

VILLAGE OF ELM GROVE

13600 Juneau Boulevard
Elm Grove, WI 53122

LEGISLATIVE COMMITTEE

Tuesday, February 9, 2021 * 5:30 PM * Parkview Room

AGENDA

1. Call the Meeting to Order and Roll Call.

2. Review and act on meeting minutes dated 10/13/2020

Documents:

2020-10-13 LC Minutes DRAFT.pdf

3. Review and make possible recommendations on Chapter 134 Electrical Standards.

Documents:

DRAFT Electrical Standards Ch 134 (TPH).pdf

Village of Elm Grove - Delegation Conditional Approval Letter_2021.pdf

Village of Elm Grove - Delegation Denial Letter_2021.pdf

4. Review and act on amendments to §335-30 Planned Development Overlay District.

Documents:

DRAFT Planned Development Overlay District [Edits 052720].pdf

ELM GROVE Planned Development Overlay District.pdf

Shorewod Hills_PUD_10-1-33.pdf

DRAFT PUD Ordinance GEH version.pdf

5. Other Business

6. Adjournment

Any person who has a qualifying disability as defined by the Americans with Disabilities Act who requires that the meeting or materials for the meeting has to be in an accessible location or format must contact the Village Clerk, Michelle Luedtke, at 262-782-6700 or 13600 Juneau Boulevard by 3:00 PM Friday prior to the meeting so that any necessary arrangements can be made to accommodate your request.

NOTICE: It is possible that members of, and possibly a quorum of, other governmental bodies of the Village may be in attendance at the above stated meeting to gather information. No action will be

taken by any governmental body at the above stated meeting other than the governmental body specifically referred to in the above notice.

Village of Elm Grove Legislative Committee
Minutes

DRAFT

Call to Order

The meeting was called to order by the Chair at 5:32PM.

Roll Call:

Trustee Domaszek

President Palmer

Trustee Haas

Committee Member Jodie (Absent)

Committee Member Book

David De Angelis, Village Manager

Hector De La Mora, Village Attorney

Michelle Luedtke, Village Clerk

Review and act on meeting minutes dated 8/19/2020.

**MOTION BY PRESIDENT PALMER, SECOND BY COMMITTEE MEMBER BOOK, TO
ACCEPT THE MEETING MINUTES DATED 8/19/2020.**

ALL WERE IN FAVOR. MOTION CARRIED.

Review and possible action on Ordinance for Chapter 171.4 of the Municipal Code regarding the approval of Operators Licenses by the Village Clerk.

Trustee Domaszek introduced the item briefly and accepted the changes suggested by Trustee Haas and Attorney De La Mora.

Board of Trustees President Palmer indicated this is an administrative function and that this change would be cleaning up the process overall.

Trustee Haas indicated that 99% of the applications are rubber stamped. This item on the Licensing Committee is time consuming.

Chair Domaszek further indicated this would eliminate the item from the Board of Trustees meeting as well.

Committee Member Jodie was not present. The rest of the committee wished to hear the suggested changes by Committee Member Jodie. The items were read by the Clerk:

- 1.) Line 8 – change “Elm Grove Code of Ordinances is hearby” to “are hereby”
- 2.) Line 9 – change “deletion” to “removal”
- 3.) Line 19 – add a comma to the end of the sentence after the word “offense”
- 4.) Line 30 – correct the word “offense” at the end of the sentence.

Village of Elm Grove Legislative Committee
Minutes

DRAFT

The group collectively accepted the changes for line 19 and line 30. The rest of the document remained the same.

MOTION BY COMMITTEE MEMBER BOOK, SECOND BY PRESIDENT PALMER, TO APPROVE THE ORDINANCE FOR CHAPTER 171.4 OF THE MUNICIPAL CODE REGARDING THE APPROVAL OF OPERATORS LICENSES BY THE VILLAGE CLERK WITH THE NOTED CHANGES ABOVE FROM COMMITTEE MEMBER JODIE. CLEAN VERSION TO BE SENT TO THE NEXT BOARD OF TRUSTEES MEETING FOR FINAL APPROVAL.

ALL WERE IN FAVOR. MOTION CARRIED.

Other Business

Trustee Haas asked about the Chicken Ordinance and if there were any applicants.

Village Manager De Angelis indicated the Licensing and Finance Committee needs to review the fee before we can accept applications. This will be on their agenda at their next meeting.

Adjournment

There was no further business.

MOTION BY PRESIDENT PALMER, SECOND BY TRUSTEE HAAS, TO ADJOURN THE MEETING.

ALL WERE IN FAVOR. MOTION CARRIED. MEETING ADJOURNED AT 5:40PM.

Minutes transcribed by: Michelle Luedtke

Minutes Approved on:

1 *The following Code does not display images or complicated formatting. Codes should be viewed online. This*
2 *tool is only meant for editing.*

3 Chapter 134

4 Electrical Standards

5 **[HISTORY: Adopted by the Village Board of the Village of Elm Grove 3-12-1956; amended in its**
6 **entirety 9-27-2005. Subsequent amendments noted where applicable.]**

7 GENERAL REFERENCES

8 Building construction — See Ch. **106**.

9 Fire prevention — See Ch. **150**.

10 § 134-1 **Title.**

11 This chapter shall be known as the "Electrical Code of the Village of Elm Grove" and will be referred to
12 hereinafter as "this chapter."

