



Legislation Text

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**Fiscal Note**

No appropriation is required.

**Title**

**AMENDED ORDINANCE** Amending Section 28.098 of the Madison General Ordinances to clarify and improve various provisions of the Planned Development District Ordinance.

**Body**

DRAFTER'S ANALYSIS: Since the adoption of the new zoning code in 2012, the City has used the Planned Development District on various projects where existing zoning could not address all of the needs of the development. While the Planned Development District ordinance is generally working well, City Staff and the Plan Commission have identified several provisions of the ordinance that could be clarified or improved. This ordinance therefore amends the Planned Development District ordinance to clarify and improve it.

Specifically, this ordinance: a) clarifies that there are no predetermined requirements for lot area, lot width, height, floor area ratio, yards, usable open space, signage, or off-street parking and loading, but that such requirements may be made as part of the planned development and may be recorded against the property; b) expands upon the Planned Development standards relative to the provision of municipal services, aesthetic compatibility, and open space; c) specifies that in addition to the Planned Development Standards, other regulations also apply, such as those found in Subchapters 28I and 28J of the Zoning Code; d) adds additional requirements for the General Development Plan (GDP) and clarifies how decisions on General Development Plans (GDP) are made; e) adds additional requirement for the Specific Implementation Plan (SIP) and clarifies how decisions on SIPs are made; and f) clarifies certain aspects of recording Planned Development Districts and process for altering a Planned Development District.

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The Common Council of the City of Madison do hereby ordain as follows:

Section 28.098 entitled "Planned Development District" of the Madison General Ordinances is amended to read as follows:

**"28.098 PLANNED DEVELOPMENT DISTRICT.**

(1) Statement of Purpose.

The Planned Development (PD) District is established to provide a voluntary regulatory framework as a means to facilitate the unique development of land in an integrated and innovative fashion, to allow for flexibility in site design, and to encourage development that is sensitive to environmental, cultural, and economic considerations, and that features high-quality architecture and building materials. In addition, the Planned Development District is intended to achieve one or more of the following objectives:

- (a) Promotion of green building technologies, low-impact development techniques for stormwater management, and other innovative measures that encourage sustainable development.
- (b) Promotion of integrated land uses allowing for a mixture of residential, commercial, and public facilities along corridors and in transitional areas, with enhanced pedestrian, bicycle and transit connections and amenities.
- (c) Preservation and enhancement of important environmental features through careful and sensitive placement of buildings and facilities.
- (d) Preservation of historic buildings, structures, or landscape features through adaptive reuse of public or private preservation of land.
- (e) Provision of more adequate, usable, and suitably located open space, recreational

amenities, and other public facilities than would otherwise be provided under conventional land development techniques.

- (f) Facilitation of high-quality development that is consistent with the goals, objectives, policies, and recommendations of the Comprehensive Plan and adopted neighborhood, corridor or special area plans.

Because substantial flexibility is permitted in the base zoning districts, the PD option should rarely be used. It is intended that applicants use the PD option only for unique situations and where none of the base zoning districts address the type of development or site planning proposed. Examples include redevelopment, large-scale master planned developments, projects that create exceptional employment or economic development opportunities, or developments that include a variety of residential, commercial, and employment uses in a functionally integrated mixed-use setting.

Approval of a Planned Development District requires a zoning map amendment, and which shall result in the creation of a new site-specific zoning district, with specific requirements and standards that are unique to that planned development. In the Planned Development District, there shall be no predetermined requirements for lot area, lot width, height, floor area ratio, yards, usable open space, signage, or off-street parking and loading, but such requirements may be made a part of a planned development during its approval and recorded against the PD-zoned property as regulations to be enforced as a part of this ordinance.

(2) Standards for Approval of Zoning Map Amendment.

