

City of Madison Zoning Code Analysis

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I. Introduction and Background

The City of Madison has embarked upon a rewrite of its forty-year-old Zoning Code. In December 2007, the City retained the services of a team of consultants led by Cuningham Group Architecture, P.A. Other team members are White and Smith, LLC, Keane Musty and URS Corporation. The consultants are responsible for preparation of the new Zoning Code and zoning map. The project is expected to take about two years, from January 2008 to the end of 2009.

The Zoning Code is one of the primary tools the City of Madison uses to regulate development. All existing and new development in the City must be consistent with the requirements of the Code. These requirements range from the land uses (e.g. single family home, apartment, neighborhood store, office building) allowed on a property, to building setbacks from the street and adjacent properties, to the amount of parking required on a site.

Madison's first zoning ordinance was adopted in 1923. The current Zoning Code dates from 1966 and does not always reflect contemporary zoning and community planning practices. Further, the Code is often confusing and difficult to use. In addition, it is not always effective in implementing the recommendations of Madison's adopted Comprehensive Plan, neighborhood and special area plans. Large areas of Madison's older neighborhoods are nonconforming under the current Code. This has led to frequent variance requests and incremental amendments to the Zoning Code. The new Zoning Code will be a much-improved document that is easier to use and understand. Further, it will better enable the City to implement its various plans.

Project Objectives

The City has established the following objectives to guide the Code Rewrite:

1. Ensure that the new Zoning Code implements the recommendations of the City's adopted Comprehensive Plan (January 2006) and its detailed neighborhood and special area plans.
2. The City desires a Zoning Code that is integrated with and cross-references other land use related ordinances including the Land Subdivision Regulations, Landmarks Ordinance, the Urban Design Ordinance and the Street Graphics Ordinance.
3. The City desires a Zoning Code that includes graphics that illustrate regulations and make the Code easy to use.
4. The City desires a hybrid Zoning Code that incorporates land use-based (Euclidean) and form-based zoning provisions, where appropriate. The provisions shall address the design and land use recommendations of the City's various codes, ordinances and plans. The Code shall include urban design standards (text and graphics) as deemed necessary by the City.
5. The City desires a Zoning Code that includes mixed-use zoning districts and attendant regulations for both built-up areas of the City as well as lands at the urban edge.
6. The City desires a Zoning Code that includes a traditional neighborhood development zoning district.
7. The City desires a Zoning Code that includes provisions that will help the City achieve high-quality infill and redevelopment projects that are consistent with the context of existing development in the area.

8. The City desires a Zoning Code that includes provisions that link land use and transportation, with an emphasis on promoting transit-oriented development and traditional neighborhood development.
9. The City desires a Zoning Code that promotes and supports transit use, biking, and pedestrians.
10. The City desires a Zoning Code that provides for and promotes a sustainable built and natural environment through the use of the City's adopted sustainable development framework and strategic planning process (The Natural Step).

Participation and Communication

The Code Rewrite process is of great interest to City residents, businesses, neighborhood organizations, the development community, and a wide range of other groups and individuals who use or are affected by the City's development regulations.

In order to draw upon the experience of as broad a cross-section of the community as possible, the Common Council has appointed a Zoning Code Rewrite Advisory Committee (ZCRAC). The Committee includes representatives from the Common Council, the Plan Commission, the Zoning Board of Appeals, the Urban Design Commission, neighborhood and business associations, the University of Wisconsin, the development community, and environmental, preservation, housing advocacy and other groups. This broad range of experience and viewpoints will allow the ZCRAC to function as both a decision-making body and a liaison to the constituencies of each member.

The participation strategy for the project also includes the following elements:

- A series of community meetings to be held at four points during the process;
- Focus groups and informal meetings with representatives of neighborhoods, the development community, and other interested parties.
- Mailings and e-mail bulletins to stakeholder groups and individuals.
- A section on the City's web site dedicated to the project, with announcements, meeting summaries, background information, and links to other resources.

For additional information, see the project's full Participation and Communication Plan (April 2008) available at <http://www.cityofmadison.com/zoningRewrite/reports.cfm>.

Summary of the Rewrite Process

The Rewrite process includes both the crafting of a new zoning code (the "zoning text") and a new zoning map. The process includes the following steps, over an approximately two-year period.

1. **Project Initiation and Orientation.** This phase (now complete) allows the consultants to become familiar with the City's previous plans and studies, including neighborhood and corridor plans, and to establish a framework for community involvement (the Participation and Communication Plan).
2. **Issue Identification.** During this phase (now largely complete) consultants work with staff and citizens to identify the main issues and problems associated with the current Zoning Code through a variety of outreach methods, including interviews, focus groups and community meetings.

3. **Zoning Code Analysis.** This task includes a complete technical evaluation of the current code and related regulations: the land subdivision regulations, landmarks ordinance, urban design ordinance and street graphics ordinance. This report represents the results of the Analysis task.
4. **Annotated Outline.** The internal organization and format of the new Code are determined, based on research into relevant models and the information gathered during the previous phases. The outline will include:
 - an overview of the organization of the Code
 - descriptions of all zoning districts
 - examples of how the Code can be used to implement the Comprehensive Plan and neighborhood plans at representative locations within the City
 - recommendations for revisions to related ordinances (subdivision, urban design, etc.)
5. **Code Drafting.** This task, involves the drafting of specific sections of the Code, working from the outline to more detailed code language and illustrations. Drafts will be made available for public and Advisory Committee review by section, such as residential or commercial districts or administrative requirements. As part of this task, requirements of the draft Code will be “test-mapped” by applying new district regulations or standards to selected locations within the City, including infill and redevelopment locations, established neighborhoods, major retail/commercial districts and planned new neighborhood areas. Drafts will be adjusted as necessary based on the results of the test mapping process.

Both new and revised sections will be packaged into a single coherent and readable document, with consistent format, table numbering and cross-references. The complete draft will go through public and board/commission review prior to adoption.
6. **Zoning Code Revisions, Adoption and Implementation.** The Zoning Code text will be approved through the required public hearing process in advance of the zoning map, but will not be formally adopted and applied until the map is adopted.
7. **Draft Zoning Map.** The Zoning Map will be updated with the use of the City’s Geographic Information System (GIS) to compare proposed map changes to existing land uses, lot sizes and other conditions. A goal of the process is to minimize the creation of nonconformities (uses that would have been allowed under the previous standards but not under the new ones) and to match new or revised districts to existing or planned land use patterns, consistent with the Comprehensive Plan.
8. **Zoning Map Revisions, Adoption and Implementation.** The review process will involve presentations to the Plan Commission, which will hold a public hearing before making a recommendation to the Common Council.

II. Zoning, Design and Land Use

Zoning Methods and Approaches

Zoning practice has evolved to encompass a variety of methods and approaches. Each has advantages and disadvantages, and many are used in combination.

Conventional zoning codes are sometimes called “Euclidean,” referencing the 1926 Supreme Court decision (*Village of Euclid, Ohio, v. Ambler Realty*) that provided a legal basis for zoning as a means of promoting community health, safety and welfare. Conventional zoning divides a city into specified geographic districts with uniform standards for allowed uses, lot dimensions, and standards such as setbacks, height, and density or intensity of use. Much of Madison’s existing Zoning Code is conventional in nature. It classifies land into residential, office, commercial, manufacturing and ‘special’ districts.

Overlay zoning districts are districts that overlap the base residential, commercial and industrial districts to establish additional standards to protect natural resources or to create incentives for certain types of development. Madison’s Zoning Code includes several overlay districts. Wellhead Protection districts and Floodplain districts are designed for resource protection, while Historic Districts are identified through a “historic district suffix” that references the relevant section of the Landmarks Commission Ordinance.

Planned Unit Development (PUD) regulations typically merge zoning and subdivision controls so that large areas can be master planned with design flexibility in meeting zoning requirements for uses, density, dimensional standards and other development regulations, in order to achieve more creative design and greater public benefits. PUDs are typically planned and zoned on a case-by-case basis, resulting in a set of specific negotiated standards for each project. PUDs (and related Planned Community Developments) have been widely used in Madison as an alternative to conventional zoning.

Traditional Neighborhood Development (TND) regulations, like PUD regulations, are typically intended for large master-planned sites, but with the intent of creating walkable mixed-use neighborhoods designed according to the principles of New Urbanism. Wisconsin’s state planning statute defines TND as “a compact, mixed-use neighborhood where residential, commercial and civic buildings are within close proximity to each other.”¹ The state statute authorized creation of a model TND ordinance and required that cities with populations over 12,500 adopt a similar ordinance by 2001. Madison has encouraged the creation of TND-type developments through the PUD process and the use of the R2S, T, Y and Z districts.

Form-Based Zoning is a relatively new term applied to codes that emphasize the regulation of urban form. Form-based codes emphasize the relationship of buildings to each other, to streets and to open spaces, with a lesser focus on land use. Most form-based codes to date have been applied to a specific district such as a downtown, transit station area or corridor, and are frequently tied to a master plan or regulating plan that links building design standards to street types, streetscape standards and block frontage requirements. Madison’s Zoning Code includes regulations that address building form, such as

¹ Wis. Stat. 66.1027(1)

the Downtown Design Zones that apply to residential PUDs, the area exception procedure in the R2 District, and the Urban Design Districts, which are regulated by the Urban Design Commission Ordinance but function as a kind of overlay district along certain corridors. Some of Madison's neighborhood plans also include fairly detailed standards for building types, placement and heights.

Composite Zoning establishes districts that separate the typical parameters of conventional zoning – use, area and height – into separate districts, which can be combined in different ways. Many older zoning codes (including Duluth, MN, Cleveland, and Euclid, Ohio, home of the famous court case) employed this method, and cities such as Boulder, Colorado, are now using it.