13 § 134-2 **Purpose.**

14 The purpose of this chapter is to establish rules and regulations governing electrical installations in the
15 Village of Elm Grove.

16 § 134-3 **Electrical Inspector.**

17 The Village Board shall appoint an Electrical Inspector upon recommendation of the Village Manager
18 pursuant to Chapter **54**, § **54-3C**, who shall be certified as such by the state pursuant to §§ 101.82(2) and
19 101.88(2), Wis. Stats., concerning the inspection of public buildings and places of employment, and pursuant
20 to §§ 101.63(2) and 101.66(2), Wis. Stats., concerning the inspection of one- and two-family dwellings. It
21 shall be the duty of the Electrical Inspector to faithfully enforce all the laws and ordinances relating to
22 electrical installations. The Electrical Inspector shall maintain a record of all transactions pertaining to his or
23 her office.

24 § 134-4 **License for electricians.**

25 **[Amended 3-28-2016]**

26 No person shall alter, install, or repair electrical wires, equipment or devices for any purpose in the Village
27 without first having procured a license or registration per § 101.862(4), Wis. Stats., except for any property
28 owner meeting the requirements of § **106-3B**.

29 § 134-5 **Electrical permit.**

30 A. Required. Electrical permits shall be required for the installations identified under Wis. Admin. Code §
31 SPS 316.012(1) and in accordance with Wis. Admin. Code Table 302.35. No electrical equipment or
32 installation shall be installed, altered, renewed, replaced or connected without first obtaining an
33 electrical permit and paying the fee provided for under this chapter.

34 B. Issuance. Permits shall be issued by the Electrical Inspector upon the payment of the applicable permit
35 fee and the filing of a proper application describing the nature of the work as well as such other

37 information as may be required for inspection. Permits are valid for a period of 12 months from the date
38 of issuance, after which they shall expire and new permits shall be obtained in a manner consistent with
39 the provisions of § 106-3F(3). All fees are nonrefundable.

40 C. Inspections. All electrical work requiring a permit shall require periodic inspections, as required by the
41 Electrical Inspector.

42 D. When permits not required.

43 (1) No permit shall be required for the following:

44 (a) The repair and maintenance of portable or stationary electrical appliances and equipment previously
45 installed in compliance with state and municipal codes.

46 (b) Minor repair work such as repairing drop cords and flush and snap switches, replacing fuses or changing
47 lamp sockets.

48 (c) In single-family residences only, the extension or alteration of an existing circuit. All circuits, together
49 with extensions, shall not exceed 500 watts, nor shall the circuit exceed two outlets.

50 (2) Electrical contractor licensees shall keep a complete separate record of all work for which a permit is
51 not required, which record shall be open for inspection at all times.

52 E. Emergency work. Emergency work may be commenced without a permit, provided the licensee submits
53 a permit and pays the proper fees to the Electrical Inspector for the emergency work no later than the
54 next business day after commencement of the installation..

55 F. Revocation of permits.

56 (1) The Inspector may revoke any permit issued under this chapter and may stop construction or use of
57 approved new materials, equipment or methods of construction, devices or appliances in the event any
58 of the following occurs:

59 (a) There is a violation of any applicable legal requirements.

60 (b) The continuance of any construction becomes dangerous to life or property, as determined by the
61 Inspector.

62 (c) The Inspector determines that there is inadequate supervision provided on the construction or work site.

63 (2) Such revocation shall be effected by written notice of the same delivered to the applicant for the permit,
64 the owner of the subject premises or his or her agent or the person having charge of the construction or
65 activity which is the subject of such permit. A revocation placard shall be posted on the building or
66 structure, equipment or appliance, as the case may be. After the notice is delivered, it is unlawful for any

67 person to thereafter proceed with any construction or activity that is the subject of the permit, and the
68 revoked permit shall be null and void. Before any such construction or activity may resume, a new
69 permit shall be obtained in accordance with the provisions of this chapter.

70 § 134-6 **Permit fees.**

71 Electrical permit fees shall be as determined by resolution of the Board of Trustees.

72 § 134-7 **Installation standards.**

73 **[Amended 6-27-2016]**

74 No certificate of inspection shall be issued unless the electric light, power or heating installation and all other
75 electrical apparatus connected with it are in strict conformity with the provisions of Wisconsin
76 Administrative Code Chapter SPS 316.

77 § 134-8 **Right of entry.**

78 The Electrical Inspector shall have the authority to enter all buildings and premises during reasonable hours
79 in the discharge of his or her official duties. Nothing in this section shall be construed to prohibit the
80 acquisition of an inspection warrant in accordance with §§ 66.122 and 66.123 Wis. Stats. and § 12-4 of the
81 Village of Elm Grove Code of Ordinances, nor shall it be construed to prohibit access by way of property
82 owner and/or tenant consent.

83 § 134-9 **Adoption of state code.**

84 A. Wisconsin Administrative Code Chapter SPS 316, with amendments thereto, is hereby adopted and shall
85 be complied with by all persons, firms or corporations performing electrical work within the scope of
86 this chapter within the Village. It is the intent of the Village that all revisions to the Wisconsin State
87 Electrical Code shall be considered to be adopted by the Village as they occur and become effective
88 within the Wisconsin State Electrical Code without further revision of this chapter or action on the part
89 of the Village. **[Amended 3-28-2016]**

90 B. Installation, alterations, replacements and repairs of electrical equipment used for light, heat or power
91 shall be installed in a workable and workmanlike manner in conformity with the regulations of this
92 chapter.