The standards for approval of a zoning map change amendment to a the PD District, or any major alteration to an approved General Development Plan, are as follows:

- (a) The applicant shall demonstrate that no other base zoning district can be used to achieve a substantially similar pattern of development. Planned developments shall not be allowed simply for the purpose of increasing overall density or allowing development that otherwise could not be approved unless the development also meets one or more of the objectives of (1) above. Conditions under which planned development may be appropriate include:
  - 1. Site conditions such as steep topography or other unusual physical features; or
  - 2. Redevelopment of an existing area or use of an infill site that could not be reasonably developed under base zoning district requirements.
- (b) The PD District plan shall facilitate the development or redevelopment goals of the Comprehensive Plan and of adopted neighborhood, corridor or special area plans.
- (c) The PD District plan shall not adversely affect the economic health of the City or the area of the City where the development is proposed, including the cost of municipal services. The City shall be able to provide municipal services to the property where the planned development is proposed without a significant increase of the cost of providing those services or economic impact on municipal utilities serving that area.
- (d) The PD District plan shall not create traffic or parking demands disproportionate to the facilities and improvements designed to meet those demands. A traffic demand management plan may be required as a way to resolve traffic and parking concerns. The Plan shall include measurable goals, strategies, and actions to encourage travelers to use alternatives to driving alone, especially at congested times of day. Strategies and actions may include, but are not limited to, carpools and vanpools; public and private transit; promotion of bicycling, walking and other non-motorized travel; flexible work schedules and parking management programs to substantially reduce automobile trips.
- (e) The PD District plan shall coordinate architectural styles and building forms to achieve greater compatibility with surrounding land uses and create an environment of sustained aesthetic desirability compatible with the existing or intended character of the area and the statement of purpose of the PD District.
- (f) The PD District plan shall include open space suitable to the type and character of development proposed, including for projects with residential components, a mix of

structured and natural spaces for use by residents and visitors. Areas for stormwater management, parking, or in the public right of way shall not be used to satisfy this requirement.

- (fg) The PD district shall include suitable assurances that each phase could be completed in a manner that would not result in an adverse effect upon the community as a result of termination at that point.
- (gh) When applying the above standards to an application for height in excess of that allowed in Section 28.071(2)(a) Downtown Height Map, except as provided for in Section 28.071(2)(a)1. and Section 28.071(2)(b), the Plan Commission shall consider the recommendations in adopted plans and no application for excess height shall be granted by the Plan Commission unless it finds that all of the following conditions are present:
  - 1. The excess height is compatible with the existing or planned (if the recommendations in the Downtown Plan call for changes) character of the surrounding area, including but not limited to the scale, mass, rhythm, and setbacks of buildings and relationships to street frontages and public spaces.
  - 2. The excess height allows for a demonstrated higher quality building than could be achieved without the additional stories.
  - 3. The scale, massing and design of new buildings complement and positively contribute to the setting of any landmark buildings within or adjacent to the project and create a pleasing visual relationship with them.
  - 4. For projects proposed in priority viewsheds and other views and vistas identified on the Views and Vistas Map in the City of Madison Downtown Plan, there are no negative impacts on the viewshed as demonstrated by viewshed studies prepared by the applicant.
- (3) Relationship to Other Applicable Regulations.
  - (a) In General. A Planned Development shall comply with all standards, procedures, and regulations of this ordinance that are applicable to the individual uses within the development, including the General Regulations of Subchapter 28I and the Supplemental Regulations of Subchapter 28J. Where the applicant proposes a development that does not comply with one or more of the regulations in those subchapters, they shall specifically request that the Plan Commission consider the application of those regulations in making its recommendations on the development, including specific language in the zoning text or depiction on the plans.
  - (b) Subdivision Requirement. All land within a Planned Development District shall be platted into one or more lots in compliance with the requirements of the subdivision and platting regulations. The development plan for the Planned Development shall include the necessary information to serve as a preliminary plat.
- (4) General Requirements.

