

CITY OF MADISON STANDARDS FOR REVIEW OF CERTAIN TYPES OF DEVELOPMENT PROPOSALS

The following Standards are used to review development proposals

**Excerpts* From The Following Sections Of The 2011-2012
Zoning Code (Section 28, MGO), Effective January 2, 2013
and as amended through Dec 1, 2017:**

Sec. 28.182	Zoning Map & Text Amendments
Sec. 28.183	Conditional Uses
Sec. 28.184	Variances (Zoning Board of Appeals)
Sec. 28.185	Demolition and Removal
Sec. 28.098	Planned Development District (PD)
Sec. 28.138	Lakefront Development

*This packet includes portions of each of the sections noted above and does not contain the entire section. The reader is encouraged to refer to the ordinance for all of the requirements and process for each of these approvals.

Prepared by: Planning Division, January 2018

ZONING MAP & TEXT AMENDMENTS

The Zoning Code Sec. 28.182 includes the following provisions regarding zoning map and text amendments:

(1) Purpose.

This section allows the Common Council to amend the text of this Chapter or the zoning districts in order to promote public health, safety, and welfare throughout the City, giving due consideration to existing conditions, conservation of property values, building development providing best advantage to the City, the current use of property, and in the case of map amendments, the cost of providing municipal services to the property and uses accommodated by the map amendment.

In the case of map amendments to the floodplain zoning districts, actions that require an amendment shall include but not be limited to the following:

- (a) Any change to the official floodplain zoning map, including any change in the floodway lines or boundary of any floodplain area.
- (b) Correction of discrepancies between the water surface profiles and floodplain zoning maps.
- (c) Any fill for the floodplain that will result in raising the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.
- (d) Any fill or floodplain encroachment that will obstruct flow, causing an increase of 0.01 foot or more in regional flood height.
- (e) Any upgrade to a floodplain zoning ordinance text required by Wis. Adm. Code § NR 116.05 or otherwise required by law or for changes by the municipality.
- (f) All channel relocations and changes to maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a flood insurance rate map requires prior approval by FEMA.

(5) Decision.

(a) Recommendation by the City Plan Commission.

1. The Plan Commission shall hold a public hearing on each application for an amendment. The procedures for conducting the hearing and recording the proceedings are prescribed in the "Basic Policy and Procedures Manual" adopted by the Plan Commission.
2. After the public hearing, the City Plan Commission shall submit its recommendation to the Common Council prior to the Council's public hearing.
3. The Plan Commission may recommend conditions that are consistent with the intent of this ordinance and will protect the public interest including consideration of overdue taxes and/or fees; the applicant's history of compliance with relevant ordinances and approvals, including but not limited to building and minimum housing code, and zoning code; and alcohol license provisions and approvals.
4. The Plan Commission may recommend the following modifications:
 - a. The adoption of a map amendment changing the zoning classification of the property in question to any classification that is more restrictive than that proposed by the applicant. For this purpose, the Conservancy District is the most restrictive classification and the Industrial - General (IG) district is the least restrictive classification.
 - b. That a proposed map amendment take effect within an area smaller than the area as originally proposed and which is entirely included within the originally proposed area.
5. All map amendments that obstruct flow, or increase regional flood height .01 foot or more require flooding easements or other appropriate legal arrangement from all adversely affected property owners.

(b) Action by Common Council. The Common Council shall not act upon a text amendment or map amendment until it has received a recommendation from the City Plan Commission as provided above.

- (6) Standards for Map Amendments or Text Amendments. Text amendments or map amendments are legislative decisions of the Common Council that shall be based on public health, safety and welfare, shall be consistent with the Comprehensive Plan, and shall comply with Wisconsin and federal law.

CONDITIONAL USES

The Zoning Code Sec. 28.183 includes the following provisions regarding conditional uses:

(1) Statement of Purpose.