93 § 134-10 **Sale of illegal equipment.**

94 No person, firm or corporation shall keep or offer for sale or sell for use within the Village of Elm Grove any
95 apparatus, equipment or fixtures designed or intended to be used for the production, transmission or
96 utilization of electrical current or power if said apparatus, equipment or fixtures, when installed for use,
97 would be in violation of any of the provisions of this chapter or would be unsafe or dangerous.

98 § 134-11 **Enforcement; violations and penalties.**

99 A. Any person or firm who or which makes application for a permit under this chapter and fails to take out
100 the permit by failing to make arrangements to accept delivery of the permit shall be deemed in violation
101 of this chapter.

102 B. Any person or firm who or which fails to notify the Electrical Inspector that the work for which the
103 permit has been procured is ready for inspection within five working days of completion of such work
104

105 shall be deemed in violation of this chapter.

106 C. Any person, firm, company or corporation who or which shall violate or assist in the violation of any of
107 the provisions of this chapter shall be subject to a penalty as provided in § **1-16** of this Code.

108

DRAFT



Tony Evers, Governor
Dawn Crim, Secretary

February 2, 2021

Tom Harrigan, Zoning & Planning Administrator
Village of Elm Grove
13600 Juneau Blvd
Elm Grove, WI 53122
tharrigan@elmgrovetwi.org

VIA EMAIL

Re: Village of Elm Grove Jurisdiction Request for Commercial Electrical Permitting and Inspecting

Dear Tom Harrigan,

I am pleased to inform you that your municipality is **CONDITIONALLY APPROVED** under Wisconsin Administrative Code § SPS 316.011(1) to exercise jurisdiction over the inspection of electrical wiring installations at farms, public buildings, places of employment, campgrounds, manufactured home communities, public marinas, piers, docks, or wharves and recreational vehicle parks.

Pursuant to Wis. Stat. §§ 101.02 (5) and (15) and 101.82 (2m), the Department conditionally delegates your municipality the primary responsibility to perform commercial electrical permitting and inspecting for all installations under Wis. Admin. Code § SPS 316.012(1)(a) to be constructed within the limits of your municipality. An exception to this delegation is that our agency retains jurisdiction for permitting and inspecting for all state-owned buildings pursuant to Wis. Stat. § 13.48(13).

As a condition of this **CONDITIONALLY APPROVED** delegation, you are required to comply with the following:

- Submit a copy of your municipality's approved ordinance to the Department, as provided in [Wis. Admin. Code § SPS 316.011\(1\)\(a\)3](#), as soon as it becomes available.
- Maintain your municipality's registration as an inspection agency.
- Provide the Department with a copy of any revisions to your municipality's electrical ordinance.
- Employ or contract with certified commercial electrical inspectors or independent inspection agencies.
- Provide the Department with any changes to the names of its certified commercial electrical inspectors and independent inspection agencies employed or contracted by the municipality.

If your municipality decides to relinquish jurisdiction, please follow the provisions of Wis. Admin. Code § SPS 316.011(1)(c) by providing the Department with a 60-day notice prior to the day upon which your municipality intends to relinquish jurisdiction.

I understand that SafeBuilt will be the electrical inspection agency responsible for enforcement and has the proper certification to do so.

Our electrical consultant for your area, Anthony Tadysak, at (262) 895-9078, is available to assist in any questions or concerns your municipality may have with implementing commercial permitting and inspecting services.

The Division of Industry Services looks forward to working with you.

Sincerely,

A handwritten signature in blue ink that reads "Michael D. McNally Jr.".

Michael D. McNally Jr.
Section Chief, Electrical Program

cc: Garry Krause, Bureau Director, Technical Services Bureau
Electrical Program Staff, Technical Services Bureau
Kati Vokovitch, SafeBuilt



Tony Evers, Governor
Dawn Crim, Secretary

January 21, 2021

Tom Harrigan, Zoning & Planning Administrator
Village of Elm Grove
13600 Juneau Blvd
Elm Grove, WI 53122
tharrigan@elmgrovewi.org

VIA EMAIL

Re: Village of Elm Grove Jurisdiction Request for Commercial Electrical Permitting and Inspecting

Dear Tom Harrigan,

Unfortunately, your municipality has not met all the requirements under the provisions of Wisconsin Administrative Code § SPS 316.011(1) to exercise jurisdiction over the inspection of electrical wiring installations at farms, public buildings, places of employment, campgrounds, manufactured home communities, public marinas, piers, docks, or wharves and recreational vehicle parks.

The following items in your ordinance conflict with Wis. Admin. Code § SPS 316.

- § 134-4 references § 106-3B for exemptions to the electrical license requirements of [Wis. Stat. § 101.862](#). Exceptions to the electrical license requirements are identified under [Wis. Stat. § 101.862\(4\)](#).
- § 134-5(B) specifies electrical permit expiration requirements that conflict with [Wis. Admin. Code § SPS 316.012\(3\)\(b\)](#), which states electrical permits shall expire 12 months after the date of issuance, if installation of the electrical wiring has not commenced.
- § 134-5(D)(1)(d) specifies that electrical installations of communication, security, and signaling systems not exceeding 49 volts are exempt from permitting requirements. Electrical permits shall be required for the installations identified under [Wis. Admin. Code § SPS 316.012\(1\)](#) and in accordance with [Wis. Admin. Code Table 302.35](#).
- § 134-5(E) specifies emergency work to be reported within 48 hours. Per [Wis. Admin. Code § SPS 316.012\(1\)\(b\)](#), a permit for the emergency work shall be submitted no later than the next business day after commencement of the installation.
- § 134-5(F) provides requirements for special permits for temporary work “that does not conform to the regulations of this chapter.” Special permits are not provided for under Wis. Admin. Code § SPS 316. All electrical permits for the installations described in [Wis. Admin. Code § SPS 316.012\(1\)\(a\)](#) shall follow the requirements of Wis. Admin. Code § SPS 316. If the installation requiring a “special permit” is not provided under [Wis. Admin. Code § SPS 316.012\(1\)\(a\)](#), reference another SPS code as appropriate.

