

SEWRPC Model Zoning Ordinance

SEWRPC MODEL ZONING REGULATIONS FOR PLANNED DEVELOPMENTS

The following district regulations are intended to help update existing zoning ordinances by adding a Planned Development Overlay (PDO) zoning district or improving existing PDO regulations. These regulations have not been reviewed by an attorney. Review by the municipal attorney is strongly recommended before adopting these regulations as part of a city, village, town or county zoning ordinance. The provisions contain options for flexibility in development, including design requirements and allowing residential cluster developments and compatible mixed-uses in a planned setting.

Planned developments may be accommodated as an overlay zoning district (a zoning district overlying a basic zoning district(s)), or where each development is adopted by ordinance and established as a separate exclusive basic zoning district with an identification number and attached conditions or requirements specified in a development agreement. Most zoning ordinances accommodate such developments as a Planned Development Overlay (PDO) District, also sometimes called a Planned Unit Development Overlay (PUDO) District. Conservation subdivisions or residential cluster developments and mixed-use developments such as traditional neighborhood developments (TNDs) and transit-oriented developments (TODs) may be created under a PDO District. (*Note: Some communities may decide to use form-based (FB) zoning districts in lieu of planned development districts or accommodate both districts, particularly if use of FB Districts are applied to certain areas such as downtown or commercial corridor areas while PDO Districts may be applied to primarily residential areas.*)

In accordance with Section 66.1027(1)(c) of the Wisconsin Statutes, cities and villages with a population of at least 12,500 shall, and those with a population of less than 12,500 are encouraged, to enact an ordinance that is similar to a model TND ordinance prepared by the University of Wisconsin (UW)-Extension pursuant to Section 66.1027(2) of the Statutes, although the “ordinance” (TND area) is not required to be mapped. The Statutes do not specify a penalty if a city or village does not adopt such an ordinance. Towns, including those that have adopted village powers and regardless of population level, are not required to adopt such an ordinance, but are encouraged to do so where applicable such as where public sanitary sewer and water supply services are provided in urban-like settings sometimes called Town Centers or Hamlets. A model ordinance for conservation subdivisions was also required to be prepared, and was completed, by the University of Wisconsin-Extension as a guide to encourage such developments, but is not required to be adopted. The PDO District may further contain provisions to accommodate and encourage affordable housing, as recommended in the SEWRPC Regional Housing Plan, by providing a density bonus if such housing is included as part of the development. Density bonuses may be offered for planned developments exhibiting unique exceptional design and site features or providing affordable and accessible housing.

In the following model regulations, alternative or additional requirements a community may wish to consider adopting are shown in [brackets and *italics* or “quotes”]. Explanatory information or comments are noted in *italicized footnotes* or (*parentheses and italics*). Communities may also adjust or revise the regulations to reflect community preferences regarding types of uses (including mixed uses) allowed, design flexibility, density, and other requirements. Where the word “*Village*” appears in italics, the word “Town,” “City,” or “County” may be substituted; where the term “*Village Board*” appears in italics, the terms “Common Council,” “Town Board,” or “County Board” may be substituted; and where the term “*Village Clerk*” appears in italics, the term “Zoning Administrator” may be substituted. These regulations are intended to be adopted as a section in an existing zoning ordinance. As such, they do not include

provisions for appeals, variances, severability, and similar considerations that would typically be addressed in other sections of a full zoning ordinance. Please contact SEWRPC if you would like examples of other zoning ordinance sections.

Please contact SEWRPC at (262) 547-6721 or sewrpc@sewrpc.org if you have any questions or would like a Microsoft Word version of these model regulations and definitions.

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“SECTION 3.0 ZONING DISTRICTS

(Include in the “Zoning District” section of the zoning ordinance and number as appropriate.)

3. __ PDO PLANNED DEVELOPMENT OVERLAY DISTRICT

The PDO District is intended to allow, as a conditional use and pursuant to Section 62.23(7)(b) of the Wisconsin Statutes (*cite Section 60.61(2)(b) for towns and 59.69(4) for counties*), developments that will, over a period of time, be enhanced by coordinated area site planning, diversified location of structures, variation in building types, and/or mixing of compatible uses. [*In addition to the Purposes in View set forth in Section 62.23(7)(c) of the Statutes,*] Such planned developments are intended to provide a safe and efficient system for pedestrian and vehicle traffic, attractive recreation and open spaces as integral parts of the developments, cost effective and efficient design in the location of public and private utilities and community facilities, and adequate standards of construction and planning. The PDO District under this Ordinance will allow for flexibility in overall development design to accommodate development, redevelopment, and rehabilitation of property that will serve the best interests of the *Village*, while at the same time maintaining, insofar as possible, other standards or use requirements as appropriate and set forth in the underlying basic zoning district. This District may also allow traditional neighborhood development (TND), transit-oriented development (TOD), and residential cluster developments or conservation subdivisions pursuant to, in part, Section 66.1027 of the Wisconsin Statutes. The use of the PDO District shall be subject to regulatory standards as necessary to be consistent with the direction or guidelines set forth in the *Village* comprehensive plan or components thereof.

Projects within planned developments that are granted the benefit of flexibility in the application of standard land use regulations, including design considerations, shall be determined by the Plan Commission to include unique or distinct development features that would enhance the project in ways that would not be realized when applying standard design and land use regulations for site development. Such features may include, but are not limited to: large or unique open spaces, extensive or ornate architectural or landscape features, underground parking, environmentally sustainable technologies and innovative building materials, and affordable and accessible housing. The Plan Commission, however, shall not allow such design flexibility regarding density and required lot area, width, and yard/setback requirements in the underlying basic zoning district for the sole purpose of increasing development intensity [*except where Section 3. __D (density bonus) applies*].

