or nation.
 - (6) Embodiment of elements of design, detail, material or craftsmanship that render an improvement architecturally significant or structurally innovative.
 - (7) Unique location or singular physical characteristics that make a district or site an established or familiar visual feature.
 - (8) That have yielded, or may be likely to yield, information important in prehistory or history.

C. Procedures for designation.

- (1) Interested parties shall contact the administrative officer regarding consideration of a proposed historic site or district. The Commission may also initiate the designation of an historic site or district. The administrative officer will schedule a hearing before the Commission to review the proposed historic site or district.
- (2) The formal historic district nomination shall include: a building-by-building inventory of all properties within the district; black and white photographs of all properties within the district; a property map of the district showing boundaries; and a physical description and statement of significance which address the criteria for designation set forth herein. The formal historic site nomination shall include: a black and white photograph, a tax map of the property and a physical description and statement of significance which address the criteria for designation set forth herein.
- (3) Upon review and approval of the proposed site or historic district by the Historic Preservation commission, and after hearing the comments of the public, if any, the Commission shall forward the proposed site or district nomination to the Planning Board for consideration. Notification shall be by public notice in the official paper and by prominent posting in the Municipal Building at least 30 days prior to the Planning Board hearing. The interested parties or the Commission shall submit to the Planning Board a complete list of involved properties.
- (4) Upon review and approval of the proposed site or district by the Planning Board, the site or district nomination will be sent to the Borough Council for adoption to amend and supplement the Borough Zoning Ordinance.
- (5) All other requirements of the Municipal Land Use Law^[1] regarding adoption of development regulations shall be followed and the owner of the proposed site(s) or the owners within a proposed historic district shall receive notice, at least 10 days prior to the hearing, by certified mail, return receipt requested, of the hearing by the Borough Council of the adoption of an ordinance designating the proposed historic site or district.

[1] *Editor's Note: See N.J.S.A. 40:55D-1 et seq.*

D. Designation of districts. The following historic districts are delineated and described in the Master Plan and are each hereby a designated historic district for purposes of this chapter:

[Amended 3-24-2008 by Ord. No. 15-2008]

- (1) Designated districts.
 - (a) Madison Civic Commercial Historic District. The designated historic district is set forth on the Zoning Map of the Borough of Madison which is incorporated herein by reference.
 - (b) The Bottle Hill Historic District. The designated historic district is set forth on the Zoning Map of the Borough of Madison which is incorporated herein by reference.
- (2) Additional districts. Any additional designated districts and sites and/or any changes in the designation of historic districts and historic sites shall be effectuated by amendment of this chapter in accordance with procedures provided for under Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., and the procedures set forth herein.

§ 112-5. Referral from municipal agencies for development applications.

- A. The Planning Board and Zoning Board of Adjustment shall refer to the Commission every application for development or zone change request submitted to either Board for development in historic districts or on historic sites designated on the Zoning Map. This referral shall be made when the application for development is filed with the administrative officer. Failure to refer the application as required shall not invalidate any hearing or proceeding. The Commission may provide its advice, which shall be conveyed through its delegation of one of its members or staff to testify orally at the hearing on the application and to explain any written report which may have been submitted.
- B. On all matters referred to the Commission which require approval by the Planning Board or Zoning Board of Adjustment, the decision of the Commission shall be a recommendation only.
- C. An approval by the Planning Board or Zoning Board of Adjustment, as the case may be, does not relieve the applicant of the requirements to obtain a certificate of historic review for properties within the Historic District.

§ 112-6. Certificate of historic review.

- A. When required. A certificate of historic review issued by the Commission shall be required before a permit is issued or before work can commence for any of the following activities within the historic district:
 - (1) The demolition of any building, improvement, site, place or structure. When considering applications involving demolition as defined herein, the Commission's report shall contain advice and recommendations for the applicant in regard to the appropriateness of the proposed action, and the report may contain mandatory conditions. The administrative officer shall include the advice and recommendations of the Commission in the permit.