This Chapter divides the City into districts where the design, use, bulk and location of buildings and structures are compatible. However, some uses, and in some cases, design, bulk, and building location, have unique characteristics, and therefore cannot be properly allowed as unrestricted permitted uses. The City requires consideration, in each case, of their impact on neighboring land or public facilities, and of the public need for the particular use at a particular location. These uses may be necessary or desirable in a particular district if sufficient consideration is given to their location, development and operation.

(5) Decision.

(a) City Plan Commission.

1. The Plan Commission shall hold a public hearing on each complete application. The hearing shall be conducted and recorded in accordance with the Plan Commission's Policies and Procedures Manual.
2. The Plan Commission shall approve, approve with conditions, deny, or place on file any application for a conditional use.
3. The Plan Commission shall render its decision within a reasonable time.
4. The concurring vote of a majority of quorum of the Plan Commission is required to approve a conditional use.
5. The decision of the Plan Commission shall include findings of fact. When a conditional use application is denied, the findings of fact shall list the standard(s) that have not been met and the reasons such standard(s) was not met.
6. When reviewing a conditional use application that involves any new construction of a building or an addition to an existing building, the Plan Commission may require the applicant to submit plans to the Urban Design Commission for comments and recommendations.

(6) Approval Standards.

(a) The City Plan Commission shall not approve a conditional use without due consideration of the recommendations in the City of Madison Comprehensive Plan and any applicable, neighborhood, neighborhood development, or special area plan, including design guidelines adopted as supplements to these plans. No application for a conditional use shall be granted by the Plan Commission unless it finds that all of the following conditions are present:

1. The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, or general welfare.
2. The City is able to provide municipal services to the property where the conditional use is proposed, given due consideration of the cost of providing those services.
3. The uses, values and enjoyment of other property in the neighborhood for purposes already established will not be substantially impaired or diminished in any foreseeable manner.
4. The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
5. Adequate utilities, access roads, drainage, parking supply, internal circulation improvements, including but not limited to vehicular, pedestrian, bicycle, public transit and other necessary site improvements have been or are being provided.

6. Measures, which may include transportation demand management (TDM) and participation in a transportation management association have been or will be taken to provide adequate ingress and egress, including all off-site improvements, so designed as to minimize traffic congestion and to ensure public safety and adequate traffic flow, both on-site and on the public streets.
7. The conditional use conforms to all applicable regulations of the district in which it is located.
8. When applying the above standards to an application by a community living arrangement, the Plan Commission shall:
 - a. Bear in mind the City general intent to accommodate community living arrangements.
 - b. Exercise care to avoid an over-concentration of community living arrangements, which could create an institutional setting and seriously strain the existing social structure of a community. Considerations relevant for this determination are the distance between the proposed facility and other such facilities, the capacity of the proposed facility and the percentage by which the facility will increase the population of the community, the total capacity of all community living arrangements in the community, the impact on the community of other community living arrangements, the success or failure of integration into communities of other such facilities operated by the individual or group seeking approval, and the ability of the community to meet the special needs, if any, of the applicant facility.
9. When applying the above standards to any new construction of a building or an addition to an existing building the Plan Commission shall find that the project creates an environment of sustained aesthetic desirability compatible with the existing or intended character of the area and the statement of purpose for the zoning district. In order to find that this standard is met, the Plan Commission may require the applicant to submit plans to the Urban Design Commission for comment and recommendation.
10. When applying the above standards to an application for a reduction in off-street parking requirements, the Plan Commission shall consider and give decisive weight to all relevant facts, including but not limited to, the availability and accessibility of alternative parking; impact on adjacent residential neighborhoods; existing or potential shared parking arrangements; number of residential parking permits issued for the area; proximity to transit routes and/or bicycle paths and provision of bicycle racks; the proportion of the total parking required that is represented by the requested reduction; the proportion of the total parking required that is decreased by Sec. 28.141. The characteristics of the use, including hours of operation and peak parking demand times design and maintenance of off-street parking that will be provided; and whether the proposed use is now or a small addition to an existing use.
11. When applying the above standards to telecommunication facilities, the Plan Commission shall consider the review of the application by a professional engineer required by Sec. 28.143.
12. When applying the above standards to an application for height in excess of that allowed in the district, the Plan Commission shall consider recommendations in adopted plans; the impact on surrounding properties, including height, mass, orientation, shadows and view; architectural quality and amenities; the relationship of the proposed building(s) with adjoining streets, alleys, and public rights of ways; and the public interest in exceeding the district height limits.
13. When applying the above standards to lakefront development under Sec. 28.138, the Plan Commission shall consider the height and bulk of principal buildings on the five (5) developed lots or three hundred (300) feet on either side of the lot with the proposed development.