The Planned Development agreement District shall identify the following information:

  - (a) All proposed land uses; these shall become permitted or conditional uses upon the approval of the Planned Development by the Common Council.
  - (b) Placement of buildings and structures.
  - (c) Density, height, floor area, and dimensional requirements for lots or building sites.
  - (d) Street layout, including connections to external streets, paths and trails. The Planned Development should maintain the existing street grid where present and restore the street grid where it has been disrupted. In newly developing areas, streets shall be designed to maximize connectivity in each cardinal direction, except where environmental or physical constraints make this infeasible.
  - (e) Open Space and Recreational Facilities. At least twenty percent (20%) of the project area not within street rights-of-way shall be preserved as protected open space. This requirement may be reduced or waived by the Common Council in cases where the

physical location or configuration of the site or proximity to existing parks and open space makes the requirement impractical or superfluous. Protected open space shall meet the following requirements:

1. Open space shall be available to the residents, tenants, or customers of the PD for recreational purposes or similar benefits. Land reserved for stormwater management and other required site improvements shall not be credited to this requirement, unless designed as open space that will meet resident needs.
2. Open space shall be designed to meet the needs of residents of the PD and the surrounding neighborhoods to the extent practicable for parks, playgrounds, playing fields, and other recreational facilities.
3. Land dedicated for any public purpose may be credited towards the open space requirement at the discretion of the Common Council.
4. Where a PD is to be developed in phases, a portion of the required open space shall be provided in each phase.
5. Maintenance of the open space shall be provided for in the PD's restrictive covenants and/or the Specific Implementation Plan (SIP) recorded as part of the project.

(5) Procedures.

The procedure for rezoning to a planned development district shall be as required for any other zoning map amendment in this chapter, with the additional requirements specified below.

(a) Pre-Submittal Requirements. These requirements are intended to provide opportunities for the applicant to explore issues associated with the proposal prior to the expenditure of significant resources in the development of any design plans. This phase shall include the following:

1. Pre-Design Conference. The applicant shall meet with Planning Division and Zoning staff to review and discuss aspects of the proposal including, but not limited to: the site and its context, potential impacts of the project, and initial design direction.
2. Concept Presentation. The concept shall be submitted for review by the Urban Design Commission at an informational meeting. No formal action will be taken by the Commission. Submittals shall include contextual information such as topography, photos of the site and surrounding properties, and a discussion of the initial design direction. The Commission will review the concept in reference to the objectives listed in Subsection 28.098(1) and the other requirements of this Subchapter. The Commission may request that additional materials be submitted to assist in communicating the nature of the site and its context.

(b) General Development Plan Requirements. The applicants shall file the following with the City Plan Commission:

1. A letter of intent describing the general character of the intended development.
2. Proposed zoning text, including a description of the proposed land uses, their dimensions, bulk, height, scale and massing, and other relevant standards.
3. An accurate map of the project area including its relationship to surrounding properties and existing topography and key features, including existing buildings and structures.
4. A plan of the proposed project showing sufficient detail to make possible the evaluation of the standards for approval as set forth in Subsection 2. The General Development Plan shall include a plan showing building placement, the general location of parking facilities to serve the development, and the general bulk, mass and orientation of the buildings within the PD District.
5. Proposed circulation systems (pedestrian, bicycle, auto, transit) by type and how they relate to the existing network outside this site.
6. Analysis of potential economic impacts to the community, including the cost of

