

Appendix C

SUMMARY OF ORDINANCE REQUIREMENTS FOR CONSERVATION SUBDIVISIONS<sup>a</sup> IN SOUTHEASTERN WISCONSIN: 2008

| County    | Local Government  | Type of Ordinance   | Minimum Open Space Required  | Density Bonus Possible | Stewardship or Maintenance Plan Required for Open Space <sup>b</sup> | Factors Considered When Determining the Number of Homes Allowed   |
|-----------|---|---|--|------------------------|--|---|
| Kenosha   | Kenosha County (Note: All Towns in Kenosha County are regulated under the County zoning and subdivision ordinances) | Zoning; the Rural Cluster Development Overlay (RC) District may be applied in the A-2, R-1, and C-2 zoning districts on parcels with a minimum size of 50 acres in the A-2 zoning district and 25 acres in the R-1 and C-2 zoning districts | 60 percent of total site area in nonsewered areas; 70 percent in sewered areas   | No                     | Yes  | Areas within existing street, railroad, and utility rights-of-way must be subtracted from the total site area. Only 20 percent of the area in wetlands and floodplains may be counted when calculating the number of homes allowed. Any existing dwellings that will remain on the site must be subtracted from the number of new homes allowed |
| Milwaukee | City of Franklin  | Unified Development; Open Space Subdivisions may be allowed as a conditional use in the R-1, R-2, R-3, R-3E, R-4, R-5, R-6, and R-7 zoning districts  | The minimum open space required varies based on the zoning district and the extent of natural resources located in the development tract   | No                     | Yes <sup>c</sup>   | The number of homes allowed is based on a calculation that takes into consideration the area within wetlands, surface waters, drainageways, floodplains, shore buffers, <sup>d</sup> woodlands, and steep slopes  |
|           | City of Greenfield  | Zoning; Open Space Subdivisions may be allowed as a conditional use in the R-1 zoning district  | The greater of 30 percent of the net site area or an amount equal to all of the area located within surface water, floodplains, and wetlands and 70 percent of the area within woodlands. The net site area is the total site area minus existing street and utility rights-of-way | No                     | Yes <sup>c</sup>   | Maximum density of 2.16 dwelling units per gross acre, subject to a site intensity calculation  |
| Ozaukee   | City of Cedarburg   | Zoning; Conservation subdivisions may be allowed as a conditional use in the RS-8 zoning district   | 50 percent of the parcel. Golf course parking lots and associated structures, underground utility rights-of-way, and street rights-of-way may not count toward the 50 percent open space requirement   | No                     | Yes  | Not specified   |

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|------------------------|--------------------|---|---|-------------------------------|--|---|
| Ozaukee<br>(continued) | Village of Grafton | Zoning; Open Space Subdivisions may be allowed as a conditional use in the R-RE, R-E, R-1, R-S, and R-4 zoning districts  | The greater of the percent of open space specified in the zoning ordinance or an amount equal to all of the area located within surface water, floodplains, wetlands, and shore buffer, <sup>d</sup> 70 percent of the area within woodlands, 65 percent of the area having slopes between 20 and 30 percent, and 70 percent of the area having slopes greater than 30 percent. The percent of open space varies from 20 percent in the R-4 district to 65 to 80 percent in the R-RE district | No                            | No   | The maximum density in each zoning district is specified in the zoning ordinance, subject to a site intensity calculation   |
|                        | Town of Cedarburg  | Zoning; Cluster developments are allowed as a principal use in the CR-A, CR-B, and TR residential zoning districts  | 50 percent of total site area in the CR-A and CR-B districts; 20 percent in the TR district<br>Street rights-of-way may not be included in calculation of open space  | No                            | No   | Based on density allowed in zoning district   |
|                        | Town of Grafton    | Zoning; Cluster development may be allowed in the Residential Conservation Development Overlay District, which may be applied to the R-1, R-2, and R-3 zoning districts to parcels having a minimum of 35 acres | 70 percent of total site area in the R-1 district; 55 percent in the R-2 district; and 40 percent in the R-3 district   | Yes<br>(See far right column) | Yes  | Based on a yield plan that determines the number of homes that would be permitted in the zoning district using a conventional subdivision; result is then multiplied by a density bonus of 25 percent in the R-1 district, 20 percent in the R-2 district, and 15 percent in the R-3 district |