Please revise your municipality’s ordinance to address the issues discovered by the Department and resubmit your delegation request.

If your municipality has any questions related to the Wisconsin Electrical Code Chapter SPS 316, please contact the Electrical Program Manager, Etta Strey, within the Department’s Division of Industry Services at (920) 492-2232 or etta.strey@wisconsin.gov.

Sincerely,

A handwritten signature in blue ink that reads "Michael D. McNally Jr.".

Michael D. McNally Jr.
Section Chief, Electrical Program

cc: Garry Krause, Bureau Director, Technical Services Bureau
Electrical Program Staff, Technical Services Bureau
Kati Vokovitch, SafeBuilt

DRAFT Village of Elm Grove PUD Ordinance

§ 335-30 Planned Unit Development District PUD

- A. Description and Purpose.
- B. Lot Area, Lot Width, Height, Floor Area Ratio, Yard, Usable Open Space Requirements, Land Use, Signs and Off-Street Parking Requirements.
- C. Criteria For Approval.
 - (1) Character and intensity of land use. A planned unit development district's uses and their intensity, appearance and arrangement shall be of a visual and operational character which:
 - (a) Are compatible with the physical nature of the site or area.
 - (b) Will produce an attractive environment of sustained aesthetic desirability, economic stability and functional compatibility with the Village Comprehensive Plan.
 - (c) Will not adversely affect the anticipated provision for school or other municipal service unless jointly resolved.
 - (d) Will not create a utility, traffic or parking demand incompatible with the existing or proposed facilities to serve it unless jointly resolved.
 - (e) Economic impact. A planned unit development district shall not adversely affect the economic prosperity of the Village or of surrounding properties.
 - (2) A petition for unified and planned development, redevelopment and/or rehabilitation of a site using a PDO District may encompass one or more individual lots or structures, together with allowed compatible uses and related accessory uses or structures (collectively, the "project") may be approved in accordance with this section.
 - (3) Preservation and maintenance of open space. A planned unit development district shall make adequate provision for the improvement and continuing preservation and maintenance of attractive open space.
 - (4) Implementation schedule. A planned unit development district shall include suitable assurances that each phase could be completed in a manner which would not result in an adverse effect upon the community as a result of termination at that point.
 - (5) Adherence to Comprehensive Plan. A planned unit development district shall further the Village Comprehensive Plan.
 - (6) The granting of a zoning amendment establishing a PUD District shall be discretionary.
- D. Procedural requirements.
 - (1) Conceptual review.
 - (a) All parties contemplating a request for the establishment of a PUD District shall first confer with the

Zoning and Planning Administrator prior to appearing before the Plan Commission or filing a rezoning petition and provide sufficient written details and drawings concerning the proposed project as necessary to permit an adequate staff review.

- (b) A staff review may involve other Village departments and professional consultants in the assessment of the feasibility and potential impact of the project on Village infrastructure and resources as well as its conformity with the provisions of the Village's Zoning Code.
 - (c) Any party desiring to submit a petition for the establishment of a PUD District shall, following completion of the staff review process, meet with the Village Plan Commission for a conceptual review prior to the submission of the petition.
 - (d) The purpose of the conceptual review is solely for the purpose of allowing the exchange of informal observations about a possible project while facilitating the orientation of the members of the Plan Commission and the petitioner(s) of a potential project regarding issues that may have to be addressed in the event that a petition is filed.
 - (e) All discussion about the proposed nature and scope of the contemplated project at the conceptual review by Village staff and Plan Commission members shall be nonbinding commentary and shall not, under any circumstance, vest any party with any right with respect to any development or project contemplated or discussed.
 - (f) A request for a conceptual review shall be accompanied by the payment of the fee established by Village Board resolution from time to time.
- (2) Petition. Following completion of the conceptual review, all affected real estate owners within the proposed PUD District or their agents shall file a petition with the Village Clerk for rezoning of the property as a PUD District. Such petition shall be accompanied by the review fee established by Village Board resolution from time to time and by all of the following information:
- (a) A statement that describes the relationship of the proposed PUD District to the Village's Zoning Code, adopted Master Plan (or any adopted component thereof), and describes in detail the uses requested to be included in the proposed PUD District, including the following information:
 - [1] Total area to be included in the PUD District, area of open space, the proposed number of dwelling units, together with the proposed residential unit density and details of supporting calculations in accordance with this § **335-30**, projected population analysis with details that support the assumptions used to calculate same, requirements for and availability of municipal or school district services and any other similar data pertinent to a comprehensive evaluation of the proposed development.
 - [2] A general summary of the estimated cost of constructing public and private structures and site-related improvements, landscaping and special features.
 - [3] Details about the manner in which the owners will participate in the formulation and execution of the development agreement.