- (2) Addition to or new construction of a principal or accessory building or structure. When considering applications involving new construction as defined herein, the Commission's report shall contain advice and recommendations for the applicant in regard to the appropriateness of the proposed action, and the report may contain mandatory conditions. The administrative officer shall include the advice and recommendations of the Commission in the permit.
 - (3) Change in the exterior appearance of any building, improvement, site, place or structure by addition, reconstruction, alteration or maintenance. Exterior change for all primary and accessory buildings shall include special consideration of character defining features visible from the public right-of-way. When considering applications involving change in exterior appearance, the Commission's report shall contain advice and recommendations for the applicant in regard to the appropriateness of the proposed action, but the report shall not contain any mandatory conditions. The administrative officer shall include the advice and recommendations of the Commission in the permit but the applicant is not required to comply with the recommendations.
- B. When not required. A certificate of historic review shall not be required before a permit is issued by the Construction Code Official for changes only to the interior of a structure.
- C. Procedures.
- (1) All applicants shall complete an application form. Application forms shall be made available in the office of the administrative officer/Borough Engineer. Completed applications shall be filed with the administrative officer/ Borough Engineer.
 - (2) Each application shall be accompanied by sketches, drawings, photographs, descriptions and other information to show the proposed alterations, additions, changes or new construction. The Commission may require additional materials as it reasonably requires to make an informed decision.
 - (3) The Commission shall reach a decision on an application and submit its report to the administrative officer within 45 days of referral of same by the administrative officer. Nothing herein shall prohibit an extension of time by mutual agreement of the applicant and the Commission.
 - (4) Informational meetings. Persons considering action that requires a certificate of historic review, as set forth in this section, are encouraged to request an informal informational meeting with the Commission and/or its Chairman. Requests for such informational meetings can be made to the administrative officer, who will contact the Chairman of the Commission. The Commission shall hold such informational meetings within 15 days of receipt of such request. The purpose of an informational meeting is to review with the applicant the standards of appropriateness and the procedures for obtaining a certificate of historic review.
 - (5) Application review.
 - (a) In addition to complying with the requirements of the Open Public Meetings Act,^[1] and except in the event of an emergency, at least 15 days prior to such meeting notice shall be given to the applicant of the time, date, place and specific subject of the meeting.
 [1] *Editor's Note: See N.J.S.A. 10:4-6 et seq.*
 - (b) A certificate of historic review shall be valid for a period of two years from date of issue unless reasonable extensions are requested by the applicant or the Commission.
 - (c) The owner shall post the certificate of historic review on a conspicuous spot on the site visible to the public during the entire process of work.
 - (d) An applicant is encouraged to attend the Historic Preservation Commission meeting when the project is to be reviewed. However, the applicant shall not be required to appear or to be represented at the meeting to consider the application for a certificate of historic review and the Commission may take action in the absence of the applicant.
 - (e) When an application is approved, the Commission shall forthwith issue a certificate of historic review which shall be forwarded to the applicant. Failure to report within a forty-five-day period shall be deemed to constitute a default approval in favor of the proposed work.
 - (6) Emergency procedures.
 - (a) When a structure or improvement requires immediate repair to preserve the continued habitability of the structure and/or the health and safety of its occupants or others, emergency repairs may be performed in accordance with construction codes without first obtaining a certificate of historic review. Under such circumstances, the repairs performed shall be only such as are necessary to protect the health and safety of the occupants of the structure or others and/or to maintain the habitability of the structure.
 - (b) A request for the Commission's review shall be made simultaneously with the onset of emergency work. Such emergency work shall be permitted only if the administrative officer certifies the immediate necessity for such permit issuance. Upon notice to the full Commission by telephone, personal contact or other appropriate means of communication, at least three members of the Commission shall convene as soon as possible and such convening members shall proceed to review the certificate of historic review application as provided in this chapter. Subsequent to such review, a certificate of historic review may be issued upon a majority vote of the members convened.