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|------------------------|--|---|---|------------------------|--|---|
| Ozaukee<br>(continued) | Town of Saukville  | Zoning; Conservation subdivisions may be allowed as an Overlay District in areas designated on the Town's Master Plan for Low-Density Development or areas designated as "Rural and Other Agricultural Lands"   | 50 percent of total site  | No                     | Yes  | The maximum density of a conservation subdivision is determined by applying the minimum lot area in the underlying zoning district to the entire parcel proposed for development. The minimum lot area in a conservation subdivision may be less than that required in the underlying district, but shall not be less than 20,000 square feet |
| Racine                 | Racine County<br>(Note: All Towns in Racine County are regulated under the County zoning and subdivision ordinances) | Zoning; Cluster development may be allowed as a conditional use in the C-2 zoning district and may also be allowed as a Residential Planned Unit Development Overlay with an underlying zoning district of R-2S, R-3, R-3A, R-4, R-5, R-5A, R-6, or R-7 | Not specified   | No                     | No   | Not specified   |
|                        | Village of Caledonia   | Subdivision; Conservation subdivisions are required for all land divisions of a parent parcel of three acres or larger creating five or more lots   | 60 percent of the total site area in nonsewered areas and 40 percent of the total site area in sewerred areas   | Yes                    | Yes  | The allowable density is derived by subtracting from the total site area the area within street and utility rights-of-way, surface water, floodplains, wetlands, woodlands, and steep slopes, and multiplying the result by the density factor permitted by the Town land use plan and the existing zoning                                    |
|                        | Village of Mount Pleasant  | Zoning; Cluster development may be allowed in any single- or two-family residential zoning district <sup>e</sup>  | At least 85 percent of the difference between the lot size required for conventional development and the lot size provided in a cluster development must be devoted to public or private parks or common open space | No                     | Yes  | Not specified   |

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|--------------------|------------------------------|---|--|------------------------|--|---|
| Racine (continued) | Town of Dover                | Subdivision; Conservations subdivisions are allowed as a PUD overlay district in urban service areas and as a conditional use in the C-2 Upland Conservancy District per the Racine County Zoning Ordinance | 60 percent of the total site   | Yes                    | Yes  | Rural Residential Density – 1 dwelling unit per 3 acres; Suburban Density Residential – 1 dwelling unit per 1.5 to 2.99 acres; Low-Density Residential – 1 dwelling unit per 0.9 to 1.49 acres; Medium-Low-Density Residential – 1 dwelling unit per 0.44 to 0.9 acres; Medium-Density Residential – 1 dwelling unit per 0.14 to 0.43 acres |
|                    | Town of Raymond              | Condominium and Conservation Subdivision; All proposed subdivisions, whether by condominium or subdivision plat, are required to be developed as a conservation subdivision                                 | 60 percent of gross acreage for subdivisions not served by municipal sewer and 40 percent of gross acreage for subdivisions served by municipal sewer  | No                     | Yes  | The number of residential units in a conservation subdivision may not exceed equal the net density of the original parcel per the most restrictive of the Town land use plan or other Town or County Ordinances   |
|                    | Town of Yorkville            | Subdivision; Conservation subdivisions are required for all land divisions creating four or more lots   | 64 percent of the total site area  | Yes                    | Yes  | The allowable density is derived by subtracting from the total site area the area within street and utility rights-of-way and navigable waters  |
| Walworth           | Walworth County <sup>f</sup> | Zoning and Subdivision; Conservation subdivisions allowed as a conditional use in the A-2, C-2, C-3 R-1, R-2, R-2A, and R-3 zoning districts  | 60 percent of the total site area in the A-2, C-2, and C-3 districts; 33 percent in the R-1 district; 20 percent in the R-2 and R-3 districts, and 50 percent in the R-2A and R-3 districts<br>Conservation lots of at least 10 acres may be permitted as part of the required open space. Conservation lots may be privately owned and used for farming | Yes                    | Yes  | The allowable density is determined by subtracting from the total site area the area within existing street and utility rights-of-way and easements, surface waters, and wetlands, and multiplying the result by the density factor permitted by the zoning ordinance   |