(Note: PDO Districts also allow flexible design to decrease site and construction cost, such as reduced yard/setback, parking (paving), and lot size requirements (i.e. within compact TND, TOD, and cluster or conservation subdivisions) to further provide low- or moderate-income housing at reduced market rates if these cost-savings are guaranteed by the developer to be passed along to renters or homebuyers.)

A. Uses

Any use allowed as either a permitted, conditional, or accessory use in an underlying basic or overlay zoning district may be allowed as a conditional use in a planned development. All uses shall be conditional upon the determination as to their appropriateness within the context of the *Village's* comprehensive plan or components thereof, their conformance with the provisions of the PDO District, and subject to such conditions as may be established as part of final plan approval. Uses allowed in PDO District shall conform to permitted, conditional, or accessory use requirements generally allowed in the underlying basic zoning district.

[As a potential option or addition, a community may wish to instead limit the zoning districts, and therefore type of uses, that may be allowed to apply the planned development design concept by listing such districts in a separate subsection in the beginning as follows and re-alphabetize proceeding subsections accordingly:

“A. Application of District

The PDO District may be used for developments in the following basic zoning districts:
(*List zoning districts.*)”]

(Note: In relation to basic zoning districts, a community may determine to use form-based zoning districts in lieu of planned development districts or apply such districts with a planned development overlay district.)

B. Minimum Area

The minimum area for the development will be determined on a case-by-case basis by the Plan Commission while considering the types of uses allowed and that sufficient area is provided to accommodate the proposed activities or operation, principal buildings and accessory structures, off-street parking and loading/unloading areas, and required open space or yards/setbacks. All open space and parking requirements of the underlying basic zoning district shall be complied with either individually or by providing the combined open space and parking space required for the entire development in one (1) or more locations within the development unless allowed to be modified (See Section 5.__, “Traffic, Parking, and Access” (*cite the Section of the zoning ordinance that allows modifications to parking requirements, including elimination or reduction of required spaces based on certain circumstances or conditions*¹).

(Note: Communities may wish to not specify a minimum area size in order to encourage infill development such as in “Downtown” areas sometimes called Central Business or Village Center Districts with no or little yard/setback requirements; however, they should make sure such use of the planned development concept is not used as a reason to avoid seeking a variance to allow development on nonconforming lots or parcels.)

[*Alternative:*

“B. Minimum Area

Unless the Plan Commission makes a finding that it is in the best interest of the *Village* to apply the PDO District to a smaller area, including an individual parcel, an area designated as a planned development shall be under single or corporate ownership or control and shall contain a minimum [development] area as follows:

¹A community may decide to have no or flexible parking spatial requirements (*i.e.* dimensions and/or quantity), assuming market supply/demand will address such needs for certain types of developments such as no or reduced requirements for senior and multi-family housing, assisted living facilities, or uses generating little parking demand. Also certain areas, for example, may be mostly covered by building sites with “0” or short setbacks with sufficient public parking in reasonable walking distance to and from place of residence, services, or work along with available alternative modes of transportation such as mass transit services and pedestrian and bicycle facilities. These areas may include downtowns, village centers, town squares, or compact mixed-use developments. In addition, parking demand may be less than Ordinance requirements due to employees working at home; ridesharing (van- or car-pooling); mobility service providers (“ride-sourcing/hailing” such as taxi and shuttle services); designated temporary loading/unloading and pickup/dropoff zones including those for autonomous, taxi, and other similar service vehicles; or other evidence that indicates parking demand will be less than Ordinance requirements. Although future accommodations for autonomous vehicles may reduce parking requirements, such vehicles will need designated dropoff/pickup zones and “staging” areas for autonomous vehicles waiting for next destination pickup instead of unnecessarily driving around.

<u>Principal Uses</u>	<u>Minimum Area of PDO:</u>
1. Residential PD	1 [5] acres
2. Commercial [<i>Business</i>] PD	1 [5] acres
3. Industrial [<i>Manufacturing</i>] PD	5 [10] acres
4. Mixed Compatible Use PD	1 [5 or <i>No minimum</i>] acres
[<i>Mixed Compatible Use PD in</i>	<i>No minimum</i>
<i>B-_ Downtown District</i>	[or <i>Determined on a case-by-case basis</i>]”]

(Note: Communities may decide to include minimum area provisions to discourage use of potential exceptions granted for planned developments as a substitute for seeking a hardship variance.)

C. Density

Where the underlying zoning is a residential use zoning district, the net density of the underlying residential zoning district shall not be exceeded unless an increase in density (density bonus) is granted in accordance with below Section 3._D.

[If residential uses are proposed, the percentage mix of dwelling unit types, such as single-, two-, and multifamily dwelling units, required in a planned development shall be determined on a case-by-case basis by the Plan Commission.]

D. Density Bonus

An increase in density may be allowed as determined by the *Village Board*, after considering a recommendation from the Plan Commission, in recognition that the development will be of exceptional [high] quality; providing attractive affordable housing; integrating universal, visit-ability, or green development features; obtaining LEED (Leadership in Energy and Environmental Design) or similar green-related certification; or containing other unique or distinct development characteristics. The total allowable maximum density for a planned development may increase no more than 20 [25 or 30] percent above the amount/number of units allowed in the underlying basic zoning district based on a recommendation by the Plan Commission that the increased density is justified in terms of the overall quality and character of the project.

[Alternative:

“D. Determination for an Increased Density

The Plan Commission, in making its recommendations, and the *Village Board*, in making its determination or approval for granting an increase in residential density shall consider that:

1. **General.** If a proposed development contains uniform exterior materials, design details, and other features of an exceptionally high quality that is compatible with or improves the *Village* and/or neighborhood character, a residential density bonus may be recommended by the Plan Commission and approved by the *Village Board* as part of the original PDO District approval process
2. **Limitations.**
 - a. If granted, the increased density level of residential use shall be in lieu of any other possible residential density.
 - b. A density bonus of up to 20 [25 or 30] percent may be awarded as determined on a case-by-case basis for developments.