14. When applying the above standards to an application for height in excess of that allowed by Section 28.071(2)(a) Downtown Height Map for a development located within the Additional Height Areas identified in 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:
 - a. 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.
 - b. The excess height allows for a demonstrated higher quality building than could be achieved without the additional stories.
 - c. The scale, massing and design of new buildings complement and positively contribute to the setting of any landmark buildings within or adjacent to the projects and create a pleasing visual relationship with them.
 - d. 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.
15. When applying the above standards to an application to redevelop a site that was occupied on January 1, 2013 by a building taller than the maximum building height allowed by Section 28.071(2)(a) Downtown Height Map, as provided by Section 28.071(2)(a)1., no application for excess height shall be granted by the Plan Commission unless it finds that all the following additional conditions are also present:
 - a. The new building is entirely located on the same parcel as the building being replaced.
 - b. The new building is not taller in stories or in feet than the building being replaced.
 - c. The new building is not larger in total volume than the building being replaced.
 - d. The new building is consistent with the design standards in Section 28.071(3) and meets all of the dimensional standards of the zoning district other than height.
 - e. The Urban Design Commission shall review the proposed development and make a recommendation to the Plan Commission.
16. When applying the above standards to an application for limited production and processing use, the Plan Commission shall consider the effect of such a use on the surrounding properties, including the effects of odors, noise, vibration, glare, hours of operation, and other potential side effects of a manufacturing process.

(b) Conditions.

- 1) Before granting a conditional use, the Plan Commission may stipulate conditions and restrictions on the establishment, location, construction, maintenance and operation of the conditional use. In doing so, the Plan Commission may consider overdue taxes and/or fees and the applicant's history of compliance with relevant ordinances and approvals, including but not limited to, building and minimum housing code, zoning code and zoning approvals, and alcohol license provisions and approvals.
- 2) The commission shall require evidence and guarantees of compliance with the conditions.
- 3) For property in the Wetland Overlay District, the Plan Commission shall attach conditions that will further the purposes of the Wetland Overlay District.
 - a. Such conditions may include but are not limited to: type of shore cover; erosion control measures; increased setbacks; specific sewage disposal and water supply facilities; wetland restoration; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking areas and signs; and type of construction.

- b. The Plan Commission may require additional information as needed to determine if the proposed use is consistent with the purposes of the Wetland Overlay District.
- 4) For residential development allowed as a conditional use, the Plan Commission shall require dedication of land for park and recreation purposes or a fee in lieu of land dedication in accordance with the current standards for plat, land divisions and planned developments in Sec. 16.23(8)(f), MGO, and Park Impact Fees in Sec. 20.08, MGO. Credit shall be given for any prior dedication or fee paid under those sections.

(9) Scope of Approval.

- (a) An order granting a conditional use is valid for one (1) year from the date of the approval. During this time, the applicant must either lawfully commence the use or obtain a building permit and begin erecting or altering the building. If the applicant obtains a valid building permit, construction must commence within six (6) months of the date of issuance. The building permit shall not be renewed unless construction has commenced and is being diligently prosecuted.
- (b) Where the plans have not been altered from the Plan Commission's approval, and the conditional use has expired, the Director of Planning and Community and Economic Development may, after consultation with the Alderperson of the District, approve an extension for up to twenty-four (24) months from the expiration date.
- (c) Dormant Conditional Use. A conditional use permit shall be deemed to authorize only one particular conditional use and shall expire if the conditional use shall cease for more than one (1) year for any reason.