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(continued)**

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|-------------------------|---------------------|---|---|----------------------------|--|--|
| Walworth<br>(continued) | City of Delavan     | Zoning; Cluster development allowed as a principal use in the RE-5ac zoning district and as a conditional use in the RE-5ac, RS-2, RS-3, RM-8, and RM-12 zoning districts         | 15 percent of the total site area in a "loose" cluster development; 30 percent in a "moderate" cluster development; and 50 percent in a "compact" cluster development   | Yes (See far right column) | Yes  | A maximum density in each zoning district is specified in the zoning ordinance. The calculation of maximum density is based on the net developable area, which excludes floodplains, shoreland-wetlands, drainageways, lakeshores, woodlands, and slopes of 12 percent or more. The ordinance grants a density bonus by allowing some of the area within undevelopable areas to be included in the density calculation, equal to 25 percent of undevelopable areas in a "loose" cluster development; 50 percent in a "moderate" cluster development; and 70 percent in a "compact" cluster development |
|                         | City of Lake Geneva | Zoning; Cluster development allowed as a conditional use in the CR-5ac zoning district  | 90 percent of the total site area must be preserved as permanently protected landscaped area. Floodplains, shoreland-wetlands, drainageways, lakeshores, woodlands, and slopes of 12 percent or greater must be protected | No                         | Yes  | One home per five acres, based on the total site area minus the area within street rights-of-way and navigable lakes, ponds, and streams   |
|                         | Town of LaGrange    | Subdivision; conservation subdivisions are required for all land divisions creating five or more parcels if any parcel is 35 acres or less  | Same as Walworth County   | Same as Walworth County    | Same as Walworth County  | Same as Walworth County  |
| Washington              | City of Hartford    | Zoning; Cluster development is a conditional use as a Residential Planned Unit Development in the Rs-1, Rs-2, Rs-3, Rs-4, Rs-5, Rd-1, Rd-2, Rm-1, Rm-2, and Rm-3 zoning districts | Not specified   | No                         | Yes  | The average density may be no greater than that permitted in the underlying zoning district  |

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|---------------------------|-------------------|---|---|----------------------------|--|--|
| Washington<br>(continued) | City of West Bend | Zoning; Planned Unit Development Overlay District   | Not Specified <sup>9</sup>  | No                         | Yes  | The average density may be no greater than that permitted in the underlying zoning district  |
|                           | Town of Addison   | Zoning; Cluster development allowed as a conditional use in the R-1 zoning district   | All lands not included in individual lots must be maintained in permanent open space  | No                         | No   | Maximum density of one home per five acres   |
|                           | Town of Barton    | Zoning; Open Space Subdivisions are a permitted use in the R-5, R-6, and R-7 zoning districts and a conditional use in the R-1, R-2, R-3, R-4, and R-9 zoning districts | The minimum open space required varies based on the zoning district and the extent of natural resources located in the development tract. A minimum 50-foot wide open space buffer must be provided between a conservation subdivision and an abutting conventional subdivision | No                         | No   | The number of homes allowed is based on a calculation that takes into consideration the area within woodlands, wetlands, surface waters, drainageways, floodplains, shore buffers, <sup>c</sup> and steep slopes. The density calculation excludes the area within existing street and utility rights-of-way and land required to be dedicated for public parks. A maximum density for each zoning district is specified in the zoning ordinance |
|                           | Town of Erin      | Subdivision; Single-family cluster developments are intended for agricultural or other open space parcels at least 40 acres in size                                     | None specified  | Yes                        | Yes  | Development density may not exceed one dwelling unit per five or seven acres (subject to density requirements per the Town Zoning Ordinance), with a minimum lot size of 1.5 acres and a maximum lot size of three acres   |
|                           | Town of Hartford  | Zoning; Planned Residential Development may be permitted by the Town Board in the RR, R, and OR (Outdoor Recreation) zoning districts                                   | 25 percent of the total site area   | Yes (See far right column) | No   | The allowable density in a planned residential development may be up to twice the density permitted in the underlying zoning district  |
|                           | Town of Jackson   | Zoning; Cluster development allowed as a conditional use in the A-1 and R-1 zoning districts  | All lands not included in individual lots must be maintained in permanent open space  | No                         | No   | Maximum density of one home per five acres in the A-1 district. The density in the R-1 district may not exceed one home per 60,000 square feet in unsewered areas and one home per acre in sewerred areas  |