Performance or Impact-Based Zoning is another method that de-emphasizes regulation of land use in favor of a focus on the impacts of development. This may include environmental, traffic or stormwater impacts. The codes can address impacts directly or indirectly. A direct impact system would limit development to the carrying capacity of limited resources, such as street or transit capacity, or pollutant concentration levels of nearby stream or water systems. An indirect system uses ratio or similar metrics, such as maximum impervious cover, to limit development impacts. Some communities use point systems to measure the qualitative aspects of development. The landscape requirements in Madison's Zoning Code use a point system.

Hybrid Zoning blends elements of different types of regulatory systems, such as conventional and form-based codes. Many form-based codes are actually 'hybrid' since they apply to discrete districts and corridors within a larger community where conventional zoning continues to apply. As noted above under Project Objectives, the City's intent is that the Zoning Code Rewrite will result in a hybrid code. Form-based elements will apply to differing degrees in different parts of the City, with a primary focus in mixed-use areas (including Downtown), future redevelopment areas and transit corridors. Composite zoning techniques are an option in areas where the neighborhood wants a high quality of design with limited impacts. Performance standards are an option where the impacts of new development pose a greater concern than urban design, such as lakeside or stream buffers.

Zoning and the Comprehensive Plan

Wisconsin's Comprehensive Planning law specifies that as of January 1, 2010, city zoning ordinances, subdivision regulations and official mapping must be consistent with a comprehensive plan. This type of 'consistency requirement' is common in many states. Most comprehensive plans, however, are by nature broad and generalized documents, whereas zoning codes are highly detailed and site-specific. In Madison, more detailed guidance on land use is often found in neighborhood, neighborhood development, and other special area plans. These plans are considered as supplements to the Comprehensive Plan (see sidebar) and are discussed below.

Madison's comprehensive plan was last updated and adopted in 2006. While the plan includes all the elements required by state law, the Land Use Plan, as the most closely related to zoning, is the primary focus of this discussion. The Plan classifies land into 17 future land use districts, as listed in Table 1. The Plan also defines and maps ten Downtown sub-districts within the Downtown district, and two special overlay designations: Transit-Oriented Development and Traditional Neighborhood Development.

The Relationship between Neighborhood and Comprehensive Plans

“Planning is an ongoing activity in the City of Madison, and preparation and adoption of individual neighborhood and special area plans as required from time to time is the only way that meaningful community planning can be carried out. In a community the size of Madison, the Comprehensive Plan is too generalized to provide the necessary degree of guidance, and the State-mandated comprehensive planning process is too cumbersome to be a continuous activity. The Comprehensive Plan specifically requires that significant changes in land use or density from existing conditions must be consistent with the recommendations of an adopted neighborhood or special area plan, and in order to establish the link between these plans and the Comprehensive Plan, it is recommended that... they be adopted as “a supplement to the Comprehensive Plan” to reflect their function and status in providing the more-detailed planning recommendations needed to effectively implement the Comprehensive Plan.”

Appendix 2-3, Comprehensive Plan

The Plan makes it clear that the land use districts are not zoning districts, and are not intended for application on a parcel-by-parcel basis. Exact boundaries between districts are often approximate, and the range of different land uses and development densities in each district is relatively broad, including, for example, small neighborhood-serving retail uses within residential districts. Table 1 correlates the land use plan districts with zoning districts in the current Zoning Code. Note that this comparison does not reflect all zoning classifications found within each mapped land use plan district, but only those zoning districts that are similar to the plan districts in use, density and scale.

Zoning and Neighborhood Plans

The City, working with many neighborhood and business associations, has developed dozens of neighborhood plans. “Neighborhood Plans” apply to existing neighborhoods, typically in the older parts of the City. “Neighborhood Development Plans” are prepared to guide the growth and development of largely undeveloped lands at the City’s urban edge. In addition, plans are developed for commercial and mixed-use corridors, such as East Washington Avenue or Park Street, and special districts, such as the Downtown Plan. In the interest of simplicity, all are referred to here as “neighborhood plans.”

As noted in the sidebar, these plans are essential supplements to the Comprehensive Plan, providing a higher level of detail on preferred land uses, housing types and densities, parks and open space, urban design and other planning considerations. Prior to 2006, each neighborhood plan was adopted as “an element of the City of Madison master plan.” However, Wisconsin’s new Comprehensive Planning law establishes certain requirements for the preparation and of comprehensive plans. As a result, neighborhood plans are now adopted as supplements to the Comprehensive Plan.

This change is important in terms of the relationship between plans and zoning. As noted above, consistency between the Zoning Code and the Comprehensive Plan is now a statutory requirement. However, consistency between zoning and neighborhood plans (as supplements to the Comprehensive Plan) is not required. Given the

great variety of neighborhood plans, the wide range of zoning and design recommendations found in these plans, and the fact that some plans are now in need of updating, this can be viewed as an advantage. However, as a general principle, **the Zoning Code should recognize and support, to the greatest degree feasible, the recommendations of neighborhood plans.**

Table 1: Comprehensive Plan Land Use Districts and Related Zoning Districts

Area	Description	Existing Zoning Districts	Notes
Low-Density Residential (LDR)	<ul style="list-style-type: none"> ➤ Average density less than 16 units per net acre ➤ Relatively low densities and a predominance of single-family and two-unit housing types. ➤ Older neighborhoods include "house-like" structures built as or converted to multi-unit dwellings. ➤ Generally should be protected from encroachments of higher density or higher intensity uses. Multi-unit conversions discouraged. ➤ Infill or redevelopment projects should be compatible with neighborhood character, adopted neighborhood plans. ➤ Should include at least two different housing types; owner-occupied and rental housing; variety of lot sizes. 	R1 R1-R R2 R2S, R2T, R2Y, R2Z R3	Many LDR districts are currently zoned as R4 or higher density
Medium-Density Residential	<ul style="list-style-type: none"> ➤ Average density 16 – 40 units per net acre ➤ Locations recommended for relatively dense multi-family housing; also portions of established neighborhoods with 'house-like' multi-family buildings ➤ Infill or redevelopment projects should be compatible with neighborhood character, adopted neighborhood plans ➤ Neighborhood-serving retail and service; offices in mixed use buildings may be included 	R4, R4A, R4L R5	Many MDR districts are currently zoned for R3 or lower densities.
High-Density Residential	<ul style="list-style-type: none"> ➤ Average density 41 – 60 units per acre ➤ Relatively compact areas close to mixed use, commercial, employment, or more intensively developed areas ➤ Primarily apartment buildings of all sizes, townhouses or rowhouses; larger non-residential support uses 	R6 R6H (limited height)	PUD option used more frequently than base zoning in areas near downtown.
Neighborhood Mixed-Use	<ul style="list-style-type: none"> ➤ Activity centers along relatively important streets within or adjacent to residential districts ➤ Relatively compact in size ➤ Pedestrian-oriented: parking underground or behind buildings, on-street parking, buildings close to sidewalk and street, 2-4 stories buildings typical ➤ Commercial buildings generally <10,000 square feet ➤ Residential densities generally < 40 units per acre 	OR, C1, C2	Many neighborhood shopping streets are zoned C2, but scale of allowed C2 development is inconsistent with neighborhood character.
Community Mixed-Use	<ul style="list-style-type: none"> ➤ Relatively high-density mix of residential, retail, office, institutional and civic uses in a compact urban setting ➤ Should include focal point or core area ➤ Pedestrian-oriented design ➤ May incorporate Transit-Oriented Development standards ➤ Residential densities generally < 60 units per acre ➤ Neighborhood plans should establish parameters for development intensity and height 	O1 C2, C4	Zoning districts generally lack pedestrian-oriented design standards; Urban Design Districts and some neighborhood plans provide such standards.

Zoning Code Analysis Report

Area	Description	Existing Zoning Districts	Notes
Regional Mixed-Use	<ul style="list-style-type: none"> ➤ Most intensively developed districts in metro area outside of Downtown ➤ High concentrations of jobs ➤ Access to transit and regional transportation system, TOD standards ➤ Pedestrian-oriented design ➤ Density for entire district should be established by City-adopted special area plan ➤ Residential densities may exceed 60 units per acre 	No directly related districts	Areas designated as RMU are currently zoned C3L, Commercial Service and Distribution
General Commercial	<ul style="list-style-type: none"> ➤ Retail and service businesses, lodging, auto-oriented uses, wholesale, storage and distribution, etc. ➤ Range from relatively compact districts to larger commercial districts serving automobile-oriented and “heavy” commercial uses ➤ Major thoroughfares and highway intersections, access to transit and regional transportation system 	C3, C3L	
Regional Commercial	<ul style="list-style-type: none"> ➤ Major existing commercial-retail activity centers serving the surrounding region ➤ Recommend that such districts transition into Regional Mixed-Use areas 	C3, C3L	
Employment	<ul style="list-style-type: none"> ➤ Predominantly office, research and specialized employment areas ➤ Limited retail serving employees is encouraged, not larger-scale retail or services ➤ Primarily large multi-establishment districts, large institutions such as hospitals ➤ Multiple access points, pedestrian and bicycle paths ➤ Proximity to commercial or mixed-use districts, residential areas recommended ➤ Compact urban activity centers preferred to low-density suburban patterns 	O-2, O-3, O-4 RPSM, RDC	Wide range of office and research park districts have been created; covenants and deed restrictions have also been used to restrict uses.
Industrial	<ul style="list-style-type: none"> ➤ Typical industrial and manufacturing uses with smaller workforce than Employment centers, emphasis on truck and rail traffic, outdoor work areas, outdoor equipment and materials storage ➤ Good access to regional highway system ➤ Uses range from limited to heavy manufacturing, mineral extraction, utility and transportation facilities, etc. 	M1, M2 RPSM, SM	Some overlap between office and research park and light industrial parks.
Park and Open Space	Recommended locations for public parks, outdoor recreation facilities, conservation areas, some stormwater management drainageways and detention areas, cemeteries and similar expansive uses.	Conservancy	Zoning district also applies to sensitive natural resources such as floodplains