- [4] Details concerning the organizational structure of the property owners' or management association proposed to be established for the purpose of providing any necessary continuing private services, implementation of the development agreement or administration of the project.
 - [5] Any proposed departures from the standards of development as set forth in the Village zoning ordinances other Village ordinances or applicable state or federal statutes or regulations.
 - [6] A realistic development timetable, including all benchmark dates from commencement to completion of physical development of the proposed project.
- (b) A general development plan including:
- [1] A legal description of the boundaries of all property included in the proposed PUD District and its relationship to surrounding properties, including existing topography on the site with contours at no greater than two-foot intervals as part of an ALTA survey.
 - [2] A detailed site plan for the entire PUD District showing:
 - [a] The type, size, arrangement, including respective use(s) and location of any individual lots, building sites and proposed structures on each individual lot.
 - [b] The location of open space areas and areas reserved or dedicated for private or public uses, including, but not limited to, easements and drainageways.
 - [c] Landscaping, exterior lighting and signage.
 - [d] The location of public and private roads, driveways and parking facilities and the calculations used to justify the number of spaces proposed.
 - [e] The existing and proposed location of public and private sanitary sewer and water supply facilities.
 - [f] The existing and proposed location of all other public and private utilities or other easements.
 - [g] Characteristics of soils related to contemplated specific uses.
 - [3] Anticipated uses of adjoining lands in regard to roads, surface water drainage and compatibility with existing adjacent land uses.
 - [4] Architectural plans, elevation and perspective drawings and sketches illustrating the character and design of all proposed structures.
- (3) Referral to Plan Commission.
- (a) The petition for a Planned Unit Development District shall be referred to the Village Plan Commission for its review and preliminary recommendation, including any additional conditions or restrictions that it may deem reasonably necessary or appropriate.

- (b) No final recommendation shall be rendered by the Plan Commission until after the holding of the public hearing provided in § **335-30G(4)**, which shall be attended by as many of the members of the Plan Commission as feasible without necessity that a quorum be achieved.
- (4) Public hearing.
 - (a) The Village Board shall hold a public hearing pursuant to § **335-79** of this chapter.
 - (b) Notice for such hearing shall include reference to the development plans filed in conjunction with the requested PUD District.
- E. Review criteria for petition.
 - (1) The Village Plan Commission, in making its preliminary and final recommendation on the petition, and the Village Board, in making its determination, shall consider whether each of the following criteria are satisfied:
 - (a) Whether the petitioner(s) for the proposed Planned Unit Development District has demonstrated:
 - [1] An intent and ability to begin the physical development of the PUD District within 18 months following the approval of the petition; and
 - [2] That the necessary financial resources to carry out the project in strict conformity with the development agreement have been obtained and committed.
 - (b) Whether the proposed Planned Unit Development District is consistent in all respects with:
 - [1] The purpose of this section and the spirit and intent of this chapter; and
 - [2] The adopted Master Plan or any adopted component thereof.
 - (2) The Village Plan Commission, in making its preliminary and final recommendations, and the Village Board, in making its decision on any proposed PUD District, shall consider the following criteria:
 - (a) The development will not be contrary to the general welfare and economic prosperity of the community.
 - (b) The proposed site is being provided with adequate drainage facilities for surface and storm waters.
 - (c) The proposed site is accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the proposed development.
 - (d) No undue constraint or burden will be imposed on public services and facilities (such as fire, EMT and police protection), street maintenance, maintenance of public areas near the proposed development and/or educational facilities.
 - (e) The private roads and driveways on the site of the proposed development are adequate to serve the users of the proposed development.

- (f) Public sanitary sewerage facilities are adequately provided.
 - (g) The entire tract or lots to be included in a Planned Unit Development District is subject to the terms and conditions of the development agreement, and the legal description encompasses said PUD District as a single area, shows all of its component lots and has been prepared to be recorded with the Register of Deeds for Waukesha County.
 - (h) The proposed project will be adequately served by appropriate off-street parking.
 - (i) The architectural design, landscaping, control of lighting and general site development will result in an attractive and harmonious project compatible without unreasonably affecting the property values of the surrounding neighborhood.
 - (j) The locations for entrances and exits have been designated to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets and that the development will not create an unreasonable adverse effect upon the general traffic pattern of the surrounding neighborhood.
 - (k) Provision has been made for the adequate and continuing operation and maintenance of all aspects of the project.
 - (l) The proposed project has, where applicable, been examined with respect to its compatibility with the nonmandatory Downtown Overlay District Site Design Guidelines set forth in § **335-12G**.
 - (3) In the case of a proposed PUD District with residential uses, the Village Plan Commission, in making its preliminary and final recommendations, and the Village Board, in making its decision on any proposed PUD District, shall also consider the following:
 - (a) Such development will provide an attractive residential environment of sustained desirability and economic stability.
 - (b) The impact of the population composition of the project upon the school district's capacity to provide needed educational services.
 - (c) Permanent preservation of open space areas as shown on the approved site plan is ensured by the creation of appropriate easements and recorded deed restrictions.
 - (d) The proposed mixture of uses produces a unified composite which is compatible within the underlying districts and which, as a total development entity, is compatible with the surrounding neighborhood.
- F. Determination.
- (1) The Village Board, after due consideration, may deny the petition, approve the petition as submitted or approve the petition subject to additional conditions and restrictions. The approval of a PUD District shall be based upon, and shall include as conditions thereto, approval of the plan of operation for the project and execution by all necessary parties to the development agreement as provided for in § **335-30J**.