(d) Continuing Jurisdiction.

- 1. The Plan Commission retains continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. This authority is in addition to the Zoning Administrator's authority under Sec. 28.202.
- 2. Any person, the Zoning Administrator, or other official may file a written complaint with the Plan Commission that one or more conditions of a conditional use permit have not been completed, or are being violated. (Am. by ORD-17-00030, 3-8-17)
- 3. The Plan Commission shall initially determine whether the complaint indicates a reasonable probability that the subject conditional use is in violation of a condition of approval. If the Plan Commission determines there is a reasonable probability of a violation, it shall conduct a hearing after giving notice as provided in Subsection (4), above.
- 4. The Plan Commission may, in order to bring the subject conditional use into compliance with the conditions previously imposed by the Plan Commission, modify the existing conditions and impose additional reasonable conditions. If no reasonable modification of the conditional use can be made that are consistent with the standards in Subsection (6), above, the Plan Commission may revoke the conditional use permit and direct the Zoning Administrator and the City Attorney to seek elimination of the subject use.
- 5. An appeal from a decision of the Plan Commission under this paragraph may be taken to the Common Council as provided by Subsection (5)(b), above.

VARIANCES (Considered by the Zoning Board of Appeals)

The Zoning Code Sec. 28.184 includes the following provisions regarding variances:

(4) Decision.

- (a) The Zoning Board of Appeals shall hold a public hearing on each application.
- (b) The Zoning Board of Appeals may approve, conditionally approve, or deny a variance after a public hearing. The Zoning Board of Appeals shall conduct the public hearing after it receives a complete application.

- (c) The concurring vote of a majority of quorum of the Zoning Board of Appeals is required to grant a variance.
- (d) The decision of the Zoning Board of Appeals shall include findings of fact.
- (e) The Zoning Board of Appeals may impose conditions on the use, development or activities subject to the variance. The Zoning Board of Appeals may require the conditions in order to comply with the standards in this section, to mitigate the effect of the variance on other property in the neighborhood, and to better carry out the general intent of this ordinance.
- (f) When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to twenty-five dollars (\$25) per one hundred dollars (\$100) of coverage. A copy shall be maintained with the variance record.

(5) Standards for Variances.

- (a) The Zoning Board of Appeals shall not grant a variance unless it finds that the following conditions are present:
 1. There are conditions unique to the property of the applicant that do not apply generally to other properties in the district.
 2. The variance is not contrary to the spirit, purpose, and intent of the regulations in the zoning district and is not contrary to the public interest.
 3. For a use variance, compliance with the strict letter of the ordinance will result in no reasonable use of the property.
 4. For an area variance, compliance with the strict letter of the ordinance would unreasonably prevent use of the property for a permitted purpose or would render compliance with the ordinance unnecessarily burdensome.
 5. The alleged difficulty or hardship is created by the terms of the ordinance rather than by a person who has a present interest in the property.
 6. The proposed variance shall not create substantial detriment to adjacent property.
 7. The proposed variance shall be compatible with the character of the immediate neighborhood.
 8. In the floodplain districts, the variance shall not: grant, extend or increase any use prohibited in the zoning district; be granted for a hardship based solely on an economic gain or loss; be granted for a hardship which is self-created; or damage the rights or property values of other persons in the area.
 9. In floodplain districts, the variance shall not cause an increase in the regional flood elevations or profiles, permit a lower degree of flood protection in the floodplain than the flood elevation, allow any floor, basement or crawlway below the regional flood elevation or allow actions without the required amendments.

DEMOLITION AND REMOVAL

The Zoning Code Sec. 28.185 includes the following provisions regarding approval of the Demolition and Removal of buildings:

(1) Statement of Purpose.