Zoning Code Analysis Report

Area	Description	Existing Zoning Districts	Notes
Agriculture / Rural Use	Primarily applied to undeveloped lands in City's peripheral planning area where continuation of agricultural uses is recommended into 20-year planning period. Intent is to prevent premature non-farm development. Neighborhood development plans will be prepared to determine long-term land use.	Agriculture	Includes lands outside current City boundaries where City's extraterritorial review jurisdiction may apply. Both Ag. and "Temp Ag." are used on Zoning Map.
Special Institutional	Identifies current or recommended locations for high schools and middle schools and large places of assembly and worship.	No directly related districts	Most existing institutions are currently located within residential zoning districts.
Airport	Identifies Dane County Regional Airport and related facilities.	No directly related districts	County airport zoning applies; base zoning of Airport is M1
Campus	Applies to campuses of the University of Wisconsin – Madison, Edgewood College and the Madison Area Technical College. ➤ Campus master plans are recommended, addressing core and transitional areas, multi-modal transportation, vehicular access and location and amount of parking, and compatibility with surrounding uses.	No directly related districts	These campuses are currently zoned in residential or industrial categories.
Downtown	Recognizes unique functions, mix of uses, and much greater intensity of use of the Downtown. Includes ten mapped sub-districts: four mixed-use and six predominantly residential. Refinement of districts to occur with development of neighborhood plans and Downtown Plan.	C4 R5, R6, R6H	Downtown Design Zones influence PUDs with residential components; Urban Design Districts and Historic Districts also influence design; Capitol height limits apply.
Neighborhood Planning Areas	Relatively large future growth areas at edges of the City where growth is anticipated but detailed planning studies have not yet been prepared. These neighborhood development plans will be prepared prior to development. ➤ TND development encouraged in NPAs	Agriculture R1 through R5 C1, C2, Conservancy	Agriculture is typically the interim zoning designation; others are applied following neighborhood development plans.
TOD Overlay	A compact, mixed-use development pattern that focuses the highest development densities and intensities in very close proximity to high capacity transit stops. ➤ Size and design will vary by location ➤ Locations are tentative ➤ Core area defined within 1/8 mile; general area within ¼ mile of transit stop	No directly related districts	
TND Overlay	Compact, mixed-use neighborhoods served with a highly interconnected system of pedestrian and bicycle-scaled streets, sidewalks, paths and trails. Recommended for Neighborhood Planning Areas and as an alternative land use district in neighborhood infill area. Detailed plans must be developed.	R2S, T, Y and Z C1, C2 Conservancy	Zoning districts listed have been used along with PUDs to create new TND-type neighborhoods.

Urban Design Commission
Purpose and Intent

It is hereby declared a matter of public policy that the design, appearance, beauty and aesthetics of all public and private buildings, structures, landscaping and open areas are a matter of public concern and as such must be controlled so as to promote the general welfare of the community. The purpose of this section is:

- (a) To assure the highest quality of design for all public and private projects in the City.*
- (b) To protect and to improve the general appearance of all buildings, structures, landscaping and open areas in the City; to encourage the protection of economic values and proper use of properties.*
- (c) To encourage and promote a high quality in the design of new buildings, developments, remodeling and additions so as to maintain and improve the established standards of property values within the City.*
- (d) To foster civic pride in the beauty and nobler assets of the City, and in all other ways possible assure a functionally efficient and visually attractive City in the future.*

Zoning and Related Ordinances

Zoning is not the City's only tool for regulating land use, nor is it the only determinant of urban form. Other chapters within the City Code are used to regulate design of streets, size and location of signs, and many historic preservation and urban design issues. The Zoning Code Rewrite project, as its name implies, is intended to focus on the Zoning Code, but also to provide recommendations for related revisions to these ordinances.

The **Urban Design Commission** (UDC) is established and given review authority by Article 33.24 of the City Code. Its authority includes the establishment of Urban Design Districts and the review of all projects within those districts. As of 2008, [eight?] Urban Design Districts have been established, primarily along major road corridors. In addition, the UDC is authorized to review various other types of development, in an advisory role to the Plan Commission:

- Large retail developments (40,000 square feet or greater in gross floor area on a single zoning lot);
- Rowhouse (single-family attached) development;
- Planned Unit Developments (PUDs), Planned Commercial Districts (PCDs) and projects in the C4 downtown zoning district.

The standards established for the City's [eight?] Urban Design Districts generally cover issues of grading and drainage, landscaping, building placement and design, lighting, signs, utility placement, and parking and service area screening. Beyond these elements, some of the more recent Urban Design Districts address issues such as building setbacks, massing, height, façade "stepbacks" and other dimensional standards that would typically be included in the Zoning Code. Decisions of the UDC regarding projects in Urban Design Districts may be appealed to the Plan Commission.

This overlap between Zoning and Urban Design standards can create difficulties in navigating the development review process and conflicts in the substance and interpretation of both codes. How best to clarify this relationship is one of the key issues the Zoning Code Rewrite should address.

The **Landmarks Commission** is established by Article 33.19 of the City Code and is authorized to establish landmark buildings, sites and historic districts and to regulate demolition, alterations and improvements to buildings or sites or within districts. The

relationship between Landmarks Commission authority and the Zoning Code is most evident within the local historic districts established in Article 33.19. The ordinance establishes general criteria for historic district guidelines, stating that height, volume, proportions, rhythm, materials texture, etc. should be visually compatible with adjacent buildings. Specific guidelines have been established for five historic districts:

- Mansion Hill
- Third Lake Ridge
- University Heights
- Marquette Bungalows
- First Settlement

Most of these guidelines establish criteria for the review of additions, exterior alterations, repairs, signage and new construction. The Third Lake Ridge Historic District standards vary by zoning category: manufacturing, commercial or residential. The University Heights Historic District guidelines specify maximum heights for new construction by zoning district and limit the area of front facades to no more than 25% greater than the average of related buildings. Any change in the nomenclature or organization of zoning districts would therefore require changes to these guidelines.

The **Land Subdivision Regulations** (Article 16.23 of the City Code) “regulate and control the subdivision of land within the corporate limits and the extraterritorial plat approval jurisdiction of the City of Madison.” The majority of new subdivisions occur on the City’s developing fringe, and the City uses its extraterritorial plat approval authority to prevent premature subdivision of lands outside City boundaries but in future expansion areas.

Subdivisions are evaluated based upon their location relative to existing developed land and urban services, including transportation, stormwater management, sewer and water service, fire and police protection, parks and open space, and school facilities.

There are several areas in which the subdivision ordinance affects or overlaps with the regulations of the Zoning Code. Most importantly, the ordinance includes standards for the design of streets and alleys.

The street standards include several innovative provisions:

- Cul-de-sac streets are prohibited “unless topography or other unique physical feature of a development makes cul-de-sacs the only, or most logical, street layout.”
- Streets must be oriented in an east-west direction to facilitate solar access where feasible.

Other provisions may conflict with some of the goals of the Comprehensive Plan as reflected in the Zoning Code:

- Alleys are prohibited in residential districts, although alleys are often considered a desirable feature of Traditional Neighborhood Development, and alleys have been used in new R2Y and R2Z developments.
- Minimum street width for local streets is 32 feet, with certain exceptions. The exceptions allow street widths of 28 feet in the lowest-density residential areas, or where additional off-street parking is provided.

Current subdivision practice often allows narrower street widths in conjunction with on-street parking and alleys as a way to improve the appearance and pedestrian character of local streets, calm traffic, and manage service functions such as parking at the rear of the lot.

Other inconsistencies between the ordinances include the use of terms such as “cluster development” in the Subdivision Regulations, which are not mentioned in the Zoning Code. Definitions and terminology should be reconciled where possible.

The **Street Graphics Control Ordinance**, Chapter 31 of the City Code, regulates signs and other street graphics. Review authority is divided among various City boards and departments, including the Urban Design Commission and the Plan Commission. The Director of the Neighborhood Inspection and Preservation Division issues most permits for street graphics. The ordinance is recent and comprehensive, and no issues have been raised regarding the relationship between it and the Zoning Code. However, standards for area, height and placement of street graphics are defined in terms of zoning districts. Any change in the nomenclature or organization of zoning districts would therefore require changes to the street graphics standards.

Zoning and Sustainability Initiatives

Madison is currently engaged in a number of initiatives to improve the sustainability of its facilities, programs and regulations.

- The *Green Capitol City Plan* was developed in 2004 to make City functions more energy efficient.
- The Mpowering Madison Campaign includes the City and a range of public and private partners² in an effort to reduce citywide emissions of carbon dioxide (CO₂) by 100,000 tons by 2011.
- The City is a Natural Step Community, using The Natural Step program framework³ to incorporate an environmental ethic into all City services, including green purchasing guidelines.
- The City was recently awarded a grant from the U.S. Department of Energy through the Solar America Cities Program for the MadiSUN program. The program’s goal is to double to number of solar electric and hot water solar installations in the city. The City of Madison, along with Madison Gas and Electric, Focus on Energy and UW Extension will be working on this project for the next two years. A major component of the grant is to provide technical assistance to interested residents and businesses who want to install a solar system.

The Zoning Code Rewrite is an important element of Madison’s Natural Step program. How can zoning contribute to sustainability, as expressed through indicators such as reduction in generation of greenhouse gases or the support of community health? Zoning policies may include:

- Reducing Vehicle Miles Traveled (VMT) by removing barriers to or providing incentives for compact mixed-use development.
- Encouraging the development of solar, small wind and other renewable energy systems in all or selected residential districts;

² Madison Gas and Electric (MGE), University of Wisconsin, Nelson Institute for Environmental Studies, Dane County United, Citizens Utility Board, RENEW Wisconsin, Clean Wisconsin, Sierra Club, Madison Area Clean Energy Coalition, and Sustain Dane.

³ <http://www.cityofmadison.com/mayor/tns/index.cfm>

- Encouraging accessory units and live-work units in selected residential districts;
- Allowing small-scale recycling facilities in residential districts;
- Encouraging local food production by encouraging community gardens, Community Supported Agriculture, and similar food production initiatives;
- Encourage or require low-energy-input landscaping;
- Require protection of the urban forest;
- Offer density/height bonuses for green roofs; make green roofs eligible as open space;
- Limit impervious coverage; encourage pervious pavements.