- (7) Procedure for granting certification of appropriate municipal actions.
- (a) It is recognized that the intent and purposes of this chapter would not be fully served if the municipality were to control the actions of others but fail to apply similar constraints to itself. Accordingly, a certificate of historic review shall be required before final approval of any municipal actions on public as well as private lands, streets, easements and rights-of-way within the Historic District or listed in the Historic Sites Inventory of the Master Plan. This requirement shall be deemed to include any action by any party which requires the approval or concurrence of the municipality or any municipal agency and which is not otherwise covered by the provisions of this chapter.
 - (b) In those circumstances where the municipality cannot require compliance, as in certain cases involving the county, state and federal governments, the Borough urges, most strongly, the voluntary cooperation of such agencies in seeking a certificate of historic review and hereby authorizes the Commission to consider such requests and applications. This does not relieve the property owner from complying with applicable state and federal regulations regarding historic preservation.

§ 112-7. Standards, design guidelines and criteria.

The purpose of this section is to provide uniform standards, design guidelines and criteria for the regulations of the Historic District for use by the Historic Preservation Commission. All projects requiring a certificate of historic review and all applications for development in the Historic District shall be guided by the principles of the Secretary of the Interior's Standards for Rehabilitation of Historic Buildings.

- A. Secretary of Interior's Standards. In carrying out all of its duties and responsibilities, the Commission shall be guided by the Secretary of the Interior's Standards for Rehabilitation of Historic Buildings which are as follows:
- (1) Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration of the building, structure or site and its environment or to use a property for its originally intended purpose.
 - (2) The distinguishing original qualities or character of a building, structure or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
 - (3) All buildings, structures and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
 - (4) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
 - (5) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, a structure or site shall be treated with sensitivity.
 - (6) Deteriorated architectural features shall be repaired rather than replaced wherever possible. In the event that replacement is necessary, the new material should match the material being replaced in composition, design, color, texture and other visual qualities. Repair or replacement of missing architectural features shall be substantiated by historic, physical or pictorial evidence rather than on conjectural design or the availability of different architectural elements from other buildings or structures.
 - (7) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
 - (8) Every reasonable effort shall be made to protect and preserve archeological resources affected by or adjacent to any project.
 - (9) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment.
 - (10) Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.
- B. Visual compatibility factors. In assessing the design of any proposed additions or new construction, the following visual compatibility factors shall be considered in conjunction with the Secretary of Interior's Standards set forth above by the Historic Preservation Commission.
- (1) Height. The height of the proposed building shall be visually compatible with adjacent buildings.
 - (2) Proportion of building's front facade. The relationship of the width of the building to the height of the front elevation shall be visually compatible with buildings and places to which it is visually related.
 - (3) Proportion of openings within the facility. The relationship of the width of windows to the height of windows in a building shall be visually compatible with the buildings and places to which it is visually related.

- (4) Rhythm of solids to voids in front facades. The relationship of solids to voids in the front facade of a building shall be visually compatible with the buildings and places to which it is visually related.
- (5) Rhythm of spacing of buildings on streets. The relationship of the building to the open space between it and adjoining buildings shall be visually compatible with the buildings and places to which it is visually related.
- (6) Rhythm of entrance and/or porch projections. The relationship of entrance and porch projections to the street shall be visually compatible with the buildings and places to which it is visually related.
- (7) Relationship of materials, texture and color. The relationship of materials, texture and color of the facade and roof of a building shall be visually compatible with the predominant materials used in the buildings to which it is visually related.
- (8) Roof shapes. The roof shape of a building shall be visually compatible with buildings to which it is visually related.
- (9) Walls of continuity. Appurtenances of a building, such as walls, open-type fencing and evergreen landscape masses, shall form cohesive walls of enclosure along a street to the extent necessary to maintain visual compatibility of the building with the buildings and places to which it is visually related.
- (10) Scale of building. The size of a building, its mass in relation to open spaces and its windows, door openings, porches and balconies shall be visually compatible with the buildings and places to which it is visually related.
- (11) Directional expression of front elevation. A building shall be visually compatible with buildings and places to which it is visually related in its directional character, whether this be vertical character, horizontal character or nondirectional character.
- (12) Exterior features. A building's related exterior features, such as lighting, fences, signs, sidewalks, driveways and parking areas, shall be compatible with the features of those buildings and places to which it is visually related and shall be appropriate for the historic period for which the building is significant.