3. **Criteria.** An increased density shall constitute a discretionary number of residential dwelling units based on the following criteria, in addition to those in Subsection K, for consideration by the Plan Commission and approval by the *Village Board*:
 - a. Provide better use of the land and preservation of significant environmental, historical, or archaeological resources than would otherwise be realized if the site were developed under the density requirements of the underlying district or as a planned development without an increased density.
 - b. Make adequate provisions so an increase in residential density will not have an unreasonable adverse effect on neighboring properties, existing or proposed public rights-of-way, and municipal and other public services as a result of the type, intensity, and frequency of the use(s) associated with the proposed development.
 - c. Consist of structures, landscaping, and uses that will be harmonious with or significantly enhance the visual character of the neighborhood.
 - d. Contain selected building and landscaping materials of exemplary quality and be compatible with the natural environment and neighborhood character.
 - e. Result in the construction or upgrading of specific public infrastructure improvements that will benefit the public without cost to the *Village*.
 - f. Improve an existing structure and site that is deemed beneficial to the character of the neighborhood where it is situated.
 - g. Incorporate attractive affordable, mixed-income, or accessible (i.e. universal and visit-ability design features) housing.
 - h. Provide a mix of housing styles, types, and sizes to accommodate households of all ages, size, incomes, and physical capabilities.
 - i. Enhance the neighborhood and community sustainability and resilience, as well as economic efficiency, by integrating green development and infrastructure features that may subsequently help the development obtain LEED status or other similar green certification.”]

(Note: A density bonus can be used to increase the number of affordable housing units in a residential development as well as the community. Developers are typically allowed to increase the number of housing units permitted on a parcel if they agree to restrict the rental costs or sale prices of a certain number of units for low income households or units designed for people with physical disabilities. The income from the additional number of units helps offset the below market rental rates or sales prices of the units designated for such housing, including additional construction cost that may occur for incorporating universal or visit-ability design features. For more information on implementing density bonuses, see SEWRPC Planning Report No. 54, “A Regional Housing Plan for Southeastern Wisconsin: 2035,” pages 630 and 631.)

E. Lot Area and Width

The minimum lot area and width requirements of the underlying basic zoning district may be modified for the development if deemed appropriate by the *Village Board*, after considering a recommendation by the Plan Commission, provided that lot sizes are adequate to accommodate all proposed activities, buildings, and site features of the development.

F. Building Height and Floor Area

Individual structures shall comply with the specific building area and height requirements of the underlying basic zoning district, unless Section ___ applies (*cite the Section of the zoning ordinance containing provisions allowing height modifications*).

1. **Height.** The *Village Board*, after considering a Plan Commission recommendation, may allow an increase in building height if it determined that such an increase is warranted to support the public benefit likely to result from the proposed development.
2. **Floor Area.** Provide a minimum floor area that is equal to or greater than the underlying basic zoning district unless a reduction is granted as determined by the *Village Board* after considering a recommendation from the Plan Commission.

[*Alternative:*

“F. Building Height and Floor Area

Buildings in a PDO District shall:

1. **Height.** Not exceed the height permitted in the underlying basic zoning district, unless Section ___ applies (*cite the Section of the zoning ordinance containing provisions allowing height modifications*), and such deviation will not negatively impact the architectural character or integrity of the neighborhood.
2. **Floor Area.** The minimum floor area requirement shall be established on a case-by-case basis as determined by the *Village Board* after considering a recommendation from the Plan Commission.

[*Potential addition:*

- “3. **Exception Requirements.** If an exception is granted to the height and/or floor area regulations, the building shall contain distinct architectural features where appropriate and as recommended in the adopted _____ plan (*Note: Reference document(s) containing architectural design guidelines or standards that may be in comprehensive plans or components thereof such as downtown or revitalization plan documents*), where such guidelines or standards may include requiring the upper story(ies) to be “stepped-back” (“building step-backs”); the pitched-roof inserted with dormers, particularly where useable or livable floor area may occupy the interior roof space; façade (i.e. “wall”) contain offsets of protrusions and recesses; or any combination thereof to reduce a building’s massive appearance or be compatible with the neighborhood character and to retain a human-scale environment with an pedestrian-oriented street setting.”]

G. Yards/Setbacks

Yards/setbacks required by the underlying basic zoning district may be modified if deemed appropriate by the *Village Board*, after considering a recommendation from the Plan Commission. [*However, no principal buildings in planned developments shall be closer than 30 feet to another building, except in an underlying B- Downtown {or Central Business} District.*]

H. Erosion and Sedimentation Control, Stormwater Management, and Illicit Discharges.

See Chapter ___ of the *Village* municipal code.

I. Ownership and Transfers

The unified and planned development of a site in a single, partnership, or corporate ownership or control, or in common ownership under the Wisconsin Condominium Ownership Act set forth in Chapter 703 of the Wisconsin Statutes may be permitted by the *Village* upon specific petition, with such development encompassing one (1) or more principal uses or structures and related accessory uses or structures when all regulations and standards as set forth in this Section have been met. Individual lots or buildings may be subsequently conveyed to separate ownerships if allowed by the terms of the development agreement.