- municipal services and any additional infrastructure.
7. When requested, a general outline of intended organizational structure related to property owner's association, deed restrictions and private provision of common services.
  8. A schedule or phasing plan indicating the approximate dates when construction of the Planned Development can be expected to begin and be completed.
  9. When a major alteration to a General Development Plan is submitted for approval that does not encompass the entire Planned Development District, the applicant shall submit information for consideration that describes the impact the proposed alteration will have on the implementation of the rest of the approved district.
- (c) Decision on General Development Plan. The decision process for approval of a General Development Plan, including any major alteration to an approved General Development Plan, shall be as specified in Section 28.182, including a recommendation by the City Plan Commission and action by the Common Council, shall be as specified in Section 28.182, with the following additional requirements:
1. The Urban Design Commission shall review the General Development Plan prior to the Plan Commission, and shall make a recommendation ~~or conditional recommendation~~ to the Plan Commission with specific findings, based on consideration of the design objectives listed in Subsections 28.097 28.098(1) and (2) and the other requirements of this Subchapter.
  2. Approval of the rezoning and related ~~gGeneral dDevelopment pPlan~~, any major alteration to an approved General Development Plan, shall establish the basic right of use for the area when in conformity with the plan as approved, which and shall be recorded as an integral component of the district regulations against the PD-zoned property. However, the plan shall be conditioned upon approval of a ~~sS~~ specific ~~iImplementation pPlan~~, and shall not allow any of the uses as proposed until a ~~sSpecific iImplementation pPlan~~ is submitted and approved for all or a portion of the ~~gGeneral dDevelopment pPlan~~.
  3. Approval of the ~~gGeneral dDevelopment pPlan~~ shall establish interim zoning authority for continuation and maintenance of existing uses, buildings and structures on the property until the specific implementation plan is approved.
  4. If the approved ~~gGeneral dDevelopment pPlan~~ is not recorded as approved within twelve (12) months of the date of approval by the Common Council, the approval shall be null and void and a new petition and approval process shall be required to obtain ~~gGeneral dDevelopment pPlan~~ approval.
  5. If the ~~gGeneral dDevelopment pPlan~~ and ~~sSpecific iImplementation Plan~~ are approved at the same time and not recorded as approved within twelve (12) months of the date of approval by the Common Council, the approval shall be null and void and a new petition and approval process shall be required to obtain approvals for each plan.
  6. A General Development Plan for a phased development shall be constructed according to the phasing plan recorded with the approved plan. As part of its review of any subsequent Specific Implementation Plans, the Plan Commission shall consider adherence to the approved phasing plan for the overall development.
  7. Any Planned Development not constructed in accordance to its approved phasing plan, and any phases not constructed within ten (10) years of the Common Council approval of the General Development Plan, shall require approval of a new General Development Plan by the Common Council following a recommendation by the Plan Commission. In considering extensions of approved General Development Plans for unconstructed components/ phases,

- the Plan Commission shall consider changes in the surrounding area or neighborhood since approval of the General Development Plan that would render the project incompatible with current conditions.
- (d) Specific Implementation Plan Requirements. The following information shall be submitted to the City Plan Commission, unless specific documents are waived by the Secretary of the Commission:
1. An accurate map of the area covered by the Specific Implementation Plan including the relationship to the ~~total overall~~ General Development Plan if developed in phases.
  2. The pattern of public and private roads, driveways, walkways and parking facilities; traffic projections and mitigation measures.
  3. Detailed lot layout and subdivision plat where required.
  4. The arrangement specific design and complete architectural character of the building groups or buildings included on the Specific Implementation Plan, other than single-family residences, and their architectural character. In order to satisfy this requirement, detailed floor plans, exterior elevations and building materials are required.
  5. The utilities serving the project, including Ssanitary sewer and water mains.
  6. Grading plan and storm drainage system.
  7. The location and treatment of open space areas and recreational or other special amenities.
  8. The location and description of any areas to be dedicated to the public.
  9. Landscape plan and plant list.
  10. Proof of financing capability.
  11. A construction schedule indicating the approximate dates when construction of the project can be expected to begin and be completed.
  12. A specific zoning text for the portion of the PD District to be developed under the Specific Implementation Plan, including a description of the proposed land uses, their dimensions, bulk, height, scale and massing, and other relevant standards, which shall be consistent with the zoning text approved with the General Development Plan.
  13. Agreements, bylaws, provisions or covenants which govern the organizational structure, use, maintenance and continued protection of the development and any of its common services, common open areas or other facilities.
- (e) Decision on Specific Implementation Plan. The decision process, including recommendation by the City Plan Commission and action by the Common Council, shall be as specified in Section 28.182 with the following additional requirements:
1. A Specific Implementation Plan containing all of the information required in sub. (d) may be reviewed concurrent with a rezoning to PD and related approval of a General Development Plan or a major alteration to an approved General Development Plan.
  2. The Urban Design Commission shall review the Specific Implementation Plan prior to the Plan Commission, and shall make a recommendation ~~or conditional recommendation~~ to the Plan Commission; based with specific findings on consideration of the design objectives listed in Subsections 28.098(1) and (2) and the other requirements of this Subchapter.
  23. If the Specific Implementation Plan is approved, the building, site and operational plans for the development, as approved, as well as all other commitments and contractual agreements with the City, it shall be recorded by the Zoning Administrator within twelve (12) months of the date of approval by the Common Council in the Dane County Register of Deeds Office. If the Specific Implementation Plan is approved concurrent with the approval of a General

Development Plan, the plans shall be recorded within twelve (12) months of the Common Council approval. This shall be accomplished prior to the issuance of any building permit.