- (2) Rezoning to the Planned Unit Development District shall not become effective until a development agreement has been approved by the Village Board, is fully executed by all parties and recorded with the Waukesha County Register of Deeds.
- G. Development agreement contents and demonstration of consent.
- (1) The Village Board's review and approval process shall be conditioned upon the execution by the Village Board and the applicant of the development agreement approved by the Village Board in conjunction with its approval under § **335-30I** embodying all of the terms and conditions of the specific project plan and any additional terms of implementation.
 - (2) The development agreement shall be submitted to the Plan Commission for its recommendation prior to approval by the Village Board and shall include, without limitation by reason of enumeration:
 - (a) Timetables for performance/completion of improvements;
 - (b) Performance requirements and standards and assurances for all improvements and/or modifications pertaining to the PUD District;
 - (c) Inspection requirements;
 - (d) Prohibitions on any division/combination of the real estate lots included within the PUD District except as otherwise provided, including an exception for residential condominium units;
 - (e) Provision for lapsing of specific plan approval and automatic reversion of the zoning status of the property to non-PUD District status upon specified changes of circumstances or upon failure of the project to materialize as agreed to in the development agreement;
 - (f) Agreements, bylaws, provisions and/or covenants or additional deed restrictions to be recorded against the lot(s) within the PUD District that will perpetually govern the organizational structure, use, maintenance and continued preservation and protection of the project and any of its common services, common open areas and/or other facilities; and
 - (g) Exhibits, drawings or other attachments that depict improvements, including but not limited to structures, fixtures and landscaping and their relative locations in the development area as well as design and engineering details as may be necessary to document to a reasonable degree of specificity the type, character and nature of the improvements to be made within the development area.
 - (3) Execution of the development agreement shall constitute evidence of consent and subordination of the entire project area to the terms of the development agreement. The development agreement and all agreements, bylaws, provisions covenants and/or additional deed restrictions required here under shall be recorded, shall run with all of the land included within the approved PUD District and shall fully bind all parties to such agreement and those subsequently taking interest in the property or properties.
 - (4) No approval of a PUD District shall take effect and no rights shall vest in regard to any PUD District petition approved by the Elm Grove Village Board until the development agreement and all of its

exhibits have been duly recorded with the Waukesha County Register of Deeds.

- H. Changes and additions. Any subsequent change or addition to the plans or uses of a PUD District or project located therein shall first be submitted for review to the Village of Elm Grove Plan Commission and then to the Village Board utilizing the procedural requirements, including the payment of fees, contained in § **335-30G**.
- I. Subsequent land division.
- (1) Except as otherwise provided in the development agreement, the division of any land or lands within a PUD District for the purpose of change or conveyance of ownership shall not be favored and shall not be permitted unless there is a demonstration of substantial and significant benefit to the public interest arising out of the specific land division.
 - (2) Any land division request shall be accompanied by a detailed proposed certified survey map of the lands to be divided.
 - (3) In addition to complying with any other applicable procedural requirements, any proposal for division of any land within a PUD District shall detail how the various dimensional, density, parking, green space, impervious surface, public infrastructure improvements approved pursuant to the development agreement and other requirements established by the initial granting of the PUD District will be affected or altered. Such proposal shall further demonstrate that all necessary components and obligations associated with the project, including, but not limited to, physical and legal undertakings, will be otherwise be provided so that the proposed division will not negatively impact the organizational structure, use, maintenance and continued preservation and protection of the project and any of its common services, common open areas and/or other facilities.
 - (4) The approval of any division of lands within a PUD District is discretionary.

§ 335-30. Planned Development Overlay District. [Amended 5-25-2004]

- A. Intent. The Planned Development Overlay District ("PDO District") is intended to permit development, redevelopment and rehabilitation of property through use of coordinated site planning, diversification of location of structure location and/or types and/or through mixing of compatible allowed uses. The PDO District is intended to achieve high standards of planning and construction and allow for design flexibility while, at the same time, maintaining use requirements set forth in the underlying zoning district.
- B. General provisions.
- (1) A petition for unified and planned development, redevelopment and/or rehabilitation of a site using a PDO District may encompass one or more individual lots or structures, together with allowed compatible uses and related accessory uses or structures (collectively, the "project") may be approved in accordance with this section.
 - (2) The Village may approve a specific petition for rezoning under this section after a public hearing when all regulations and standards, including but not limited to the approval, execution and recording of a development agreement as required in § 335-30J, have been met.
 - (3) All petitions for a zoning amendment establishing a PDO District shall be considered on a case-by-case basis by the Plan Commission, in making its recommendation, and by the Village Board.
 - (4) The granting of a zoning amendment establishing a PDO District shall be discretionary.
- C. Allowed uses.
- (1) Uses allowed in a PDO District are those uses expressly provided for as permitted, conditional and/or accessory uses in the underlying zoning district.
 - (2) More than one type of use may be allowed in a PDO District if the underlying zoning district allows such uses as permitted and/or conditional uses.
- D. Dimensional and stormwater management requirements.