This area of zoning practice is evolving rapidly, and many other options will be identified and considered during the Code Rewrite process.

III. Organization of the Zoning Code

Organization and Usability

A common complaint regarding development codes in many communities is that they are not “user-friendly.” This is true of Madison’s Zoning Code, which is frequently described as being overly complicated and difficult to use. Much of this can be attributed to its age: the 1966 Code has been incrementally revised, amended and added to for more than forty years without a coherent, unifying structure.

The original structure of the 1966 Code was consistent with many zoning ordinances of that period, beginning with general provisions, rules and definitions, establishing zoning districts, and grouping them into chapters: the basic division of Special (Conservancy and Agricultural), Residence, Commercial and Manufacturing districts. Office districts, flood plain districts, wellhead protection districts (an overlay) and other specialized districts were added in later years. Parking and loading requirements and administrative requirements were placed at the end of the document. Sign standards were removed in the 1980s and placed in the Street Graphics Control Ordinance.

As a result of these additions and changes, the Code has become steadily more difficult to navigate, with lengthy new sections added to other sections without much internal logic. For example:

- The **General Provisions** section contains extensive requirements for landscaping and screening, Capitol view preservation, service stations and car washes (“automobile laundries”) hazardous uses, waterfront development, and floodplain development (separate from the Floodplain districts). The two lengthy Inclusionary Housing ordinances are also in this section.

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- The **Special Districts category** has been expanded to include Planned Unit Development and Planned Community Development districts; most contemporary ordinances place PUDs in a separate section since they involve different procedures and approval processes.
- In the **Residential Districts** section, newer districts such as R1-R, R2S, T, Y and Z and R4A are grouped at the end of the section, out of sequence with their “parent” R2 district. The same is true of the **Manufacturing Districts**, with additions of new districts such as the Research and Development Center District at the end of the section.

Format

The Code’s format offers both advantages and disadvantages to the user. Numerical section headings are provided at the top of each page and revision dates are provided as a footer; both are helpful enhancements. The index at the end of the document is also helpful. However, the overall page layout is difficult to follow, with lengthy paragraphs and multiple subheadings. It is easy to lose track of the section one is in when the header reads “Sec. 28.11(3)(g)7” and the page begins with subhead “7.” This problem is especially noticeable in longer sections such as Off-Street Parking and Loading Facilities.

Readability

The Zoning Code is written primarily to ensure that its provisions are enforceable. However, simplified language would assist both code users and administrators in the interpretation of the document. The following is one example of how existing provisions might be clarified:

Current Language

Sec. 28.04(3)(l)

On any zoning lot where a conditional use is established, any alteration, expansion or establishment of any other use(s), including permitted uses, except structures and buildings serving as synagogues, mosques, temples, churches, parish houses, rectories, and other houses of worship, shall be subject to conditional use approval pursuant to the provisions contained in Sec. 28.12(11) of these ordinances. However, within existing buildings, the change in use from one permitted use to another permitted use without any addition in square footage shall be exempted from this provision; provided, that exterior alterations to existing structures or the lot shall require approval as a conditional use.

Suggested Language:

On any zoning lot where a conditional use is established, the establishment, expansion or alteration of any other use (including a permitted use) shall require separate conditional use approval, with the following exceptions:

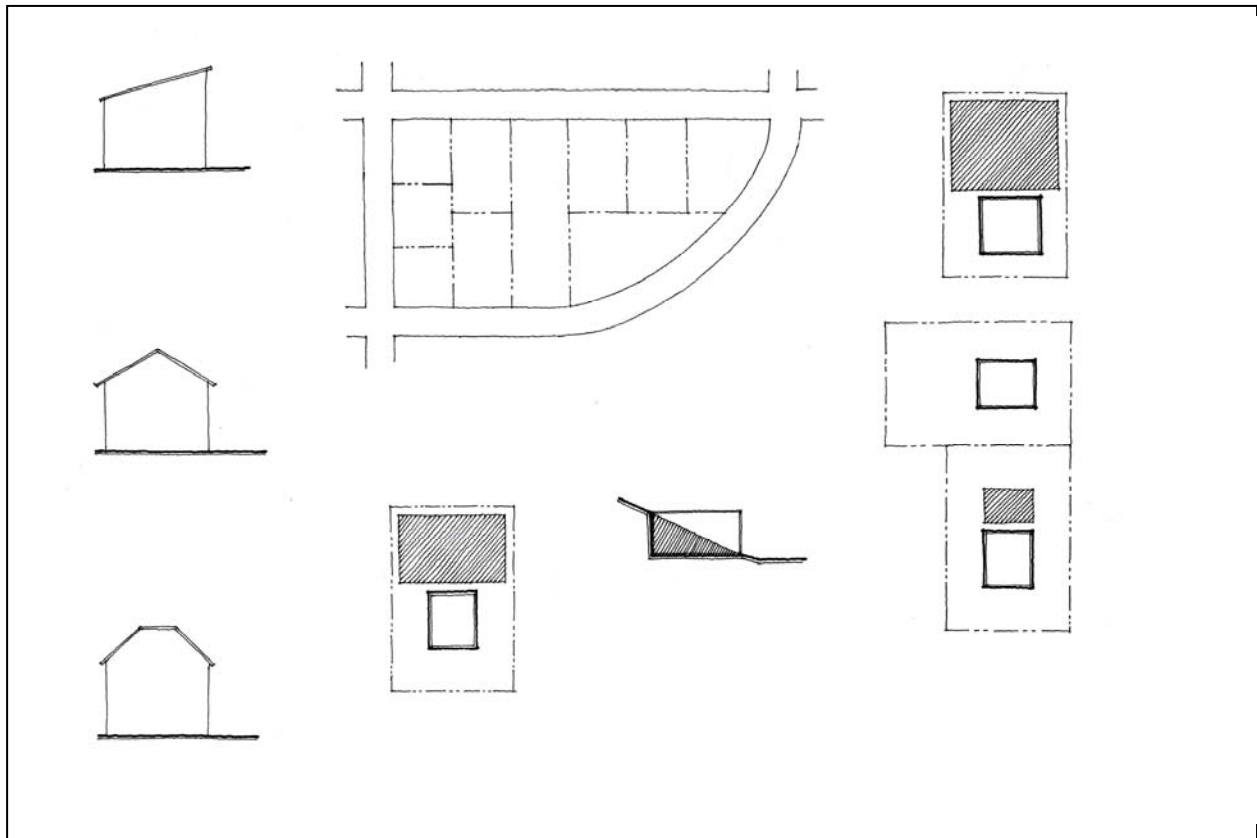
- Structures and buildings serving as places of worship;
- Changes in use within existing buildings with no increase in square footage and with no exterior alterations.

Illustrations

The current Zoning Code contains no illustrations, except for a few maps. Many common zoning terms can best be defined or clarified with illustrations, such as “reversed corner lot,” “vision clearance, landscaping requirements and setback averaging. Form-based standards rely more heavily on diagrams

and illustrations of building or frontage types. The sketches below illustrate some of these concepts, and could be adapted to Madison's code requirements.

One consideration in using illustrations is how to incorporate them into electronic documents (discussed below), particularly the typical codification format that is maintained through an external web site like MuniCode. Innovations are becoming more common in these areas. The City may also consider publishing the Zoning Code as a separate PDF document, allowing for a more distinctive illustrated format.



[SKETCHES TO BE LABELED IN FINAL DRAFT]

Enhancements to Electronic Documents

Electronic publishing allows for inclusion of hyperlinks between parts of a code, or links to illustrations or related documents. These enhancements will be part of the new Code. Additional enhancements can involve links between zoning map designations and the relevant zoning district text. Links of this type may also be feasible.

Use Classifications

The way that uses are defined and classified has always been central to the practice of zoning. Zoning codes were originally established to separate incompatible uses, such as heavy industrial uses and housing, and to establish adequate light and air around buildings. The current emphasis on built form – i.e., form-based codes – allows a greater degree of flexibility regarding land use, but does not eliminate the need to define and regulate uses.

Madison’s current Zoning Code includes highly detailed definitions of and standards for uses. The main problem with the Code’s permitted and conditional uses is referred to as “telescoping.” That is, the R2 district references all the permitted and conditional uses in the R1 district, and most other residential districts continue this pattern, with addition of new uses. The same cross-referencing applies to dimensional standards in many districts. The resulting need to constantly refer back to previous districts is one of the most challenging features of the Code for users and administrators.

By contrast, most contemporary zoning districts employ a table format with a consistent list of uses across each zoning district category. This allows quick comparisons between districts and a common framework for classifying uses. The uses themselves can be consolidated in a number of different ways. Some communities use industrial classification systems (the North American Industrial Classification System, formerly the Standard Industrial Classification). A newer system is the American Planning Association’s Land-Based Classification Standards, which incorporates five different classification systems: activity, function, structure, site and ownership. By focusing on “activity” and “structure” it is possible to address both land use and building type.⁴

The new Zoning Code should employ a table format and use classifications that are determined suitable to meet the City’s needs. Definitions of building or structure type may also be used as part of the form-based elements of the new Code.

IV. Zoning Code Analysis by Section

This section presents an overview of the content, major issues and questions that have been identified through the Zoning Code Analysis. Topics are presented in the order they appear in the Code for ease in cross-referencing (as mentioned above, this is not always the most logical order).

Number	Section	Issues and Recommendations
28.02	Intent and Purpose	The original purpose statements, with a few additions, do not reference the Comprehensive Plan or the City’s current goals regarding compact growth, place-making, sustainability and urban form. This section should be revised to incorporate these and other City goals and to reference the Comprehensive Plan.
28.03	Rules and Definitions	Many definitions are in need of updating, and some should be deleted or added. Definitions should be as consistent as possible with those of related ordinances such as Subdivision or Street Graphics. Archaic or overly specific definitions should be removed. Definitions of land uses regulated in the Code could be

⁴ White, S. Mark. *Classifying and Defining Uses and Building Forms: Land-Use Coding for Zoning Regulations. Zoning Practice 9.05*, September 2005.