C. Madison design guidelines for the Civic Commercial District; intent.

- (1) In assessing change in the exterior appearance of any building, improvement, site, place or structure by addition, reconstruction, alteration or maintenance, the Commission's deliberations shall be guided by the Madison Design Guidelines for the Civic Commercial District, which are adopted as an appendix to this chapter and which are incorporated by reference, and shall be considered in conjunction with the Secretary of Interior's Standards set forth above by the Historic Preservation Commission.
- (2) It is not the intent of this chapter to discourage contemporary architectural expression or to encourage new construction which emulates existing buildings of historic or architectural style but rather to preserve the integrity and authenticity of the historic preservation districts and to ensure the compatibility of new structures therein.

§ 112-8. Demolition.

- A. As set forth in § 112-6A(1) hereinabove, a certificate of historic review and compliance is required for the demolition of any building, improvement, site, place or structure.
- B. Criteria. In regard to an application to demolish or move an historic building, site, place or structure, the following matters shall be considered:
 - (1) Its historic, architectural, cultural and aesthetic significance in relation to the criteria of § 112-4B.
 - (2) Its current and potential use for those purposes currently permitted by the Zoning Ordinance or for the use proposed.
 - (3) Its importance to the municipality and the extent to which its historical or architectural value is such that its removal would be detrimental to the public interest.
 - (4) The extent to which it is of such old, unusual or uncommon design, craftsmanship, texture or material that it could not be reproduced or could be reproduced only with great difficulty.
 - (5) The extent to which its retention would increase property values, promote business, create positions, attract tourists, students, writers, historian, artists and artisans, attract new residents, encourage study and interest in American history, stimulate interest and study in architecture, educate citizens in American culture and heritage or make the municipality a more attractive and desirable place to live.
 - (6) The probable impact of its removal upon the ambiance of the historic district.
 - (7) The structural soundness and integrity of the building and the economic feasibility of restoring or rehabilitating the structure so as to comply with the requirements of the applicable building codes.
 - (8) The compelling reasons for not retaining the structure or improvement at its present site, the proximity of the proposed new location and its accessibility to residents of the municipality and the probability of significant damage to the structure or improvement as a result of the relocation.

- (9) The compatibility, nature and character of the current and the proposed surrounding areas as they relate to the intent and purposes of this chapter and whether the proposed new location is visually compatible in accordance with the standards set forth herein.
- (10) A discussion with the applicant regarding applicant's consent to the removal and reuse of certain important features of the historic building or structure.

C. Procedure.

- (1) Applications for a demolition permit must be made to the Building Construction Official. For all properties within the Historic District, a copy of the application will be forwarded to the Historic Preservation Commission within 15 days of receipt of the complete demolition application by the Building Code Official.
- (2) When considering applications for demolition permits, the Commission's report may contain mandatory conditions, in which event the administrative officer shall include the conditions contained in the certificate of historic review in any permit which is issued.
- (3) Applications for demolition shall include current and archival photographs of the interior and exterior of the building and drawings to document the condition of the building.
- (4) The Commission's review of a demolition application may take up to 45 days from receipt of completed application, just as in the case of a development application.
- (5) Demolition notice posting and publication. Notice of proposed demolition shall be posted on the premises of the building, place or structure in a location that is clearly readable from the street. In addition, the applicant shall publish a notice in the official newspaper of the Borough within 10 days of an application for a demolition permit.
- (6) Review of application.
 - (a) The Historic Preservation Commission will review the application for demolition based on the criteria outlined above. Its report may:
 - [1] Approve demolition without conditions.
 - [2] Stipulate conditions, including but not limited to documentation of the building prior to demolition and/or confirmation of applicant's consent to the removal and reuse of certain important features of the historic building or structure.
 - [3] In the event that the Commission disapproves an application to demolish an historic building, place or structure, the owner shall, nevertheless, as a matter of right, be entitled to raze or demolish such building, place or structure, provided that all of the other demolition requirements of the Borough have been fully met.
- (7) All new construction on the site of a building demolished within the Historic District is subject to mandatory review by the Historic Preservation Commission. The new construction shall be in the character of the Madison Civic Commercial Historic District, and all comments of the Commission in these circumstances are binding upon the applicant. The certificate of historic review will be issued only when the Historic Preservation Commission is satisfied that the facades of the replacement structure meets all the criteria of the Design Guidelines deemed applicable and fits appropriately within the Historic District.
- (8) When a certificate of historic review has been issued, the administrative officer or his appointee shall, from time to time, inspect the work approved by such certificate and shall regularly report to the Commission the results of such inspections, listing all work inspected and reporting any work not in accordance with such certificate.