- (1) PDO Districts shall comply at all times with MMSD District Rules and Regulations Chapter 13 relating to stormwater management requirements within the underlying zoning district.
- (2) PDO Districts may, however, deviate from the requirements of the underlying zoning district with respect to maximum building height, yard areas, lot dimensions, setbacks and parking requirements.
- (3) The density of residential units allowed in the PDO District is subject to the provisions of § 335-30F(1).
- (4) PDO Districts authorized under this section shall not contain less than the following applicable minimum acreage for a single or combination of parcels:

Uses	Minimum Acreage
Residential PDO District	5
Commercial PDO District	5
Industrial PDO District	20
Mixed Compatible Use PDO District	20
Mixed Compatible Use within the boundaries identified in § 335-12G(3)	1.5
Residential PDO District adjacent on at least one complete side to a business, office and/or manufacturing zoning district in any municipality	1.5

E. Ownership and transfer requirements.

- (1) Areas zoned as PDO Districts may be under any form of ownership arrangement (including but not limited to the Wisconsin Condominium Ownership Act [Wis. Stat. Ch. 703, as amended from time to time]) provided the total completion of the project as reflected in the development agreement approved by the Village Board of Trustees can be guaranteed.
- (2) No project or portion thereof, except a residential condominium unit therein, shall be transferred before full completion of the obligations within the development agreement without the prior written consent of the Village Board of Trustees.
- (3) All requests for consent to transfer that are approved by the Village Board shall be conditioned upon the deposit of

financial security in whatever form or amount deemed reasonably necessary by the Village Board of Trustees.

- (4) Individually developed lots or improvements thereon may be transferred at any time after execution and recording of the development agreement if allowed by the terms of the development agreement.

F. Residential density calculations.

- (1) Determination of residential density. Only one of three possible levels of residential density shall be allowed in a specific PDO District:
 - (a) The number of residential units allowed as a permitted use in the underlying zoning district; or
 - (b) The number of residential units allowed as a conditional use in the underlying zoning district, which can be less, but not more than, a maximum total density of 12 dwelling units per net acre; or
 - (c) The number of residential units allowed where an enhanced density is allowed in recognition of a project of exceptionally high overall quality as provided by § 335-30F(3).
- (2) Density calculations involving residential use. Except as otherwise allowed by this subsection, residential unit density in all PDO Districts shall be calculated by considering all land encompassed within the proposed project area.
- (3) Enhanced density.
 - (a) If, notwithstanding dimensional differentials, a proposed project uniformly contains exterior and interior materials, design details, workmanship and features of an exceptionally high quality, comparable to the highest quality tier of the Village's then current housing stock or its best commercial office structure, an "enhanced density" for residential units may be recommended by the Plan Commission and may be granted as part of the original PDO District approval process.
 - (b) If granted, the enhanced density level of residential use shall be in lieu of any other possible residential density.
 - (c) An enhanced density shall constitute a discretionary number of residential units that can be less than but not

more than a maximum total of 22 residential units per net acre.

- (d) The following criteria shall be considered by the Village Board of Trustees in determining whether to approve an enhanced density:
 - [1] Whether the project will provide better utilization of the land and better preservation of natural resources than would otherwise be realized if the site were developed either in conformity with the density requirements of the underlying district or as a PDO District without an enhanced density;
 - [2] Whether the project makes adequate provision such that an increase in residential density will not have an unreasonable adverse effect on neighboring properties, existing and/or proposed public rights-of-way and/or municipal and other public services as a result of the type, intensity and frequency of the use(s) associated with the proposed project;
 - [3] Whether the structures proposed for the project are harmonious with existing surrounding structures and land uses.
 - [4] Whether building materials have been selected and are proposed to be utilized in a manner that is harmonious with the natural environment and the general character of other buildings and structures in the vicinity of the proposed development.
 - [5] Whether the proposed project will result in the construction or upgrading of specific public infrastructure improvements that will benefit the public without cost to the Village.
 - [6] Whether the proposed project will enhance an existing structure that is deemed beneficial to the character of the neighborhood where it is situated.
- (4) Mixed Compatible Use PDO District. The residential density of a Mixed Compatible Use PDO District project shall take into account the amount of nonresidential use in the project as follows:
 - (a) The average net interior square footage of all residential units ("ARU") upon completion of the project shall be

calculated. This calculation shall not, however, include utility space, garage and areas, such as halls or other common areas, shared by all occupants.

- (b) The total interior square footage of all space devoted to nonresidential ("TNR") uses shall be calculated. This calculation shall not, however, include utility space, garage areas for customer and employee parking and, where different portions of a building are owned or rented by different entities, areas, such as halls and other common areas, that are shared by more than one such entity.
- (c) TRU is the total number of residential units anticipated upon completion of the project.
- (d) Land size is the total size of the project in net acres.
- (e) The effective residential density ("ERD") shall be calculated according to the expression:

$ERD = [TRU + (TNR/ARU)] \div \text{land size}$. The effective residential density shall not be greater than the level of residential density allowed for a project in § 335-30F(1).

G. Procedural requirements.

(1) Conceptual review.

- (a) All parties contemplating a request for the establishment of a PDO District shall first confer with the Zoning and Planning Administrator prior to appearing before the Plan Commission or filing a rezoning petition and provide sufficient written details and drawings concerning the proposed project as necessary to permit an adequate staff review.
- (b) A staff review may involve other Village departments and professional consultants in the assessment of the feasibility and potential impact of the project on Village infrastructure and resources as well as its conformity with the provisions of the Village's Zoning Code.
- (c) Any party desiring to submit a petition for the establishment of a PDO District shall, following completion of the staff review process, meet with the Village Plan Commission for a conceptual review prior to the submission of the petition.