Number	Section	Issues and Recommendations
		<p>grouped together, as distinct from general definitions. Some codes combine definitions of land uses in one section along with any specific regulations that pertain to each use (whether conditional or permitted). However, the definition itself should generally not contain use regulations, since a definition is not a logical place to look for them, and inconsistencies with other parts of the code can result.</p> <p>Some specific examples of updates:</p> <ul style="list-style-type: none"> • Adult use definitions should be grouped together and streamlined. • Definitions of Community Living Arrangements and related uses such as Adult Family Homes should be grouped together, updated and simplified to the extent possible. • Family definitions are complicated, and should be simplified and updated to include domestic partnerships. • A definition of Home Occupation should replace those such as “Office For a Professional Person.” • The definition of Building Height dates from the 1922 Ordinance, and should be updated to establish a more consistent standard for the “approved ground level,” or grade from which height is measured. • The definition of Usable Open Space should be revised as “Green Space,” or a similar term, and the paving of such areas should be restricted or prohibited. • Some of the definitions in the Comprehensive Plan should be added to this section, including: <ul style="list-style-type: none"> ○ Green Building ○ Infill Development ○ Pedestrian-oriented Development ○ Smart Growth ○ Sustainability ○ Transited Oriented Development (TOD)
28.04	General Provisions	This section has become a catch-all of miscellaneous regulations, many of which could be more logically located elsewhere.
(3)	Scope of Regulations	This subsection includes permitting standards, floodplain regulations, and rules of interpretation, which should all be placed in separate sections of the Code.

Number	Section	Issues and Recommendations
(5)	Accessory Buildings	This section needs updating and clarification. Illustrations should be provided to show where accessory buildings can be located. Replacement of nonconforming garages in side yards currently requires a variance, and could be expedited.
(6)e	Obstructions in Yards	A chart should be created to consolidate these provisions. Bay windows could be allowed as projections into side yards.
(8)	Existing Conditional Uses	Pre-existing conditional uses should be classified under “Nonconformities.” The specific “drive-in” provision should be deleted.
28.04 (9)(a)	Division of Lot or Parcels of Land	The requirements for lot divisions are an example of dimensional standards that are widely separated from the zoning districts where these standards apply. The 6,000 square foot minimum lot area in R4 and higher districts is not referenced in the districts themselves. Lot area and area-per-dwelling standards should be integrated into their respective districts.
(12)	Screening and Vision Clearance (Landscaping Standards)	The standards focus on landscaping of parking lots rather than the entire development site, and the point system currently in use has proved somewhat cumbersome. Screening is required along nonresidential and residential district boundaries, without consideration of mixed use or integration of different uses. “Vision clearance” pertains to street standards, rather than landscaping. The standards should be revised to incorporate current state-of-the-art landscaping practices, including considerations of sustainability.
(13)	Drainage Courses	These standards apply to protection of drainage courses for the purpose of stormwater management, and are similar to Subdivision Ordinance standards. They could be grouped with a broader section on “Environmental Regulations.”
(14)	Capitol View Preservation	This is a standard that applies within one mile of the Capitol, and could be mapped as a type of overlay within the Downtown.
(16)	Special Provisions Applicable to Miscellaneous Uses	There are many special provisions elsewhere in the Code that apply to specific uses (these apply to “automobile laundries” and service stations), and all could be grouped together in one section entitled “Supplemental Use Regulations.” Standards for telecommunication facilities

Number	Section	Issues and Recommendations
		(later in Section 28.04) could also go into this section.
(17)	Activities Which May be Potential Hazards or Nuisances	Performance standards for potentially hazardous activities are typically somewhat more specific on noise, vibration, odors, glare and other factors.
(19)	Waterfront Development	Controversy over tear-downs and additions to existing dwellings have been common in waterfront (mainly lakefront) areas. Controls over the size and height of new buildings on waterfront lots should be reviewed. Setbacks could be revised to address the specific qualities of waterfront lots, where lots have a “waterfront yard” and a “street yard” rather than typical front and rear yards.
28.04 (20)	Regulations for Floodplain Districts	These should be moved to and integrated with the Floodplain Districts chapter.
(25)(26)	Inclusionary Housing	These two lengthy ordinances are currently the subject of committee review. Both are scheduled to “sunset” on 1/1/09, and are likely to change if they are renewed. If the ordinances are renewed, the standards will be incorporated into the new Code.
(27)	Home Occupations	These standards could be clarified by dividing them into “permitted” and “conditional” home occupations.
28.05	Nonconforming Buildings and Uses	This section is written in a way that blurs the important distinctions between <u>nonconforming uses, buildings and lots</u> . The terminology “Building Designed or Intended for a Nonconforming Use” is confusing. Separate standards for uses, buildings and lots would help to clarify and streamline the standards.
28.06	Zoning Districts and Zoning Maps	This is a necessary section that defines districts, incorporates the Zoning Map, and determines how district boundaries are defined. The two Historic Districts listed as Special Districts should be removed, since all historic districts are defined and regulated in Article 33.
28.07	Special Districts	Most district “chapters” have introductory material, some of which is repetitive (yard requirements) or overly specific, and should be moved into “General Standards” or integrated into the relevant districts.
(2)	Conservancy District	This district includes highly detailed requirements for uses in existing or former public school buildings. The need and extent of these uses should be evaluated, and possibly

Number	Section	Issues and Recommendations
		<p>grouped into broader categories, as previously discussed. Other uses may no longer be necessary. Suggestions have been made for a “Park and Open Space” district that would apply to <u>public</u> parkland, as distinct from Conservancy, which includes privately-owned land.</p>
(3)	Agriculture District	<p>This district functions as an interim classification for lands annexed into the City, and also applies to some protected open space areas.</p>
(4)(5)	<p>Planned Community Development District (PCD)</p> <p>Planned Community Mobile Home Park District</p>	<p>PCDs are essentially similar to the Planned Unit Development (Subsection 6), with similar procedures requiring approval of a General Development Plan and a Specific Implementation Plan. However, most new planned developments use the PUD standards, which appear to offer some advantages (the PCD has somewhat more specific requirements for economic feasibility and open space preservation). Consider eliminating the PCD and merging of some of its elements with the PUD.</p>
(6)	Planned Unit Development District (PUD)	<p>PUDs are widely used throughout the City, in the Downtown and close-in neighborhoods and for master-planned developments in outlying areas. Their advantages and disadvantages have been raised and widely debated at project meetings. The PUD process allows for extensive neighborhood input, which is labor-intensive but often produces good results. With about 500 PUDs already approved, tracking changes to them has become administratively burdensome.</p> <p>It is understood that <u>PUDs will remain in the new Zoning Code as an appropriate method for large or complex projects</u>. It is also hoped that the new Code can set workable standards for smaller infill developments as an alternative to the PUD.</p> <p>Madison’s PUD regulations currently lack many standards found in similar districts in other communities, including:</p> <ul style="list-style-type: none"> • Minimum area for a PUD • Requirement for open space protection; a specified percentage of the site (on large sites) should be protected open space • Street layout; internal and external connections <p>Other desirable requirements could include:</p> <ul style="list-style-type: none"> • Provision of transit, pedestrian and bicycle facilities where appropriate

Number	Section	Issues and Recommendations
		<ul style="list-style-type: none"> Requirements to meet sustainability benchmarks such as green building design, or low-impact stormwater management. <p>By setting higher PUD standards, the City would be assured of some public benefit in exchange for its flexibility on other code requirements, and would need less extensive case-by-case negotiation.</p>
(7)	Wetland District	<p>The fact that Madison’s Wetland District is a mapped district leads to problems with delineation, since if new wetland delineations are accurate, the zoning map needs to be changed, requiring a complete rezoning process. The wetland district should be converted to an overlay district that is applied based upon wetland delineation, as is typical in most communities.</p>
<p>28.08 (1) (c)(1) (c)(2) (c)(4) (c)(5) f(1) (g)</p>	<p>Residence Districts General Requirements</p>	<p>This introductory section contains many redundant, unused or confusing provisions. For example, (c) (1) allows a minor reduction in lot area (20%) in exchange for protected open space, a provision that has only been used in two subdivisions. Subsection (c)(2) states that the lot area per dwelling unit can be reduced by 20% in exchange for providing a covenant in favor of city restricting lot (building) coverage to 0.3 in the R5 and R6 districts. It isn’t clear whether this has ever been used or what advantage it would provide.</p> <p>Other subsections impose penalties that discourage infill development. Subsection (c)(4) imposes a density penalty on small or narrow lots (less than 50 feet wide of 6,000 feet in area) in the R3 through R6 districts. Subsection (c)(5) imposes a similar penalty for lots taking access from a narrow street. These are examples of zoning provisions that work against the goals of the Comprehensive Plan, and should probably be eliminated.</p> <p>Other provisions in the section help promote context-sensitive infill development, such as (f)1, which allows averaging of adjacent front yard setbacks when these are narrower than the prescribed setback .</p> <p>The usable open space requirements are designed to allow for balconies and rooftop areas to be credited as open space for multi-family housing. As mentioned above under Definitions, the concept of Usable Open Space needs review.</p>