§ 112-9. Enforcement.

It shall be the duty of all municipal officials reviewing all permit applications involving real property or improvements thereon to determine whether such application involves any activity which should also be the subject of an application for a certificate of historic review. If it should, the officer shall inform both the administrative officer and the applicant, as well as the Historic Preservation Commission.

§ 112-10. Violations, penalties and injunctive relief.

A. Violations.

- (1) If any person shall undertake any activity regarding an historic site or improvement within an historic district without first having obtained and posted a certificate of historic review, such person shall be deemed to be in violation of this chapter.
- (2) Upon learning of the violation, the Zoning Officer shall personally serve upon the owner of the lot whereon the violation is occurring a notice describing the violation in detail and giving the owner 10 days to abate the violation by seeking review of the extent and proposed work by the Historic Preservation Commission.

- (3) If the owner cannot be personally served within the municipality with said notice, a copy shall be posted on site and a copy sent by certified mail, return receipt requested, to the owner at the last known address as it appears on the municipal tax rolls.
- B. Penalties. If any person shall undertake demolition or removal or new construction affecting an historic site or improvement within an historic district without first having obtained a certificate of historic review or without subsequent review by the Commission following discovery of the omission, he may be required to restore same to the previous condition. In addition, there shall be imposed upon such person the fines and penalties set forth in § 195-15C of the Zoning Ordinance of the Borough of Madison. There shall be no fines or penalties imposed upon failure to obtain a certificate of historic review for change in the exterior appearance of any building improvement, site, place or structure by addition, reconstruction, alteration or maintenance, for which action mandatory conditions are not imposed in relation to § 112-6A(3).
- C. Injunctive Relief. In the event that any action which would permanently and adversely change an historic site or historic district, such as demolition or removal, is about to occur without a certificate of historic review having been issued, the Zoning Officer may apply to the Superior Court of New Jersey for such injunctive relief as is necessary to prevent the destruction of such site or landmark.

§ 112-11. Appeals.

Appeals to the Zoning Board of Adjustment pursuant to N.J.S.A. 40:55D-70.2 and N.J.S.A. 40:55D-72 may be taken by any interested party affected by any order, requirement, decision or refusal of the administrative officer pursuant to a report submitted by the Historic Preservation Commission or Planning Board, including a denial of a certificate of historic review, in accordance with N.J.S.A. 40:55D-111. Such appeal shall be taken within 20 days by filing a notice of appeal with the officer from whom the appeal is taken specifying the grounds of such appeal. The officer from whom the appeal is taken shall immediately transmit to the Zoning Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

§ 112-12. Other requirements unaffected.

The requirements of this chapter shall be considered to be in addition to and in no case shall they be interpreted as a substitute for any other approval, permit or other action as otherwise provided for.

§ 112-13. Notice.

Notice shall be made to all historic district property owners 30 days prior to any change(s), addition(s), deletion(s) or revocation(s) affecting the purposes and conditions set forth herein. Notice shall be made by copy sent by certified mail, return receipt requested, to the owner at the last known address as it appears on the municipal tax rolls.

§ 112-14. Interpretation.

This chapter shall be liberally construed to affect the purposes set forth herein. In the event that this Ordinance conflicts with state law, state law shall take precedence.

§ 112-15. When effective; superseder.

This Ordinance shall take effect upon publication after final passage and approval, as provided by law, and shall supersede, in its entirety, Ordinance No. 31-93 codified as Chapter 112 of the Madison Borough Code.