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|------------------------|-------------------|---|--|------------------------|--|--|
| Washington (continued) | Town of Kewaskum  | Zoning; Cluster development allowed as a conditional use in the A-1 zoning district   | Not specified  | No                     | No   | Development density may not exceed one home per five acres in environmental corridors and one home per three acres outside environmental corridors. Wetlands must be excluded when calculating residential density |
|                        | Town of Richfield | Zoning; Conservation subdivisions are a principal use in the RS-1A, RS-1B, and RD-1 zoning districts and a conditional use in RS-1 and RS-2 zoning districts. Conservation subdivisions are required for land divisions of parcels 18 acres or larger | 40 percent of the total site area. A minimum 50-foot wide open space buffer must be provided between a conservation subdivision and an abutting conventional subdivision                       | No                     | Yes  | Based on density allowed in each zoning district   |
|                        | Town of Wayne     | Zoning; Cluster development allowed as a principal use in the A-2, R-1, and R-4 zoning districts  | 60 percent of the total site area in the A-2 district and 30 percent in the R-1 and R-4 districts. The area within existing street and railway rights-of-way is excluded from this calculation | No                     | Yes  | Maximum density of one home per five acres in the A-2 and R-1 districts and one home per three acres in the R-4 district   |

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|---------------------------|---|--|--|----------------------------|--|---|
| Washington<br>(continued) | Town of West Bend   | Zoning; Cluster development allowed as a permitted use in the R-1N and R-1R zoning districts   | 35 percent of the parcel   | Yes (See far right column) | Yes  | Maximum net density of one home per 2.5 acres. For conventional subdivisions, areas within wetlands, primary environmental corridors, and wildlife habitat areas are excluded from the density calculation. For conservation subdivisions, up to 25 percent of wetlands, 50 percent of environmental corridors preserved as common open space, and 33 percent of significant conservation areas preserved as common open space may be included when determining the number of homes allowed |
| Waukesha                  | Waukesha County<br>(Note: The Towns of Genesee, Ottawa, Oconomowoc, and Vernon are regulated under the County zoning ordinance) | Zoning; Cluster development allowed as a conditional use as a planned unit development in any zoning district except the A-B, A-P, A-T, AD-10, and RRD-5 districts | Not specified; however, the ordinance requires that environmental corridor lands be protected in common open space to the greatest extent possible | Yes                        | Yes  | The maximum density for each district is specified in the zoning ordinance. Lands zoned C-1 or A-E may not be used when calculating the number of homes allowed   |
|                           | City of Brookfield  | Zoning; Modified Suburban Overlay District   | Not specified  | Not specified              | Not specified  | Based on underlying zoning district, but may be modified by the Plan Commission   |