Number	Section	Issues and Recommendations
<p>28.08(2)</p> <p>(f)(6)</p>	<p>R1 Single-Family Residence District</p>	<p>Many of the neighborhoods built in the 1960s and 70s were designed to the standards of this district, and relatively few changes are anticipated to be needed. Areas of adjustment may include the size and placement of accessory buildings and encroachments into required yards. The issue of potential “tear-downs” has also been raised in regard to R-1: many single-family neighborhoods have much smaller houses than the zoning height and bulk regulations would permit, and compatibility of new development cannot currently be managed except through these regulations.</p> <p>Because of the “telescoping” nature of the Code, the R1 District sets the use standards for most of the following residential districts. Some of these uses should be simplified, combined or reconsidered, as discussed above under “Use Classifications.”</p> <p>Side yard setback provisions include a “depth penalty” that applies to building walls over 40 feet in length within 18 feet of the side lot line. The side yard increases in width as the building depth increases. This can make the entire building nonconforming. This issue needs further analysis to see if it can be clarified or made more flexible.</p>
<p>28.08(3)</p>	<p>R2 Single-Family Residence District</p>	<p>R2 zoning is found in distinctly different older and newer neighborhoods. Many older R2 neighborhoods are nonconforming with regard to lot width and setbacks. While the area exception process (reviewed by the Zoning Board of Appeals) has solved many problems, it may be appropriate to consider a new district for older R2 neighborhoods that would be more consistent with existing lot dimensions.</p> <p>A related question is, can the area exception process be improved or simplified? One suggestion is that its use be restricted to buildings over 50 years in age, to prevent its use for new dwellings that were built to meet the R2 standards.</p> <p>Another issue is the design of new housing in R2 – should design standards be used to ensure that garage doors don’t dominate front facades (as in the R2T District)?</p>
<p>28.08(4)</p>	<p>R3 Single-Family and Two-Family Residence District</p>	<p>Like the R2 district, the R3 district encompasses both older traditional neighborhoods, where the units are often one above the other, and newer areas, many of which have been developed largely as side-by-side duplexes. Older neighborhoods have many “undersized” lots, while some newer neighborhoods have experienced problems with upkeep and continued viability of this housing type.</p>

Number	Section	Issues and Recommendations
		<p>An area exception process has been discussed and should be considered for older R3 neighborhoods. Dimensional standards should be reviewed for potential changes. Design standards for new duplexes should also be considered to ensure that street frontages are not dominated by garage doors.</p>
<p>28.04(5)</p>	<p>R4 General Residence District</p>	<p>As the lowest-density multi-family district, the R4 district applies to both older and newer neighborhoods, but typically does not fit well with either type. Many outlying areas are not built to the maximum densities allowed. Many older R4 neighborhoods tend to feature an eclectic mix of housing types, including multi-family conversions of originally single-family houses. PUDs, Planned Residential Developments (PRDs) and variances are common in these close-in districts.</p> <p>Consideration should be given to ‘downzoning’ of some of these neighborhoods to a new category that allows a limited amount of higher-density development with form-based standards that would preserve neighborhood character.</p>
<p>28.04(6)</p>	<p>R5 General Residence District</p>	<p>The R5 District allows fairly high densities in substantial parts of downtown and campus-area neighborhoods. However, many of the campus neighborhoods are in transition as more large-scale student housing is built, making the small residential conversion multi-family buildings less desirable.</p> <p>Given the 40-foot height limit in R5, most new development has occurred as PUDs and PRDs. (PRDs are a Conditional Use that is used to allow larger multi-family developments, with review by the Urban Design Commission.)</p> <p>Most of the U-W campus is zoned R5, which has little relationship to its mix of institutional and other uses. (See later discussion of “New Districts.”) R5 is also used for multi-family development in outlying areas.</p>
<p>28.04(7)</p>	<p>R6 General Residence District</p>	<p>The R6 District is located primarily on the Isthmus, covering areas of student housing with little or no off-street parking. The maximum floor-to-area ratio of 2.0 in the R6 district would result in roughly 5-story buildings, while the PRD and PUD processes allow taller buildings (within the downtown design zones and Capitol height limits.)</p> <p>Both the R5 and R6 districts need to be analyzed in terms of their future viability, and in conjunction with the ongoing Downtown Plan process. Additional districts for higher density development may also be considered.</p>

Number	Section	Issues and Recommendations
28.04(8)	OR Office Residence District	The OR District is an explicitly mixed-use district, with R6 densities but a range of “office, businesses and professional uses,” including lodging. It is currently found only in parts of the Regent/Old University Avenue neighborhood.
28.04(9)	R4L Limited General Residence District	The origin and purpose of this district are unclear. It includes the same family definition as the R4A District, along with requirements that the rear yard be protected as usable open space with no vehicular access. It currently applies to only one lot in the City.
28.04(10)	RS Residential Shoppe District	This unusual district allows for low-density residential uses along with limited retail/service uses on arterial streets; it currently does not appear anywhere on the zoning map.
28.04(11)	R4A Limited General Residence District	The primary difference between R4A and R4 is the limit on the number of unrelated people who can occupy a dwelling – only one roomer is permitted in R4A and lower density districts, unless the dwelling is owner-occupied. The district has effectively limited student rentals in neighborhoods, but creates enforcement challenges for the City.
28.04(12)	R1-R Rustic Residence District	The R1-R district was designed to apply specifically to the Highlands neighborhood, a large-lot historic district. The main issues in this district relate to the size and height of accessory buildings. A floor area limit (all floors except for a basement and garage) of 15% of lot area seems designed to avoid out-of-scale development.
28.04(13) (15)(16) (17)	R2S, T, Y and Z Districts	<p>These districts were designed for traditional neighborhood-type development on the City’s outskirts. All have smaller lot sizes, lot widths and setbacks, but differ in the range of housing types permitted and in the placement of parking. All districts include design standards controlling garage placement, front porches, block length and other neighborhood design elements.</p> <p>In general, these districts have worked well, but have been applied in a highly detailed lot-by-lot mosaic pattern (the R2Z District, for example, is limited to 25% of the lots within a subdivision). Consideration should be given to combining them as part of a single “Traditional Neighborhood Development” district that requires a variety of housing types, mixed use and open space.</p> <p>Another issue to consider is the role of <u>secondary dwelling units</u>, allowed above detached garages in R2T and Y. There is some support for allowing units of this type within older</p>

Number	Section	Issues and Recommendations
		residential neighborhoods. Advantages of secondary units include more support for aging family members and addition of density in an unobtrusive way. Concerns include management, monitoring and parking issues.
28.04(14)	R6H General Residence District	This R6-type district sets limited height and side yards to preserve the historic and architectural character of the Mansion Hill Historic District. It is the only district where height is measured from the average finished grade at the entire perimeter of the building, an approach that may be useful elsewhere.
28.085	Office Districts: O-1 O-2 O-3 O-4	As with the residential districts, much of the introductory material in this section is redundant and unnecessary. All four districts, while allowing some mixed use, have tended to produce low-density office sites or parks, with attractive site plans but with a fairly dispersed auto-centric pattern. The O-1 and O-2 districts differ mainly in maximum building floor area: 20,000 square feet in O-1; 50,000 in O-2. Both occupy relatively small areas. O-3 and O-4 are also similar; O-4 allows limited lodging and eating options, which have given it a more highway-oriented commercial character. All the Office districts could be re-calibrated; design standards could encourage or require more pedestrian-oriented development and introduce elements of sustainable design.
28.09	Commercial Districts	Most commercial districts in Madison allow mixed use – that is, residential uses are allowed by right or as conditional uses, typically above ground floor. However, none of the commercial districts have the design standards that are typically associated with mixed-use districts (unless these are provided by Urban Design Districts or guidance from neighborhood plans). The general requirements for commercial districts include a “hidden” lot area requirement of 6,000 square feet and a 50 foot lot width (see 28.04(9) – on smaller lots, R4 requirements apply).
28.09(2)	C1 Limited Commercial District	This district seems to function effectively as a neighborhood-scale mixed-use district, with limited sizes for commercial uses, but is used in relatively few areas.
28.09(3)	C2 General Commercial District	The C2 District is somewhat ubiquitous in Madison, applying everywhere from highway-oriented large-scale commercial to the traditional shopping streets of Monroe and

Number	Section	Issues and Recommendations
		<p>Williamson. On those streets, it allows much higher intensities of use than the current pattern. In this situation, one or more new mixed-use districts could be applied to those traditional neighborhood corridors. The highway-oriented commercial areas could benefit from a different set of design standards.</p> <p>A related issue is that many of these corridors show a mixed pattern of residential and commercial uses, often within the same block, but are zoned largely commercial. How to achieve a balance between these uses, through down-zoning or careful “modulation” of this pattern, is another issue for the Code rewrite.</p>
28.09(4)	C3 Highway Commercial Districts	<p>The C3 district allows a wide range of retail uses, residential as a conditional use, and limited production and processing, making the district semi-industrial in character. Many of the areas mapped as C3 are closer to the C2 District in character, or are potential redevelopment areas.</p>
28.09(5)	C3L Commercial Service And Distribution District (Nonresidential).	<p>The C3L District prohibits residential uses, but in other respects is similar to the C3 District</p>
28.09(6)	C4 Central Commercial District	<p>The purpose of this downtown district is “to accommodate those uses which are of City-wide, regional or state significance.” No off-street parking is required. A point system is used to require a variety of housing unit sizes.</p> <p>Height requirements throughout the Downtown should be clarified, and could potentially be combined in a single ‘height map’ with form-based standards.</p>
28.10	Manufacturing Districts	<p>Many of the districts in this section are similar in uses and standards to some of the Office districts, and could be considered for consolidation. The RPSM, RDC and Office districts are used for low-density suburban office park development, and could potentially be reorganized.</p> <p>The General Requirements for this section include items that should be deleted, combined, or moved to a “Supplemental Regulations” section, such as standards for “fissionable non-fissile material.”</p>
28.10(2)	RPSM Research Park – Specialized Manufacturing District	<p>The RPSM district allows limited industrial uses and small-scale retail and services designed to serve these uses. Design review by an architectural review committee or the Urban Design Commission is required. The district appears to function well in regulating modern University-related</p>