It is hereby declared a matter of public policy that the good maintenance and rehabilitation of existing buildings, the preservation of safe and sanitary housing available at reasonable prices, and the careful consideration and planning of changes in the urban landscape are a public necessity and are required in the interest of the health, prosperity, safety, and welfare of the people. The purpose of this section is to aid in the implementation of adopted City plans, protect neighborhood character, preserve historic buildings, encourage the reuse and/or relocation of existing buildings, discourage buildings falling into a state of severe disrepair from lack of maintenance by the owner, encourage compliance with building and minimum housing codes, and allow the property owner to have a decision on approval or disapproval of the proposed use of the property before he or she takes the irrevocable step of demolishing or moving his or her existing building or buildings.

(2) Applicability and Initiation.

No building as defined in Sec. 29.03, MGO, shall be demolished or removed without a permit from the Building Inspection Division of the Department of Planning and Community and Economic Development.

Any Eligible Applicant (See Sec. 28.181(2)) may submit an application for a demolition or removal permits to the Director of the Building Inspection Division.

- (a) An application for a demolition or removal permit shall contain a clear, detailed and complete statement of the present or most recent use and any use proposed to be made of the property if the demolition or removal permit is approved.
- (b) An application for a permit also shall include plans for any proposed future use, including site, grading and landscaping plans, floor plans, building elevations and materials, the length of the current ownership, and photographs of the interior and exterior of the building(s). A written report of a licensed architect or engineer describing the condition of the building(s) may be submitted to substantiate the request.
- (c) If the proposed demolition is to be accomplished by fire, the application shall designate the proposed method of demolition.

(5) Decision.

- (a) The Plan Commission shall hold a public hearing on each application except those that do not require approval by the Plan Commission. If the applicant for a demolition or removal permit requests an amendment to the Zoning Map pursuant to Sec. 28.182(10) or a conditional use approval pursuant to Sec. 28.183, the demolition or removal permit application shall be considered with the amendment to the zoning map or conditional use. The public hearing for a demolition or removal application shall meet the requirements of Sec. 28.183(5)(a)1., except that a demolition or removal application considered with a zoning map amendment shall meet the public hearing requirements in Sec. 28.182(4).
- (b) The Plan Commission shall approve, approve with conditions, or deny a demolition or removal permit.
- (c) When reviewing a demolition application where the proposed use is non-residential, the Plan Commission may require the applicant to submit plans to the Urban Design Commission and/or the Landmarks Commission for comments and recommendation.

(7) Approval Standards.

Applications for demolition or removal permits shall not be approved, except as provided in (6) above, unless the following standards are met:

(a) Applications With a Proposed Future Use.

1. The Zoning Administrator issues a zoning certificate for the proposed use of the property. For the purpose of this subdivision, a zoning certificate shall mean a certification in writing that the proposed use of the property would be in compliance with the provisions of the Zoning Code.
 - a. If the Zoning Administrator finds that the proposed use of the property is not in compliance with the provisions of the Zoning Code, the applicant for a demolition or removal permit may apply for a map or text amendment pursuant to Sec. 28.182 or for a conditional use permit pursuant to Sec. 28.183 for the proposed use. All of the provisions of Secs. 28.182 and 28.183 shall apply to said applications, except that the time limit for commencement of the conditional use, pursuant to Sec. 28.183(9), shall be eighteen (18) months instead of twelve (12) months.
 - b. If after the procedures provided in Paragraph 1.a. are followed, the proposed use of the property would be in compliance with the provisions of the Zoning Code, the Zoning Administrator shall grant zoning approval for the proposed use, pursuant to Sec. 28.202(3).
2. The Plan Commission finds that both the requested demolition or removal and the proposed use are compatible with the purpose of this section and the intent and purpose expressed in the Zoning Code for the zoning district in which the property is located. Furthermore, the proposed use should be compatible with adopted neighborhood plans, the Comprehensive Plan or with any

applicable neighborhood conservation district requirements. When making this finding the Commission shall consider and may give decisive weight to any relevant facts, including but not limited to:

- a. The effects the proposed demolition or removal and proposed use of the subject property would have on the normal and orderly development and improvement of surrounding properties.
 - b. The reasonableness of efforts to relocate the building, including but not limited to the costs of relocation, the structural soundness of the building; and
 - c. The limits that the location of the building would place on efforts to relocate it, and the availability of affordable housing.
3. In the case of landmarks or improvements located in a local Historic District, consideration and approval of demolition or removal permits by the Plan Commission shall be contingent upon the prior issuance of a certificate of appropriateness by the Landmarks Commission pursuant to Sec. 33.01(5)(c), MGO.
 4. The Plan Commission shall consider the report of the City's historic preservation planner regarding the historic value of the property as well as any report submitted by the Landmarks Commission.
 5. If a demolition or removal permit is approved, it shall not be issued until the reuse and recycling plan is approved by the Recycling Coordinator.