34. If the Specific Implementation Plan is not recorded as approved within twelve (12) months of the date of approval by the Common Council, the approval shall be null and void, and a new petition and approval process shall be required to obtain Specific Implementation Plan approval.

(f) Recording of Approved Plans and Zoning Ordinance Amendments.

1. Within twelve (12) months of the date of approval by the Common Council, of a zoning ordinance amendment designating a tract of land as a Planned Development District, the owner of the development shall provide the Zoning Administrator a facsimile copy of the approved General Development and/or Specific Implementation Plan together with a certified copy of the related zoning ordinance amendment and any other related actions taken by the Common Council, including conditions of approval.
2. Upon receipt of complete plans, documents and fees, the Zoning Administrator shall record them with the Dane County Register of Deeds office. The cost for preparing a facsimile copy of the plan in recordable form and the recording fee, as determined by the Dane County Register of Deeds, shall be paid by the owners of the lands included in the Planned Development District.
3. If either the General Development pPlan or Specific Implementation Plan is not recorded as approved within twelve (12) months of the date of approval by the Common Council, the approval shall be null and void, and a new petition and approval process shall be required, with the exception below.
  - a. Where the plans have not been altered from the Common Council's approval, the Director of Planning and Community and Economic Development may approve an extension of up to twenty-four (24) months to record either plan.

(g) Construction Required. Within thirty-six (36) months of Common Council approval of the gGeneral dDevelopment pPlan, the basic right of use for the areas, when in conformity with the approved sSpecific iImplementation pPlan, shall lapse and be null and void unless a building permit is issued for the project, or an extension is issued as specified below. In the case of any major alteration to a General Development Plan, the thirty-six (36) month period shall apply to the date of Common Council approval of the major alteration for the purposes of this section.

1. An application for an extension must be filed at least thirty (30) days prior to the expiration of the thirty-six (36) month period.
2. If the Plan Commission, after a public hearing pursuant to Sec. 28.1842(54), determines that no changes in the surrounding area or neighborhood since approval of the gGeneral dDevelopment pPlan would render the project incompatible with current conditions, the Commission may grant an extension of up to twenty-four (24) months in which to obtain a building permit.
3. An extension shall not allow a building permit to be issued more than sixty (60) months after approval of the gGeneral dDevelopment pPlan by the Common Council.
4. If a new building permit is required pursuant to Sec. 29.06(4), MGO, a new petition and approval process shall be required to obtain gGeneral dDevelopment pPlan approval and sSpecific iImplementation pPlan approval.

(6) Changes to a Planned Development.

No alteration of a Planned Development District shall be permitted unless approved by the City Plan Commission; provided, hHowever, the Zoning Administrator may issue permits for minor alterations that are approved by the Director of Planning and Community and Economic

Development following consideration by the alderperson of the district that are consistent with the ~~concept~~ development approved by the Common Council. **If the alderperson of the district and the Director of Planning and Community and Economic Development do not agree that a request for minor alteration should be approved, then the request for minor alteration shall be decided by the Plan Commission after payment of the applicable fee in Section 28.206, MGO.** If the change or addition constitutes a substantial alteration of the original plan, the procedure in Sec. 28.098(5) shall be required. Telecommunications towers, Class 1 Collocations, Class 2 Collocations and Radio Broadcast Service Facilities shall be considered minor alterations under this section. Criteria for review are provided in Sections 28.143 and 28.148. See Wis. Stat §§ 66.0404(3)(a)1 and (4)(gm) and 66.0406 (2013)”