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|----------------------|--------------------|--|--|------------------------|--|--|
| Waukesha (continued) | City of Muskego    | Land Division and Zoning; Conservation Planned Development Overlay District may be applied to the RCE, R-1, R-2, R-3, and RSE zoning districts   | 50 percent of the parcel, less lands granted for density bonus   | Yes                    | Yes  | Based on a development yield analysis based on the maximum number of dwelling units permitted in the underlying zoning district. Floodplains, wetlands, slopes of 12 percent or greater, and drainageways must be excluded from the calculation    |
|                      | City of New Berlin | Subdivision and Zoning; Conservation subdivisions are allowed by right in the R-1/R-2 and R-2E zoning districts. Conventional subdivisions may be allowed as conditional uses in those districts | 75 percent of the adjusted tract acreage in the R-1/R-2 district and 65 percent of the adjusted tract acreage in the R-2E district<br><br>The adjusted tract acreage is determined by subtracting from the parcel all lands within existing or reserved public street rights-of-way, existing private streets, and floodways; and a portion of the area within wetlands, floodfringe, slopes of 15 percent or greater, and rock outcrops<br><br>Conservation lots of at least 10 acres, not to exceed 80 percent of the total open space, may be permitted as part of the required open space. Conservation lots may be privately owned and used for farming | Yes                    | Yes  | Maximum density of one home per five acres in the R-1/R-2 district and one home per two acres in the R-2E district. The number of homes allowed in a particular subdivision is also subject to an adjusted tract acreage or yield plan calculation |
|                      | City of Pewaukee   | Zoning; Cluster development allowed as a planned unit development conditional use in the Rs-3, Rs-4, Rs-5, Rs-6, Rd-1, Rd-2, Rm-1, Rm-2, and Rm-3 zoning districts                               | Not specified  | No                     | Not specified  | The average density may be no greater than that permitted for conventional development in the underlying zoning district   |

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|----------------------|----------------------------|---|-----------------------------|------------------------|--|---|
| Waukesha (continued) | Village of Chenequa        | Zoning; Cluster development may be permitted by the Village Board on any parcel of 20 acres or more designated as suitable for such development in the Village Open Space Plan  | Not specified               | No                     | No   | One dwelling unit per five acres of total site area. Undevelopable lands, such as wetlands and floodplains, must be excluded from the density calculation. Individual lots in a cluster development must be at least two acres in size  |
|                      | Village of Menomonee Falls | Zoning; Cluster development is a permitted use in the R-6 Zoning District (Sewered)   | Not specified               | No                     | No   | The average density may be no greater than that permitted for conventional development in the R-6 district (one dwelling unit per 7,200 square feet of area)  |
|                      | Village of Pewaukee        | Development Ordinance; Cluster development may be permitted or required by the Plan Commission in the R-1 zoning district, and may be allowed in any residential district if a Planned Unit Development Overlay District is approved by the Village Board | Not specified               | No                     | No   | The average density may be no greater than that permitted for conventional development in the underlying zoning district  |
|                      | Town of Delafield          | Zoning; Cluster development may be allowed as a conditional use in the R-1, R-1A, R-2, R-3, R-L, A-1, A-2, and A-3 zoning districts as a Residential Planned Unit Development   | Not specified               | No                     | No   | The maximum number of dwelling units allowed is determined by dividing the developable area by the Residential Density Factor set forth in the ordinance. The developable area excludes the area within public rights-of-way and a percentage of the lands zoned Wetland-Floodplain. Up to 20 percent of lands zoned Wetland-Floodplain may be used to determine the allowable density, provided such lands do not exceed 25 percent of the total site area |

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| Waukesha (continued) | Town of Merton    | Zoning; Residential Cluster Development permitted in the A-1, A-2, A-3, and R-1 zoning districts on parcels of 20 acres or more              | Varies from 15,000 square feet of common open space for each dwelling unit in the R-1 district to 70,000 square feet of common open space for each dwelling unit in the A-1 district | Yes (See far right column) | No   | Maximum number of dwelling units allowed is determined by subtracting Conservancy/Wetland areas and the rights-of-way of perimeter streets from the total site area and dividing the result by the density factor for the zoning district specified in the ordinance. A density bonus of one dwelling unit per five acres of wetlands is allowed                        |
|                      | Town of Mukwonago | Zoning; Conservation subdivisions may be allowed as a conditional use under the Planned Unit Development regulations                         | Not specified  | No                         | Yes  | A residential density factor for each zoning district is specified in the zoning ordinance. The ordinance limits the amount of area zoned Conservancy or Exclusive Agricultural Conservancy that can be used to determine the allowable density   |
|                      | Town of Summit    | Zoning; Conservation subdivisions may be allowed as a permitted use as a Planned Development in all zoning districts                         | Not specified  | Yes (See far right column) | Yes  | The number of homes is based on the density allowed in the underlying zoning district. Wetlands, floodplains, and existing and proposed streets must be excluded from the density calculation. The Plan Commission may increase the allowable density to up to one home per 1.5 acres of developable area if at least 50 percent of the site is preserved as open space |
|                      | Town of Waukesha  | Zoning; Conservation subdivisions may be allowed as a conditional use as a Planned Unit Development in the A-1 and all residential districts | Varies from 20 to 50 percent   | No                         | Yes  | The number of homes is based on the gross acreage of the development parcel minus 80 percent of the area zoned C-1 (lowland conservancy). The result is divided by the minimum lot size per dwelling unit required by the underlying zoning district  |