(b) Application With No Proposed Use. In addition to the above standards in Subsection (7)(a)3.-5.,

1. The Plan Commission finds that, based on evidence from the Madison Fire Department, Police Department, and/or Building Inspection Division, a potential fire hazard, potential unlawful use of the property, potential public nuisance, or other public health and safety concern supports demolition or removal before a future use is proposed, or
2. For a non-residential building, the Plan Commission finds that the use, bulk, and design requirements of the existing zoning district designation are adequate to ensure that development will conform to existing adopted City plans.

(8) Conditions and Guarantees.

The following conditions shall apply to all demolition or removal permits:

- (a) Before granting a demolition or removal permit, the Plan Commission may stipulate conditions and restrictions upon the proposed alternative use as deemed necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards and requirements specified in (7) above. Conditions may include a requirement that a property owner obtain approval from the Plan Commission, pursuant to (7) above, for an alternative use that is not known at the time of application, and/or that the owner provide proof of financial capability and an executed contract with a construction firm, in a form acceptable to the Director of the Department of Planning and Community and Economic Development, prior to any permits being issued.
- (b) Any alteration in plans for a proposed alternative use shall require Plan Commission approval, except for minor alterations as provided below. If the Plan Commission considers an alteration it shall approve the change(s) only if the new use is compatible with the intent and purpose of the zoning district in which the property is located, is compatible with the Comprehensive Plan and applicable neighborhood plan, and other relevant factors, including the effects of the proposed use on the normal and orderly development and improvement of surrounding properties.
- (c) The Zoning Administrator may issue permits for minor alterations or additions which are approved by the Director of Planning and Community and Economic Development and are compatible with the concept approved by the City Plan Commission and the standards in (7) above.
- (d) Following issuance of a Certificate of Occupancy, future additions or alterations to the proposed alternative use of the property shall not be subject to review under this section.

PLANNED DEVELOPMENT DISTRICT (PD)

The Zoning Code Sec. 28.098 includes the following provisions regarding Planned Developments:

(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 situations 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, which shall result in the creation of a new site-specific zoning district, with specific requirements 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 amendment to 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. 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.
- (g) 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.
- (h) 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.
- (i) When applying the above standards to an application to reduce or eliminate setbacks required by Section 28.071(2)(c) Downtown Stepback Map, the Plan Commission shall consider the recommendations in adopted plans, including the downtown plan. No application to reduce or eliminate setbacks may be granted unless it finds that all of the following conditions are present:
 - 1. The lot is a corner parcel.
 - 2. The lot is not part of a larger assemblage of properties.
 - 3. The entire lot is vacant or improved with only a surface parking lot.
 - 4. No principal buildings on the lot have been demolished or removed since the effective date of this ordinance.

(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 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.

(5) Procedures. *(Excerpted due to length)*

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.

- (b) General Development Plan Requirements. The applicants shall file the following with the 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 Plan Commission and action by the Common Council, 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 to the Plan Commission with specific findings on the design objectives listed in Subsections 28.098(1) and (2) and the other requirements of this Subchapter.
2. Approval of the rezoning and related General Development Plan, .any major alteration to an approved General Development Plan, shall establish the basic right of use for the area and shall be recorded against the PD-zoned property. However, the plan shall be conditioned upon approval of a Specific Implementation Plan, and shall not allow any of the uses as proposed until a Specific Implementation Plan is submitted and approved for all or a portion of the General Development Plan.
3. Approval of the General Development Plan 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 General Development 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 General Development Plan approval.
5. If the General Development Plan and Specific Implementation 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 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 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 specific design and complete architectural character of the building or buildings included on the Specific Implementation Plan, other than single-family residences. In order to satisfy this requirement, detailed floor plans, exterior elevations and building materials are required.
5. The utilities serving the project, including sanitary 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 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 to the Plan Commission with specific findings on the design objectives listed in Subsections 28.098(1) and (2) and the other requirements of this Subchapter. *[3. & 4. omitted for length and relevance]*

(6) Alterations to a Planned Development District.