[Alternatives:

“I. Ownership Consent

As required by Section 62.23(7)(b) of the Statutes, a proposed development at the time of application of the PDO District shall require the consent of the owners to the regulations as shall apply to their individual tracts through the approved PDO District development plan.”

or

“I. Ownership and Transfers

1. Areas zoned as PDO Districts may be under any form of ownership arrangement, including but not limited to the Wisconsin Condominium Ownership Act (Chapter 703 of the Wisconsin Statutes and as amended thereto) provided the completion of the development as reflected in the approved development agreement can be guaranteed.
2. No development or portion thereof, except residential condominium units, shall be transferred before completion of the obligations within the development agreement without the prior written consent of the *Village Board*.
3. All requests for consent to transfer that are approved by the *Village Board* shall be conditioned upon the deposit of finance security in form or amount deemed reasonably necessary the *Village Board*.
4. Individually developed lots or improvements may be transferred at any time after execution and recording of the development agreement if allowed by the terms of the development agreement.
5. The type of use and location of such uses allowed within the planned development shall be in accordance with the approved development plan, although ownership may have been transferred, unless the plan is changed in accordance with Section 3.14.”]

J. Procedure

1. ***Pre-Application Meeting and Conceptual Plan.*** Prior to official submittal of the application (petition) for approval of a PDO Planned Development Overlay District, the applicant shall meet with the *Village Plan Commission* or its staff and provide sufficient written details and drawings concerning to discuss the scope and nature of the contemplated development as necessary to allow adequate staff review. The purpose of conceptual review is solely to allow for nonbinding discussion and feedback about a possible project regarding issues that may have to be addressed in the event an application is submitted and shall not, under any circumstance, vest any party with any rights with respect to the development proposed or discussed at this meeting.
2. ***Application.*** Following the pre-application meeting, the owner or his agent may file an application (petition) with the *Village Clerk* for rezoning and approval of a PDO District. Such application shall be accompanied by a review fee, as required by the *Village Board* pursuant to Section __.__(cite the Section of the zoning ordinance on applications and permit application fees), and the following information:
 - a. A statement that sets forth the relationship of the proposed planned development to the *Village's* adopted comprehensive plan, detailed neighborhood plan, or any adopted component thereof,

and the general character of and the uses to be included in the proposed development, including the following information as applicable:

- 1) Total area to be included in the planned development, area of open space, residential density computations, proposed number of dwelling units, population and economic analyses, availability of or requirements for municipal services, and any other similar data pertinent to a comprehensive evaluation of the proposed development.
 - 2) A general summary of financial factors such as value of structures, estimated improvement costs, amount proposed for landscaping and special features, estimated sale or rental price, and total anticipated development cost of the project.
 - 3) A general outline of the organizational structure of a property owners' or management association, which may be proposed to be established for the purpose of providing any necessary private services and to determine the manner in which the association will participate in the formulation and execution of the development agreement.
 - 4) Any proposed departures from the standards of development as set forth in the *Village* zoning regulations, land division ordinance, or other applicable *Village* regulations, standards, or guidelines.
 - 5) A development timetable, including all benchmark dates from commencement to completion of the physical development of the proposed project.
- b. A general development plan that shall include, in addition to those site, landscaping, and architectural review requirements set forth in Section ____ of this Ordinance, the following as applicable:
- 1) A legal description of the boundaries of the subject property included in the proposed planned development and a description of its relationship to surrounding properties.
 - 2) The location of public and private roads, driveways, sidewalks, and parking facilities, intended design standards, and the calculations used to justify the number of proposed parking spaces.
 - 3) The size, arrangement, and location of lots or any individual building sites and proposed building groups on each individual site.
 - 4) The location of institutional, recreational, and open space areas and areas reserved or dedicated for public uses, including schools, parks, drainageways, etc.
 - 5) The type, size, and location of all structures.
 - 7) General landscape treatment.
 - 8) Architectural plans, elevations, and perspective drawings and sketches illustrating the design and character of proposed structures.
 - 8) The existing and proposed location of public sanitary sewer and water supply facilities.
 - 9) The existing and proposed location of all private utilities or other easements.
 - 10) Characteristics of soils related to contemplated specific uses.
 - 11) Existing topography with contours (no more than two-foot intervals) and stormwater drainage pattern and proposed stormwater drainage system showing basic topography changes, if deemed necessary for project evaluation.
 - 13) Anticipated uses of adjoining lands in regard to roads, surface water drainage, and compatibility with existing adjacent land uses
 - 14) If the development is to be staged (developed in phases), a staging plan.
3. ***Referral to Plan Commission.*** The application for a PDO District shall be referred to the Plan Commission for its review and recommendation, regarding whether the PDO District zoning classification should be applied to the property in the application. The Plan Commission may

recommend any additional conditions or restrictions that may be deemed necessary or appropriate to meet the purpose and intent of this Ordinance and the *Village* comprehensive plan.

4. **Public Hearing.** The Plan Commission, before formulating its recommendation, and/or the *Village Board*, before taking action on the application, shall hold a public hearing pursuant to Statutory provisions for zoning changes and amendments and the requirements of Section ___ of this Ordinance (*cite the Section of the zoning ordinance containing the public hearing requirement*). Notice for such hearing shall include reference to the development plans filed in conjunction with the requested zoning change.

K. **Basis for Approval**

The Plan Commission, in making its recommendations, and the *Village Board*, in making its determination or approval, shall consider that:

1. **Initiation.** The petitioners for the proposed PDO District have demonstrated that they intend to begin the physical development within one year [*a reasonable period*] following the approval of the application; the development will be carried out according to a reasonable construction schedule and, if applicable, staging (phasing) plan satisfactory to the *Village*; and the applicants for the proposed development have the financial capacity to implement the project as proposed.
2. **Assistance and Deviations.** The proposed planned development has been prepared with adequate professional assistance, especially as related to justifying deviation from standards set forth in the underlying basic zoning districts(s) or from other development standards such as those for streets and utilities, and to achieving the following Subsection 3.
3. **Compliance.** The proposed planned development is consistent in all respects to the purpose of this Section and to the spirit and intent of this Ordinance; is in conformity with the adopted comprehensive plan, detailed neighborhood plan, or any adopted component thereof, including design guidelines; achieves the purposes and benefits of zoning and planned developments as set forth in Sections 62.23(7)(b) and (c) of the Statutes; and would not be contrary to the general welfare and economic prosperity of the *Village*.
4. **Other General Review Criteria.** The Plan Commission and *Village Board* shall further find that:
 - a. The proposed site shall be provided with adequate stormwater management facilities.
 - b. The proposed site shall be accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the proposed development.
 - c. The proposed development shall be adequately provided with and shall not impose any undue constraint or burden on public services and facilities, such as fire and police protection, streets, water supply, sanitary sewer service, stormwater infrastructure, and maintenance of such features and public areas.
 - d. The streets and driveways on the site of the proposed development shall be adequate to serve the residents, businesses, and any other uses of the development and shall meet the minimum standards of all applicable *Village* ordinances.
 - e. The locations of entrances and exits have been designated to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets, and that the development will not create an unreasonable adverse effect upon the general traffic pattern of the surrounding neighborhood. Insofar as is practicable, consolidation of driveways, parking, and curb cuts and connection driveways between properties, where appropriate, shall be provided to enhance safety and provide more efficient and economical access and parking.

- f. The proposed site shall be provided with adequate public or private sanitary sewerage and water distribution facilities where applicable.
 - g. The architectural design, landscaping, lighting control, and general site development will result in an attractive and harmonious service area compatible with and not adversely affecting the surrounding neighborhood, including its character which often provides a context of standards to guide project designs.
 - h. The entire tract or parcel of land to be included in a PDO District shall be held under single ownership, or if there is more than one (1) owner, the application for the PDO District shall be considered as one (1) tract, lot or parcel, and the legal description must define said PDO District as a single parcel, lot or tract and be so recorded with the County Register of Deeds.
5. For Residential Planned Development Overlay Districts:
- a. Such development will create an attractive environment of sustained desirability and economic stability, including placement of structures in relation to terrain, consideration of safe pedestrian and bicyclist flow, access to recreation and open space, and coordination with overall plans for the neighborhood.
 - b. The total net residential density within the PDO District will be compatible with the *Village* comprehensive or neighborhood plans, or components thereof. The total net residential density shall also be consistent with and not exceed the intensity and density of development permitted in the underlying basic use district [, *unless a density bonus is granted in accordance with Section 3.__C*]. When the underlying basic zoning district includes more than one residential district, the density for the land occupied by each district shall be calculated and the final maximum density for the PDO District shall be the sum total of the number of units calculated for each district.
 - c. Clustering within residential development is allowed provided that permanent common open space is set aside and protected so that the overall density of development allowed in the underlying development district is complied with [*unless a density bonus is granted*].
 - d. Adequate guarantee is provided for permanent preservation of open space areas as shown on the approved site or stewardship plan either by private reservation and maintenance or by dedication to the public.
 - e. The care and maintenance of private open space shall be ensured either by establishment of an appropriate management organization for the project or by agreement with the *Village* for establishment of a special service district for the project area on the basis of which the *Village* shall provide the necessary maintenance service and levy the cost as a special assessment on the tax bills of properties within the project area. In any case, the *Village* shall have the right to carry out and levy an assessment for the cost of any maintenance that it feels necessary if it is not otherwise taken care of to the satisfaction of the *Village*. The manner of ensuring maintenance and assessing such cost to the individual properties shall be determined prior to the approval of the final project plans and shall be included in the title to each property.
 - f. Ownership and tax liability of private open space reservation areas shall be established in a manner acceptable to the *Village* and made a part of the conditions of the PDO approval.
6. For Commercial [*Business*] Planned Development Overlay Districts:
- a. The economic practicality of the proposed development can be justified [*on the basis of purchasing potential, competitive relationship, and demonstrated tenant interest*].
 - b. The development will be adequately served by off-street parking¹ and truck service facilities.
 - c. The locations for entrances and exits have been designed to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets, and the development

will not create an adverse effect upon the general traffic pattern of the surrounding neighborhood.

- d. The development may be established as a vibrant hub or attractive business park-like setting with open space and recreational paths or other amenities serving/provided for employees and customers from a variety of business uses including live-work units, supporting service businesses, and compatible small-scale manufacturers that will not have any detrimental effect on the surrounding area.

7. For *Industrial* [Manufacturing] Planned Development Overlay Districts:

- a. The operational character, physical plant arrangement, and architectural design of buildings will be compatible with the latest in performance standards, and industrial development design and will not have any adverse effects upon the property values of the surrounding neighborhood.
- b. The development will include adequate provisions for off-street parking¹ and truck service areas and will be adequately served by rail and/or arterial highway facilities.
- c. The development is properly related to the total transportation system of the community and will not adversely effect on the safety and efficiency of the public streets.

8. For *Mixed-Use* Planned Development Overlay Districts:

- a. The proposed mixture of compatible uses, such as residential, retail, office, government, institutional, park/recreational, and open space uses (including uses within proposed traditional neighborhood and transit-oriented developments), will produce a unified development of various uses that is also compatible with the underlying basic zoning districts and, as a total development entity, with the surrounding neighborhood character.
- b. The various types of uses shall conform to the general requirements as set forth in this Section, as applicable to projects of such use and character.
- c. The development will ensure that various uses are compatible with each other by providing suitable measures where necessary through, for example, controlling business operations or activities (i.e. hours, layouts, orientation, patterns, etc.) and installing physical features (i.e. distance separations, noise barriers, and other types of separation, screening, or buffering techniques).
- d. The development will be compact to make efficient use of land and public infrastructure and services and be designed with a human-scale focus in pedestrian-oriented street settings using “complete street” and green development [*universal and visit-ability*] design concepts, where applicable.
- e. A development encompassing residential uses shall contain an internal design providing proper connectivity to ensure safe and convenient access for residents or users, including pedestrians and bicyclists, to places of employment as well as civic cultural, retail, health, recreational, and other urban services and amenities.
- f. [*Such developments encompassing residential uses should include a variety of housing types to accommodate households of all ages, sizes, incomes, and physical capabilities, including attractive affordable housing integrated with universal and visit-ability designs, where applicable, for people with disabilities.*]