Number	Section	Issues and Recommendations
		research parks, but could benefit from additional sustainability standards.
28.10(3)	SM Specialized Manufacturing District	The SM district was created to create industrial parks without additional office or commercial uses. It was recently amended to allow small-scale retail as an accessory use for certain high-tech industries. Architectural review is required.
28.10(4)	M1	The M1 District is a standard limited industrial district, but because it allows both commercial and industrial development, it has been extensively developed with commercial uses, leaving little land for industrial expansion. Deed restrictions have been used to restrict commercial/office uses in the Northeast Industrial Park.
28.10(4)	M2	The M2 District encompasses the City’s few remaining heavy industrial uses, as well as some vacant industrial sites. It should probably be retained, with upgraded performance standards.
28.10(4)	RDC Research and Development Center District	This new district is designed to create a more “urban” type of research park, with buildings oriented to the street and with both on-street parking and rear and side off-street parking. A minimum FAR of .35 is intended to produce more compact development. This is a good model for some of the other manufacturing districts.
28.105	Flood Plain Districts	The flood plain districts can be consolidated (bringing in the standards from the General Provisions section) and updated in format and wording, but their requirements will not change, since these are mandated by the Department of Natural Resources.
28.106	Historic District Suffixes	These “HIST” suffixes are simply a mapping convention to indicate that areas so designated are designated landmarks or local historic districts where the regulations of Chapter 33.19 apply. These provisions could be simplified and moved to the “Zoning Districts and Map” section.
28.107	Wellhead Protection Districts	These overlay districts serve an important environmental protection function, and will remain in place.
28.108	Neighborhood Conservation Districts	This new section provides the enabling legislation for establishment of Neighborhood Conservation Districts through a study and designation process. This will be a useful tool for those neighborhoods that wish to pursue more detailed context-specific design guidelines than the

Number	Section	Issues and Recommendations
		Zoning Code will provide.
28.11	Off-Street Parking and Loading Facilities	This lengthy section includes many topics of interest to project stakeholders, including bicycle parking, reduction of required parking, maximum parking caps, and shared parking requirements. The section needs reorganization and elimination of redundant or conflicting requirements. The statement of purpose should recognize the City’s interest in minimizing surface parking.
28.11 (2)(c)	Off-Street Parking Requirement Reduction	This section allows reduction of required parking through an administrative or conditional use process. One problem the City faces is the permitting of “spec” office or commercial buildings where the actual use is as yet undetermined. In these cases, it makes sense to require “proof of parking” – that is, the set-aside of sufficient land area, but not the actual construction.
(3)(d)	Shared Parking	This section does not allow reduction in shared parking. One of the typical standards (i.e., Urban Land Institute) for reduction between compatible uses (i.e. offices, residences, religious institutions) should be included.
(3)(g)	Parking in Yards	Problems arise regarding parking spaces vs. driveways <u>leading</u> to parking spaces in front and rear yards; requirements should be clarified.
(3)(h)	Design and Maintenance	Standards for pervious parking should be added. The lengthy “tree island” standards can be removed, since these would be covered in the “Landscaping” section of the Code.
(3)(k)	Maximum Number of Spaces	This parking “cap” has been controversial. One option to consider is to apply the cap to surface parking – parking can exceed the cap if it is underground or structured.
(3)(l)1	Schedule of Required Off-Street Parking Facilities Bicycle Parking <u>Addition: Mopeds</u>	Required bicycle parking is currently tied to the number of auto spaces for many uses. As the number of auto spaces declines, the bicycle parking requirement should be “detached” from this standard and based on square footage or some other measurable characteristic. The bike parking standards need review to clarify the difference between permanent bike storage in residential development and temporary bike parking. With the growing use of mopeds and similar vehicles, standards should be developed for these vehicle types.

Number	Section	Issues and Recommendations
(3)(l)(2-6)	Automobile parking requirements	<p>Parking standards based on number of employees are extremely difficult to monitor and enforce. Consider using a square-footage based standard for most nonresidential uses.</p> <p>In general, all automobile parking standards will be reviewed in light of current practice and emerging trends in this area, including incorporation of transit facilities and community vehicles.</p>
28.11(4)	Off-Street Loading Facilities	<p>These standards also need to be reviewed in light of current practice. The City currently exempts many smaller buildings from providing loading facilities by allowing loading in access aisles. The threshold for providing loading berths (5,000 square feet of floor area) could be raised to allow this practice by right.</p>
28.12	Administration and Enforcement	<p>This section contains most of the needed elements covering the roles and responsibilities of the Zoning Administrator, Zoning Board of Appeals (ZBA) and Plan Commission. It could benefit from reorganization and streamlining. The following sequence is one option:</p> <ul style="list-style-type: none"> • All general requirements, including completeness review and public hearing/notification procedures • Zoning Administrator authority, administrative review procedures • ZBA authority and procedures: appeals, variances, area exceptions • Plan Commission authority and procedures: zoning amendments, rezoning, conditional uses <p>The related roles of the Urban Design Commission and Landmarks Commission should be referenced as well.</p> <p>An appendix with flowcharts for common review processes and checklists of submittal requirements would be desirable.</p>
(5) and (6)	Zoning and Occupancy Permits	<p>These two types of permits are similar. Zoning certificates (approvals) are issued in conjunction with building permits, while occupancy permits are issued for changes in use or uses without a building (i.e., a farmers market). Consider merging the two permit types into a single zoning permit.</p>
(9)(d)	Authorized Variances	<p>This section was created to enumerate variance types that the City would authorize. In practice, there are no limits on the type of provisions from which variances may be requested, and all variances are reviewed using the same standards (Subsection (9)(c)). Therefore, this section should</p>

Number	Section	Issues and Recommendations
		be eliminated.
(11)	Conditional Uses – Limited Uses	The high number of conditional uses in the Code results in the heavy workloads for staff and Plan Commission. While the conditional use review process and standards are important to the community, some alternatives should be considered. One option is to create a category of “limited” uses with similar standards but with administrative approvals. These could require neighborhood notification but not a full-scale hearing unless the administrative decision is appealed.
(11)(k)	Planned Developments	The Planned Residential Development (PRD) is a specific type of conditional use that allows more than one building per zoning lot and allows larger numbers of dwelling units than the base districts would allow. The PRD goes through the Urban Design Commission as well as the Plan Commission for review. There is support for retaining the PRD as a type of conditional use, although, like other sections of the Code, it could be simplified.
	Addition: Site Plan Review Standards	“Site plan review” is referenced in the Zoning Code, but is not actually specified except under Subsection (5)(b), where it is called a “plat,” required for a zoning certificate. A “plot plan” is required for parking facilities. A site plan, as it is typically known, is an important component of most zoning approvals, and its requirements should be specified in this section.
	Addition: Neighborhood Review	Current practice in Madison is to strongly encourage initial meetings with neighborhood associations, and with neighborhood residents in general, but not to require them. Requirements should be added to the Code to require “proof of contact” with a registered neighborhood association as part of the submittal requirements for conditional uses, rezoning applications, and similar actions where public notification is typically required.
28.13	Negative Use Restrictions	This section was written to address a specific problem: it prohibits private restrictions (i.e., covenants or deed restrictions) on the re-use of properties for grocery store or drug store use. This section could potentially be integrated into the Administration section.

Common Variances and Area Exceptions

By reviewing the most common types of requests for variances and area exceptions we can determine those areas where the Zoning Code runs counter to property owners' desires (whether or not these desires are justifiable). A review of ZBA agendas from January 2005 through June 2008 shows a total of 222 **variance requests**, grouped into the following types (numbers do not add up to the total because many requests include more than one item). The disposition of each item (approved, denied, withdrawn) is not shown.

Type	Number	Comment
Single-family additions (1 or 2 story, attached garage, etc.)	81	
Detached accessory building (garage/shed) setbacks	31	Replacement garages are generally accepted and approved
Useable open space	23	
Elevated deck (>36" above grade)	21	Often denied; lack of hardship
Open porches	20	Generally accepted and approved
Sunroom/screen room/3-season room	18	Often denied because of lack of hardship; effects of rear yard additions on neighbors
Waterfront setback averaging	14	Difficult for ZBA to determine because each property has its own unique setback, based on 5 adjacent lots on either side; lack of common standards.
Commercial/manufacturing/multi-family	5	Setback variances usually approved; setbacks often irrelevant in these districts, except for transitional yards adjacent to residential.
Screening	4	
Lot area	2	
New single-family	2	

Setback variances for garages, elevated decks, and dwelling additions are very common, often in older housing stock.

Area exceptions (currently allowed only in the R2 District) are designed to provide flexibility on smaller lots in pre-1966 development, but are similar to variances in character. Area exception requests during the same period totaled 159, including the following types:

Type	Number	Comment
Single-family addition	108	Problems with full second story additions on existing bungalows and 1.5-story houses. Many cases are sent back for redesign.
Porch	17	Generally encouraged and approved
Elevated deck	17	
Front entry	7	
New single-family	5	
Sunroom/screen room/3-season	3	Often denied because of lack of hardship; effects

Type	Number	Comment
room		of rear yard additions on neighbors
Detached accessory building (garage/shed) setback	2	Replacement garages encouraged and approved

V. The Zoning Code and Urban Form

Character Districts



Zoning is one of the factors that shape the built environment, but it is important to recognize that many valued places within Madison predate most zoning controls. As a result, there is a mismatch between current zoning and the built environment. In order to craft zoning standards that “fit” these areas, it is important to analyze both their dimensions and their character.

The “character” of neighborhoods, commercial or mixed-use corridors, waterfronts, or other special districts, may seem like a fuzzy term, but it can in fact be defined in terms of many shared or divergent qualities of buildings, streets and landscape. The following elements are typically found in residential neighborhoods:

Buildings	<ul style="list-style-type: none"> • Alignment of buildings on the lot – are setbacks consistent? • Spacing of buildings, width of facades • Building height and roof shape • Building style • Materials and details • Accessory buildings – size, placement, design
Streets	<ul style="list-style-type: none"> • Street layout, block length • Sidewalk width and placement • Terrace width and plantings • Curb cuts, driveway position • On-street parking • Street trees
Landscape and site elements	<ul style="list-style-type: none"> • Topography • Open space and its design • Fences, hedges, plantings on lot

In commercial or mixed-use districts, building types, parking placement and landscape elements will differ, but many other features will remain the same.

While the delineation of all “character districts” in Madison is beyond the scope of this report, the following represent a sampling of districts where form-based standards will be key in achieving a good “fit” between zoning and the built environment.