Requests to alter a Planned Development District shall be made to the Director of Planning and Community and Economic Development. Upon receipt of the request, the Director shall determine if the request constitutes a major or minor alteration to the Planned Development District. The Director may refer any request for alteration to the Urban Design Commission for an advisory recommendation. Alterations shall only be approved as specified below.

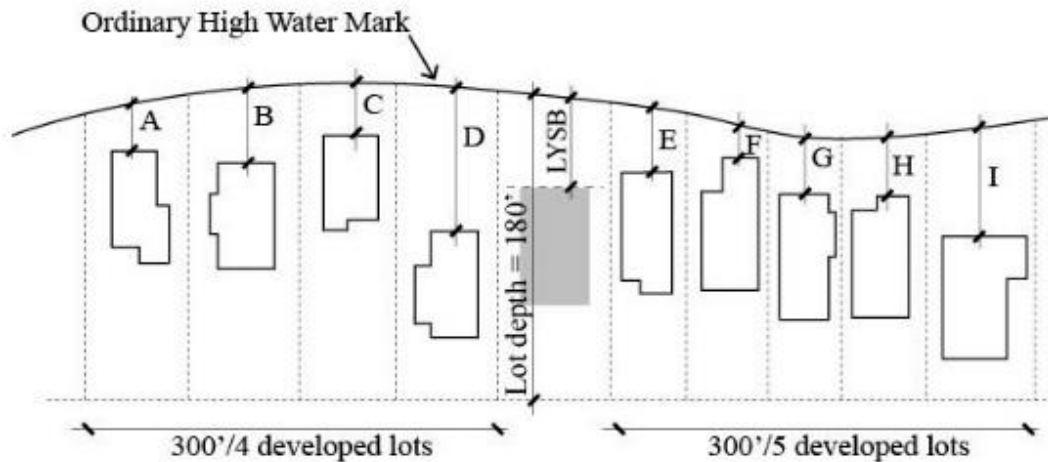
- (a) Minor alterations may be approved the Director of Planning and Community and Economic Development or designee following consideration by the alderperson of the district if the requested alterations are consistent with the concept approved by the Common Council. If the alderperson of the district 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.
- (b) Major alterations may be approved by the City Plan Commission if the requested alterations are consistent with the concept approved by the Common Council.
- (c) Major alterations that represent a substantial departure from the concept approved by the Common Council may be approved only after all of the procedures in Sec. 28.098(5) have been satisfied.
- (d) 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)
- (e) Requests to modify a sign package approved under Sec. 31.13(4), MGO, are not alterations subject to this section. (Cr. by ORD-15-00117, 10-28-15)

LAKEFRONT DEVELOPMENT

In addition to the conditional use standards, Zoning Code Sec. 28.138 includes the following provisions applicable to lakefront development:

- (1) Statement of Purpose. This subsection is established to further the maintenance of safe and healthful conditions by preserving and enhancing water quality, habitats, viewsheds, and other environmental and aesthetic qualities of lakes through the regulation of zoning lots abutting lakes within the City.
- (2) Applicability.
 - (a) With the exception of (b) below, all new principal buildings, additions to principal building totaling in excess of five hundred (500) square feet during any ten (10) year period, or any accessory building on zoning lots abutting Lake Mendota, Lake Monona, Lake Wingra, Monona Bay, and associated bays, shall require conditional use approval and shall meet the requirements of this subsection.
 - (b) Conditional use approval and the requirements of this subsection shall not apply to any part of a zoning lot abutting Lake Mendota, Lake Monona, Lake Wingra, Monona Bay, and associated bays that is more than three hundred (300) feet from the Ordinary High Water Mark (OHWM) or is separated from the OHWM by a street or public right of way.
- (3) General Regulations.
 - (a) Upon the filing of an application for a conditional use, the development plan shall show a complete inventory of shoreline vegetation in any area proposed for building, filling, grading or excavating. In addition, the development plan shall indicate those trees and shrubbery which will be removed as a result of the proposed development. The cutting of trees and shrubbery shall be limited in the strip thirty-five (35) feet inland from the normal waterline. On any zoning lot not more than thirty percent (30%) of the frontage shall be cleared of trees and shrubbery. Within the waterfront setback requirements tree and shrub cutting shall be limited by consideration of the effect on water quality, protection and scenic beauty, erosion control and reduction of the effluents and nutrients from the shoreland.
 - (b) Any building development for habitation shall be served with public sanitary sewer.
 - (c) Filling, grading and excavation of the zoning lot may be permitted only where protection against erosion, sedimentation and impairment of fish and aquatic life has been assured.
 - (d) Where the City's adopted Comprehensive or other Plans includes a pedestrian walkway or bike path along the shoreline, the proposed development shall not interfere with its proposed location.
 - (e) Construction of marine retaining walls or bulkhead may be permitted providing such construction does not protrude beyond the established shoreline of the adjacent properties. Said retaining walls and bulkheads will be permitted only for the purpose of preventing shoreline recession. The filling and grading of the shoreline shall occur only in the construction of such retaining walls or bulkheads.
 - (f) Lot coverage within thirty-five (35) feet of the OHWM shall not exceed twenty percent (20%). Public paths within this area shall not be included in the lot coverage limit.
 - (g) In addition to complying with the above standards, boathouses shall not be constructed for human habitation.
- (4) Lakefront Zoning Lots Where the Principal Use is One (1) or Two (2) Family Residential.
 - (a) Lakefront Yard Setback. The yard that abuts the lake shall be referred to as the "lakefront yard." The lakefront yard is not the front yard and shall be a side or rear yard for the purposes of the zoning code. The minimum depth of the lakefront yard setback from the Ordinary High Water Mark shall be calculated using one of three (3) following methods, provided that in no case shall principal buildings be located closer to the OHWM than twenty-five (25) feet.
 1. The average setback of the principal building on the two (2) adjoining lots, provided that the setbacks of those buildings are within twenty (20) feet of one another; or

2. If the subject property only abuts one developed lot, the setback of the existing principal residential structure on that abutting lot; or
3. The median setback of the principal building on the five (5) developed lots or three hundred (300) feet on either side (whichever is less), or thirty percent (30%) of lot depth, whichever number is greater (see illustration below).



(5) Lakefront Zoning Lots Where the Principal Use is Other Than One (1) or Two (2) Family Residential or Public Park Land.

- (a) Lakefront Yard Setback. The yard that abuts the lake shall be referred to as the “lakefront yard.” The lakefront yard is not the front yard and shall be a side or rear yard for the purposes of the zoning code.
- (b) The minimum setback from the OHWM shall be calculated using one of the following two (2) methods, provided that in no case shall a new principal building be located closer to the OHWM than seventy-five (75) feet.
 1. The average setback of the principal buildings on the two (2) adjoining lots, provided that the setbacks of those buildings are within twenty (20) feet of one another, or
 2. The median setback of the principal building on the five (5) developed lots or three hundred (300) feet on either side, whichever is less, or thirty percent (30%) of lot depth, whichever number is greater.
- (c) Where the existing principal building setback is less than the lakefront average or median setback as identified in paragraphs 1. and 2. above, an addition to the existing principal building may only be constructed provided that:
 1. The addition shall not be located closer to the OHWM than the lakefront setback of the existing principal building; and
 2. The addition shall not exceed fifty percent (50%) of the width of the principal building façade facing the lake.