(Notes: Proposed mixed-use planned developments to include design features described as “Traditional Neighborhood Development,” in Section 66.1027(1)(c) of the Wisconsin Statutes may be allowed with appropriate conditions as determined by the Village Board, after considering recommendations from the Plan Commission. The document titled, “A Model Ordinance for

Traditional Neighborhood Development,” dated April 2001, as prepared by the University of Wisconsin Extension pursuant to Section 66.1027(2) of the Statutes, may serve as a guide to assist in further defining the various aspects and elements of this urban design form, along with other sources of guidance.

Local governments may also establish mixed-use zoning districts that contain any combination of uses, such as industrial, commercial, public, or residential uses, in a compact urban form in accordance with the Section 62.23(7)(b) of the Wisconsin Statutes for cities, villages, and towns that adopted village powers; Section 60.61(2)(b) for towns with no village powers; and Section 59.69(4) for counties.)

L. Disposition of the Application (Petition)

1. **General.** The *Village Board*, after a public hearing and due consideration including a recommendation from the Plan Commission, shall either approve the application as submitted, approve the application subject to modifications by additional conditions and restrictions, or deny the application.
2. **Approvals.** The general and detailed approval of a planned development shall be based on and include as conditions thereto the building, site, and operational plans for the development as approved by the *Village Board*.
 - a. **General Approval.** Plans submitted for general or preliminary approval (approval of only the planned development concept, with details pending) need not necessarily be completely detailed at the time of rezoning provided that they include sufficient information to satisfy the Plan Commission and *Village Board* as to the general character, scope, operation, and appearance of the proposed development. Such preliminary plan shall designate the pattern of proposed streets, and the size and arrangement of individual buildings and building sites. The approval of the preliminary plan shall be conditioned upon the subsequent submittal and approval of more specific and detailed plans, including data and other information, as each stage or phase of development progresses. Zoning permits may only be issued after obtaining general approval of the petition for rezoning for a PDO District. Site, landscaping, and architectural plans submitted shall meet the requirements of Section ___ of this Ordinance.
 - b. **Detailed Approval.** Plans submitted for detailed approval shall be sufficiently precise and include all items as required by the Plan Commission and *Village Board*. A letter of credit for all improvements shall be submitted before final approval is granted. Detailed approval of plans for each stage or phase of development is required before building permits will be issued for the construction of the buildings or structures which are included in the plans for that stage or phase of development.
3. **Development Agreement (Guarantees).** The owner or developer shall enter into an appropriate contract (“developer’s or development agreement”) with the *Village* to guarantee the implementation of the development according to the terms of the conditions established as part of the approved planned development.

[The following is an alternative which could also be established as a separate Subsection 3. __M:

“3. Development Agreement

- a. *General.* The review and approval process for the planned development (PD) application shall be conditioned on the execution by the *Village Board* and the applicant of a development agreement approved by the *Village Board*, after considering a recommendation from the Plan Commission and *Village* staff with its approval embodying the terms and conditions of the specific project plan and any additional terms of implementation.
 - b. *Detailed Approval.* The development agreement shall be submitted to the Plan Commission for its recommendation prior to approval by the *Village Board* and shall include, without limitation, the following:
 - 1) Timetables for performance and construction and completion of improvements;
 - 2) Performance requirements, standards, and assurances for improvements and/or modifications pertaining to the PD;
 - 3) Maintenance and inspection or monitoring requirements;
 - 4) Prohibition on land division of real estate lots within the PD except as otherwise allowed based on an approved subdivision plat, Certified Survey Map, or condominium plat;
 - 5) Provisions for lapsing of specific plan approval and automatic reversion of the zoning status of the property to non-PDO District status upon specific changes of circumstance or failure of the project of develop/materialize as agreed to in the development agreement;
 - 6) Agreements, bylaws, covenants, deed restrictions, or other provisions to be recorded against the lot(s) or condominium units within the PD that will perpetually govern the organizational structure, use, maintenance, and continued preservation and protection of the PD and its common services, open areas, and/or other facilities; and
 - 7) Exhibits, drawings, specifications, or other attachments that depict improvements including, but not limited to, structures, fixtures, landscaping, and their relative locations in the developments well as design and engineering details (i.e. plans, specification, or other types of documents) as necessary to document to a reasonable degree of the specificity the type, character, and nature of improvements to be made within the PD.”]
4. ***Changes and Additions.*** Any subsequent change or addition to approved plans or uses shall first be submitted for approval to the Plan Commission and if, in the Plan Commission’s opinion, such change or addition is not substantial, it may recommend approval to the *Village Board* without a public hearing. If such change or addition is construed to be substantial, a public hearing before the Plan Commission and/or *Village Board* shall be required and notice thereof be given pursuant to the provisions of Section __.__(cite the Section of the zoning ordinance usually titled, “Changes and Amendments,” that contains public hearing requirements) of this Ordinance, and said proposed alterations shall be approved or denied by the *Village Board* after the public hearing and considering a recommendation from the Plan Commission. Without limitations to the Plan Commission's right to determine any other change substantial, a change from that indicated in the approved development plan in any of the following respects may be construed to be substantial:
- a. An increase in the number of dwelling units.
 - b. A significant change in the size, value, or type of building(s), structure(s), or landscaping.
 - c. The addition of any principal uses or an increase in the intensity or frequency of use(s).
 - d. A change in the basic concept of site development that would significantly alter the relationship or intensity of land uses within the development or to adjoining properties.