District / Characteristics	Map Example	Sample Images
<p>Traditional Neighborhood, Consistent Housing Types:</p> <ul style="list-style-type: none"> • Early 20th century housing styles • Single-family, two- and three-family houses • Detached sidewalks, street trees • Detached rear yard garages where lot widths permit driveways 		
<p>Traditional Neighborhood, Varied Housing Types:</p> <ul style="list-style-type: none"> • Early 20th century housing styles, mid-century and contemporary infill • Multi-family conversions interspersed with single- and two-family; • Extensive rear yard parking • Detached sidewalks, street trees 		

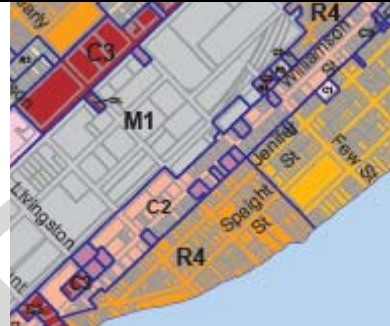
Eclectic / Transitional Neighborhood




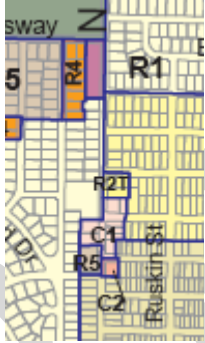


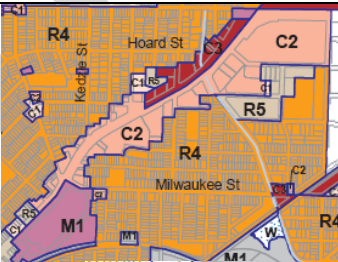
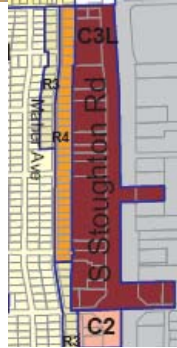


- Mix of housing styles, sizes and types
- Consistent street grid, varied streetscape and street types
- Examples include industrial areas transitioning to residential; areas of extensive higher-density infill, campus edges districts.



Traditional Shopping Street

- 1- to 3-story commercial; storefronts and front yard courts, residential conversions
- Variety of housing types; moderate scale
- Most blocks have residential intermixed with commercial
- Parking on-street, side or rear
- Sidewalks; street trees



<p>Traditional Mixed Use Corridor</p> <ul style="list-style-type: none"> • Largely commercial blocks interspersed with residential blocks • Diverse single- and multi-family housing • Parking on-street, side or rear • 2-3-story buildings predominate • Sidewalks, street trees 		
<p>Neighborhood Shopping Node</p> <ul style="list-style-type: none"> • 1-2 block length; corner commercial surrounded by residential • Free-standing commercial; parking front and side • Street orientation or strip mall design • Sidewalks interrupted by driveways 	 	 
<p>Transitional Commercial Corridor</p> <ul style="list-style-type: none"> • Areas in transition from auto-oriented commercial/industrial to mixed use or higher-density residential • Single-family residential to office conversions • Streetscape improvements increase walkability in some locations 	 	 

Lot Size Patterns and Common Nonconformities – TBA

VI. General Recommendations

In addition to the specific recommendations in Section III of this report, the following are general recommendations for the Zoning Code Rewrite.

Formatting Recommendations

Formatting standards will be developed working with the City Attorney’s office. Initial recommendations include the following:

- A higher-level hierarchy of headings should be used, so that subsection numbers don’t become overly complex. In other words, ensure that each district receives its own section number, so that subsection numbers are easier to follow. For example:

Section 28.500 (similar to the current 28.01) R-1 District

Subsections:

- (1)
 - (a)
 - 1.
 - a.

Create chapters that combine related numbered sections, i.e. Residential Districts.

- Add headers that use the section title as well as the number
- Use tables to consolidate uses, dimensional standards, and other common elements.
- Add hyperlinks in the electronic publication.

Some ordinances use different colored text and icons to indicate purpose statements, annotations (explanatory material not part of the official code) links to the Comprehensive Plan, and other enhancements. These options will also be considered.

Potential New Districts and Code Sections

Several new districts or district types and several new sections within the Zoning Code should be considered as part of the Rewrite:

Campus District	A Campus District could encompass the “core” of the UW-Madison campus north of University Avenue and Campus Drive. The “edges” of the campus may need to be dealt with through other districts and review processes.
Traditional Neighborhood Districts	As mentioned in Section III of this report, it may be appropriate to split residential districts such as R2, R3, and R4/4A into “traditional” and “suburban” districts to address the broad differences lot dimensions, in character and scale of development.
Mixed-Use Districts	Several Mixed-Use Districts should be developed to address the Neighborhood, Community and Regional scales of mixed use defined in the Comprehensive Plan. Transit-oriented development principles may be integrated into one or more of these districts or defined as a separate district type.

Parks District	A Parks District could be developed to identify the City’s large publicly-owned parks and preserves, many of which are currently zoned for other uses. Semi-public facilities such as the UW Arboretum might be included as well.
Open Space/ Natural Resources Overlay	While the present Conservancy District includes both public and private protected open space, private areas could be handled through an overlay district, which would not raise the issue of “takings” of private property. It could apply to stormwater facilities, protected open space in residential developments, golf courses, etc.
Environmental Protection Standards	Environmental standards are currently scattered throughout the Zoning Code, and many types of standards are lacking. A section of this type could include standards for protection of existing vegetation, stormwater management, shoreland standards, and similar requirements.
Supplemental Use Regulations	As mentioned above under the “General Provisions” section of the Code, many contemporary zoning codes group all standards for conditional uses, as well as for some permitted uses, in one section titled Supplemental Use Regulations. This allows quick referencing in a table of uses and hyperlinks from other locations in the Code where the uses are referred to. Note that permitted uses may also have specific standards; these are usually managed through the administrative permit process.

Form-Based Code Elements

Form-based standards will generally apply to the greatest degree in the “character districts” mentioned above, but represent an approach that can be used in many districts to represent dimensional, parking, building form and open space standards. The example below illustrates a format for a mixed-density residential district that may be adapted to Madison’s district conditions.

RM District Standards



Key

Building Placement			
Build to Line			
Front	20'	A	
Side Street	10'	B	
Rear Ancillary Building	5'	C	

Setback (Distance from Property Line)			
Side			
Rear Main Building	5'	D	
Rear Main Building	40'	E	

Building Form			
Primary St. Facade Built to BTL	50% max	F	
Side St. Facade Built to BTL	30% min	G	
Lot Width	50' max	H	
Lot Depth	150' max	I	
Distance between Buildings	10' min	J	
Depth of Ancillary Building	28' max	K	
Footprint of Ancillary building	700 sf max	L	

RM District Standards



Key

Use			
Ground Floor	Residential or Services	M	
Upper floors	Residential or Services	N	

Height			
Building Max	35'	O	
Ancillary building Max	35'	P	
Finish Ground Floor Level	18"	Q	
First Floor Ceiling Height	10'	R	
Upper Floor Ceiling Height	9'	S	

Notes

RM District Standards



Key

Parking			
Location			
Front Setback	20'	T	
Side Street	0'	U	
Side Street Setback	5'	V	
Rear Setback	5'	W	

Required Spaces			
Residential Uses	1 per unit		
Other Uses	3 per 1000 sf		

Notes

RM District Standards



Key

Encroachments			
Location			
Front	10' max	X	
Side Street	5' max	Y	

Notes

Allowed Frontage Types			
Stoop	4' min, 6' max deep		
Forecourt	20' min wide		
Porch	8' min		
Terrace	8' min deep		
Patio	8' min deep		

Notes

Integration of Related Districts

One issue that has been raised during this review of the Zoning Code is whether related non-zoning districts, such as the historic districts and urban design districts, might be fully or partially integrated with the Code. Historic districts are currently linked via the “HIST” suffixes and other cross-references, while the urban design districts are not. As form-based standards are integrated into the Zoning Code, zoning itself will become more oriented towards urban, and the relationship with the urban design districts may need to be clarified. One option to consider would be the integration of the urban design districts as overlay districts in the Zoning Code. The Urban Design Commission would continue its review of projects in these districts, in coordination with zoning and site plan review processes.

DRAFT

References and Links to Zoning Resources

City Zoning Code Updates

Denver, Colorado:

<http://www.denvergov.org/Default.aspx?alias=www.denvergov.org/ZoningSimplification>

Washington, D.C.: <http://dczoningupdate.org/default.asp>.

City of Palo Alto. Flexibility vs. Certainty: Discussion Paper (2001) <http://www.city.palo-alto.ca.us/knowzone/news/details.asp?NewsID=872&TargetID=239#Dilemma>

Philadelphia, PA: Zoning Code Reform: <http://www.zoningmatters.org/commission>

Zoning Codes worth Reviewing

Boulder, Colorado: <http://www.colocode.com/boulder2/title9.htm>

Saint Petersburg, Florida: http://www.stpete.org/development/Land_Development_Regs.asp

Saint Paul, MN: <http://mn-stpaul.civicplus.com/index.asp?NID=357>

San Antonio, TX: <http://www.sanantonio.gov/dsd/udc.asp>

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Manville, Michael and Donald Shoup. "Parking, People, and Cities." *Journal of Urban Planning and Development* © ASCE / December 2005. <http://shoup.bol.ucla.edu/People,Parking,CitiesJUPD.pdf>

A shorter article by the same authors: <http://shoup.bol.ucla.edu/People,Parking,Cities.pdf>

White, Mark. "A Model Land Development Code for the 21st Century." Conference paper, 2006.*

_____. "Classifying and Defining Uses and Building Forms: Land-Use Coding for Zoning Regulations." *Zoning Practice* 9.05, September 2005.*

_____. "Development Codes for Built Out Communities." *Zoning Practice* 8.06, August 2006.*

_____. "Unified Development Codes." *Municipal Lawyer*, July/August 2006, Vol. 47, No. 4.*

* Available on-line

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Madden, Mary E. and Bill Spikowski. "Place-Making with Form-Based Codes." *Urban Land*, September 2006. This and other articles at: <http://www.formbasedcodes.org/resource.html>