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### SUMMARY OF ORDINANCE REQUIREMENTS FOR CONSERVATION SUBDIVISIONS<sup>a</sup> IN SOUTHEASTERN WISCONSIN: 2008 (continued)

Notes: This table is a summary and should not be used to answer ordinance-related questions. Refer to the appropriate County or local ordinance for specific requirements.

This table does not include ordinances that do not contain specific requirements for conservation subdivisions. Many communities allow conservation subdivisions as a planned unit development or planned residential district but do not include specific criteria for the design of conservation subdivisions, such as a minimum percentage of open space or requirements for management of the open space. Conservation subdivisions may be allowed under planned unit development regulations in the following communities: the Cities of Delafield, Mequon, Oak Creek, Port Washington, and Waukesha; the Villages of Bayside, Brown Deer, Elm Grove, Fontana, Fredonia, Germantown, Hales Corners, Oconomowoc Lake, Nashotah, North Prairie, Pleasant Prairie, Sussex, Thiensville, and Wales; and the Towns of Belgium, Brookfield, Eagle, Fredonia, Port Washington, and Trenton.

<sup>a</sup>Conservation subdivisions may also be referred to as cluster developments, cluster subdivisions, and open space subdivisions, depending on the community.

<sup>b</sup>A “no” in this column indicates that submittal of a Stewardship or Maintenance Plan for common open space is not required by the authorizing ordinance. Although not specified in an ordinance, stewardship or maintenance plans may be required by a community as a condition of approval of a subdivision plat, or in a development agreement between the community and subdivider.

<sup>c</sup>A Natural Resource Protection Plan is required for areas within surface water, floodplains, wetlands, and woodlands and other areas specified in the ordinance.

<sup>d</sup>The shore buffer includes lands within 75 feet of the ordinary high water mark of ponds, streams, lakes, wetlands, and navigable waters.

<sup>e</sup>The Village of Mt. Pleasant zoning ordinance allows cluster development by right in the district regulations, but the specific regulations for cluster development require that a conditional use permit be granted.

<sup>f</sup>Until December 15, 2009, all Towns in Walworth County were regulated under the Walworth County zoning ordinance. On that date, the Walworth County Board adopted a comprehensive amendment to the County zoning ordinance. Each Town has until December 15, 2010 to determine if it wishes to ratify the new County ordinance and remain under County zoning, or whether the Town will withdraw from County general zoning and adopt a separate Town zoning ordinance. As of October 2010, the Town of Bloomfield had withdrawn from County zoning. The Town has adopted the Walworth County zoning ordinance on an interim basis while the Town develops its own ordinance. The Towns of Darien, Delavan, East Troy, Geneva, Lafayette, LaGrange, Lyons, Sharon, Sugar Creek, and Troy have ratified the County ordinance. The Towns of Linn, Spring Prairie, Richmond, Walworth, and Whitewater have not yet made a final decision. All Towns will continue to be regulated under the County shoreland zoning ordinance.

<sup>g</sup>For conservation developments that require approval of a subdivision plat, the City of West Bend Subdivision and Platting Ordinance requires that open space lands be protected through dedication, reservation, easement, or zoning. Open space lands are defined as areas containing significant natural resources such as wetlands, woodlands, rough topography, and geologically or scientifically significant lands that should be protected from intensive urban uses.

Source: SEWRPC (compiled from local government ordinances).