5. **Land Divisions.** The division of any land within a PDO District shall be accomplished pursuant to the *Village* land division regulations and when such division is contemplated, a preliminary plat or certified survey map of the lands to be divided shall accompany the application for PDO District approval.
6. **Termination.** If construction has not commenced within five years of the last approval date for completion of the project, then such approval expires (*see Section 66.10015(5) of the Wisconsin Statutes*) unless extended by mutual agreement between the *Village* and owner or developer. Any basic district rezoning that accompanied the planned development shall revert to the previous zoning district upon termination. The construction work shall also be completed in accordance with any additional timelines established in the approval [*or developer's agreement*] unless revised or extended by mutual agreement between the *Village* and owner or developer.

RELATED DEFINITIONS

(Include in the Definitions section of the zoning ordinance. Italicized words or terms within definitions are further defined in this Section.)

Artisanal Production. A production process characterized by minimal automation, little division of labor, and a small number of highly skilled craftsman as opposed to a larger, less-trained traditional workforce. Participants in an artisan process may be self-employed or employed by a smaller-scale business.

Cluster/Conservation Development. A form of residential development that concentrates buildings or lots on a part of the site to allow the remaining land to be used for common open space, recreation, and preservation of environmentally sensitive features. The concentration of lots is facilitated by a reduction in lot size, while complying with the density provisions of this Ordinance. Such development could consist of one or more *cluster groups* surrounded by common open space and is sometimes called a *conservation* or open space *subdivision* depending on the type and amount of preserved open space.

Cluster Group. A group of single-family detached dwellings within a cluster development, surrounded by common open space that comprises at least 60 percent of the gross parcel area. The outer boundary of a cluster group shall be defined by the rear lot lines of the lots within the group.

Complete Streets. Roadways designed and operated to enable safe, convenient, and comfortable access and travel for users of all ages and abilities crossing and traveling by various modes, such as walking, bicycling, transit, or automobile, within the street right-of-way. Such roadway designs may be accommodated in urban, suburban, or, where applicable, rural (i.e. town centers or hamlets) settings.

Conservation Subdivision. As defined in Section 66.1027 of the Wisconsin Statutes, a housing development in a rural setting that is characterized by compact lots and common open space, and where the natural features of land are maintained to the greatest extent possible.

Density, Gross. The total or gross area required for a residence divided by an acre (43,560 square feet). The result is expressed as dwelling units per gross acre. Gross acres, used in computing gross density, are the net area of a parcel devoted to the residential use plus any portion of the parcel devoted or dedicated to supporting land uses, including streets, parks, schools, and public lands or unusable lands within the parcel.

Density, Net. The net area required for a residence divided by an acre (43,560 square feet). The result is expressed as dwelling units per net acre. Net acres, used in computing net density, are the net developable area or actual site area of a parcel devoted to the residential use, excluding street rights-of-way and unbuildable lands such as wetlands,

floodplains, and slopes of 12 [20] percent or greater, and consists of the building footprint area including any driveway, patio, or deck; required yards/setbacks; and open space that is part of the residential lot or site.

Development. Any human-made change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of buildings or structures; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of earthen materials.

District, Basic. A part or parts of the *Village* for which the regulations of this Ordinance governing the use and location of land and buildings are uniform (such as the [*Agricultural*,] Residential, Business, Institutional [*and Governmental*], Manufacturing [*Industrial*], [*Quarrying* or *Extractive*,] and Park and Recreational [*and Conservancy*] District classifications.

District, Overlay. A zoning designation that modifies the underlying basic zoning district requirements in a specific manner.

Green Development. The integration of techniques that help conserve natural resources by arranging land uses and site features (i.e. lots, buildings, and infrastructure) to include or be close to services, employment centers and alternative transportation systems (i.e. public transit, sidewalks, and bicycle facilities); protecting existing natural resources; providing opportunities to practicably harness renewable energy sources, where possible (i.e. south-oriented buildings capturing passive solar radiation); utilizing sun, wind, and/or earth for natural lighting, ventilation, heating, cooling, and other purposes (i.e. solar panels, wind turbines, wind catchers/ventilation shafts, and geothermal systems); using *green infrastructure*; incorporating local, reused, recycled, recyclable, or eco-friendly construction materials and energy efficient appliances; and including other energy and water conservation and efficiency measures into site and building designs. The term is also sometimes referred to as “low impact development (LID).”

Green Infrastructure. Incorporating stormwater management systems (sometimes called “green stormwater infrastructure”) that mimic nature to improve water quality and recharge groundwater by storing, infiltrating, or evapotranspiring stormwater through the use of bioswales, infiltration trenches, bioretention basins with underdrains, curb openings into tree wells, rain gardens and barrels or cisterns, rooftop and wall or “vertical” gardens, porous or permeable pavements with restricted salt application for winter maintenance or the application of alternative winter maintenance techniques, drought-tolerant landscaping materials and techniques, and other energy and water conservation and efficiency measures into site and building designs. It also means to include or use natural hydrologic features of an ecological system such as vegetation (wetlands and woodlands), soil, waterways, and other natural processes often located in environmental corridors that provide habitat, flood protection, and cleaner air and water.

Green Certifications. Certifications obtained from programs that assist and provide opportunities for communities, government entities, homeowners, businesses to enhance their sustainability and/or be certified as one that practices environmentally-friendly green measures. Receiving such certification and status helps signify to the public that they legitimately practice and/or have implemented green development techniques.

A few examples of such certifications are Eco-Municipality (The Natural Step), Wisconsin Green Tier Legacy Community (similar to Natural Step), STAR (Sustainability Tools For Assessing and Rating) Community, LEED (Leadership in Energy and Environmental Design), ENERGY STAR (pertains to energy efficiency), SITES (Sustainable Sites Initiative’s), WaterSMART (Sustain and Manage America’s Resources for Tomorrow) Initiative, WaterSense, Envision (sustainable infrastructure), Greenroads, and HERS (Home Energy Rating System).

Housing, Affordable. As defined by the U.S. Department of Housing and Urban Development (HUD), households paying no more than 30 percent of their/its gross income for housing costs, including but not limited to, “subsidized housing.” For example, a housing or dwelling unit costing no more than 30 percent of gross household income, such as those affordable to low-income households (hh) with an annual hh income of less than 80 percent of the areawide annual median hh income and moderate-income households with annual hh income of 80 to 135 percent of the areawide annual median hh income. These thresholds do not consider/include transportation costs.

Housing, Senior. A dwelling unit or units designed and constructed to be occupied by seniors persons. A senior person is a person who is 55 [60 or 65] years of age or older on the date such person intends to occupy the premises, or a family, the head of which, or spouse, is an elderly person as defined herein. Such housing is sometimes referred to as “housing for the elderly.”

Intensity. There is no single measure of the intensity of land use. Rather, land use is relatively more or less intense than another use. Generally, a particular use may be more intense due to one or more characteristics, such as parking or traffic generated, amount of impervious surface, bulk of the structures, number of employees, density such as number of dwelling units per acre, or nuisance such as pollution, noise, light, etc.

Live-Work Unit or Space.² A building or space within a building used jointly for business and residential purposes where the residential use of the space is usually secondary or accessory to the principal or primary use as a place of work.

Mixed-Use Development. An efficient mixed-use development where compatible uses, such as residential, commercial, civic, park/recreational, and/or open space uses, are within proximity to each other and may integrate “complete street” and “green development” design concepts. Such development may be a “horizontal” or “vertical” setting (arrangement), or a combination thereof.

Mixed-Use Setting, Horizontal. Buildings/sites accommodating a specific use that are located nearby and intermixed with adjacent buildings/sites containing other types of compatible complementary uses such as residential, commercial, institutional, or other civic uses. For example, residential dwelling units intermixed with, or located adjacent to, buildings occupied by complementary commercial, institutional, or other civic uses.

Mixed-Use Setting, Vertical. Various uses occupying the same building footprint but different floor levels of a building such as residential living units typically located on the ground/first floor level (convenient for elderly and people with disabilities) in the rear of compatible businesses; or commercial uses located on the street level and residential uses occupying upper levels, with offices potentially acting as a “transition” or buffer by occupying a floor level between retail activities and residential dwellings.

People with Disabilities. Someone with a physical or cognitive (mental) impairment that substantially limits one or more major life activities, a record of having such an impairment, or being regarded as having such an impairment. The Federal Fair Housing Act provides protection for people with disabilities seeking to buy or rent housing, reside in housing after it is bought or rented, or associated with that buyer or renter. Such protections do not apply to a person who is a “direct threat” to the health or safety of others, or to current users of illegal drugs.

²*Live-work units contain work space that usually occupy more floor area, up to 50 percent of the total floor area of the unit, than a conventional house containing a home occupation, in which the home-based business typically occupies between 10 to 25 percent of the total floor area. Live-work units may contain more types of business activities than a traditional home occupation, such as more parking, traffic, employees, and/or customer visits. Such units may be detached buildings or attached units functioning as potential small-business incubators. Units may be rented or owned, including as condominiums, thereby allowing owners to accumulate equity while reducing travel and other expenses.*

Small-Scale Manufacturers. Manufacturing uses with limited production process (i.e. *artisanal production*) usually operating within enclosed buildings and generating no [or little traffic] or light volume and weight truck traffic not impacting infrastructure and are compatible with surrounding businesses or uses. Such uses are microbrewers/craft breweries, coffee and tea roasters, “urban” farmers/food producers, metal fabricators, dressmakers, woodworkers, and other artisans.

Traditional Neighborhoods. As defined in Section 66.1027 of the Statutes, compact, mixed-use neighborhoods where residential, commercial, and civic buildings are within proximity of each other. Such developments may provide affordable or mixed-income housing as well as include park and open space uses.

Transit-Oriented Development (TOD). A compact, mixed-use development whose internal design is intended to maximize access to a transit (bus or rail) stop located within or adjacent to the development. Commercial uses and medium- to high-density residential uses are located near the transit stop, and the layout of streets and sidewalks or pedestrian pathways provides safe and convenient walking and bicycling access to the transit stop. The overall design should include “complete” streets and sidewalks with wheelchair accessibility. TODs may also provide affordable or mixed-income housing where implementation strategies may include density bonuses, eliminated or reduced parking regulations, public/private partnerships, and targeted funding.

Universal Design.³ The design of barrier-free products, buildings, and environments to be usable by people of all ages and physical capabilities without the need for adaptation or specialized design at little or no extra cost if constructed as new or a retrofit. Designing housing that is accessible to everyone including elderly people and those with or without disabilities can increase the availability of affordable housing for everyone, regardless of age or ability.

Visit-ability.³ Housing to be lived in or visited by people with mobility impairments, who may have difficulty with steps or use walker or wheelchairs. This concept seeks to make homes more accessible to visit or live in by meeting three general essentials, including at least:

- One zero-step entrance at the front, side, or rear of the home;
- Wide clearances (at least 32 inches wide) at doorways, and hallways with at least 36 inches of clear width; and
- At least one main floor bathroom that is wheelchair accessible.

³For more information on universal and visit-ability design concepts, see SEWRPC Planning Report No. 54, “A Regional Housing Plan for Southeastern Wisconsin: 2035,” pages 522 and 523.