- (d) The purpose of the conceptual review is solely for the purpose of allowing the exchange of informal observations about a possible project while facilitating the orientation of the members of the Plan Commission and the petitioner(s) of a potential project regarding issues that may have to be addressed in the event that a petition is filed.
 - (e) All discussion about the proposed nature and scope of the contemplated project at the conceptual review by Village staff and Plan Commission members shall be nonbinding commentary and shall not, under any circumstance, vest any party with any right with respect to any development or project contemplated or discussed.
 - (f) A request for a conceptual review shall be accompanied by the payment of the fee established by Village Board resolution from time to time.
- (2) Petition. Following completion of the conceptual review, all affected real estate owners within the proposed PDO District or their agents shall file a petition with the Village Clerk for rezoning of the property as a PDO District. Such petition shall be accompanied by the review fee established by Village Board resolution from time to time and by all of the following information:
- (a) A statement that describes the relationship of the proposed PDO District to the Village's Zoning Code, adopted Master Plan (or any adopted component thereof), and describes in detail the uses requested to be included in the proposed PDO District, including the following information:
 - [1] Total area to be included in the PDO District, area of open space, the proposed number of dwelling units, together with the proposed residential unit density and details of supporting calculations in accordance with this § 335-30, projected population analysis with details that support the assumptions used to calculate same, requirements for and availability of municipal or school district services and any other similar data pertinent to a comprehensive evaluation of the proposed development.
 - [2] A general summary of the estimated cost of constructing public and private structures and site-

related improvements, landscaping and special features.

- [3] Details about the manner in which the owners will participate in the formulation and execution of the development agreement.
- [4] Details concerning the organizational structure of the property owners' or management association proposed to be established for the purpose of providing any necessary continuing private services, implementation of the development agreement or administration of the project.
- [5] Any proposed departures from the standards of development as set forth in the Village zoning ordinances other Village ordinances or applicable state or federal statutes or regulations.
- [6] A realistic development timetable, including all benchmark dates from commencement to completion of physical development of the proposed project.

(b) A general development plan including:

- [1] A legal description of the boundaries of all property included in the proposed PDO District and its relationship to surrounding properties, including existing topography on the site with contours at no greater than two-foot intervals as part of an ALTA survey.
- [2] A detailed site plan for the entire PDO District showing:
 - [a] The type, size, arrangement, including respective use(s) and location of any individual lots, building sites and proposed structures on each individual lot.
 - [b] The location of open space areas and areas reserved or dedicated for private or public uses, including, but not limited to, easements and drainageways.
 - [c] Landscaping, exterior lighting and signage.
 - [d] The location of public and private roads, driveways and parking facilities and the

calculations used to justify the number of spaces proposed.

[e] The existing and proposed location of public and private sanitary sewer and water supply facilities.

[f] The existing and proposed location of all other public and private utilities or other easements.

[g] Characteristics of soils related to contemplated specific uses.

[3] Anticipated uses of adjoining lands in regard to roads, surface water drainage and compatibility with existing adjacent land uses.

[4] Architectural plans, elevation and perspective drawings and sketches illustrating the character and design of all proposed structures.

(3) Referral to Plan Commission.

(a) The petition for a Planned Development Overlay District shall be referred to the Village Plan Commission for its review and preliminary recommendation, including any additional conditions or restrictions that it may deem reasonably necessary or appropriate.

(b) No final recommendation shall be rendered by the Plan Commission until after the holding of the public hearing provided in § 335-30G(4), which shall be attended by as many of the members of the Plan Commission as feasible without necessity that a quorum be achieved.

(4) Public hearing.

(a) The Village Board shall hold a public hearing pursuant to § 335-79 of this chapter.

(b) Notice for such hearing shall include reference to the development plans filed in conjunction with the requested PDO District.

H. Review criteria for petition.

(1) The Village Plan Commission, in making its preliminary and final recommendation on the petition, and the Village Board, in making its determination, shall consider whether each of the following criteria are satisfied: **[Amended 12-21-2004]**

- (a) Whether the petitioner(s) for the proposed Planned Development Overlay District has demonstrated:
 - [1] An intent and ability to begin the physical development of the PDO District within 18 months following the approval of the petition; and
 - [2] That the necessary financial resources to carry out the project in strict conformity with the development agreement have been obtained and committed.
- (b) Whether the proposed Planned Development Overlay District is consistent in all respects with:
 - [1] The purpose of this section and the spirit and intent of this chapter; and
 - [2] The adopted Master Plan or any adopted component thereof.
- (2) The Village Plan Commission, in making its preliminary and final recommendations, and the Village Board, in making its decision on any proposed PDO District, shall consider the following criteria:
 - (a) The development will not be contrary to the general welfare and economic prosperity of the community.
 - (b) The proposed site is being provided with adequate drainage facilities for surface and storm waters.
 - (c) The proposed site is accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the proposed development.
 - (d) No undue constraint or burden will be imposed on public services and facilities (such as fire, EMT and police protection), street maintenance, maintenance of public areas near the proposed development and/or educational facilities.
 - (e) The private roads and driveways on the site of the proposed development are adequate to serve the users of the proposed development.
 - (f) Public sanitary sewerage facilities are adequately provided.

- (g) The entire tract or lots to be included in a Planned Development Overlay District is subject to the terms and conditions of the development agreement, and the legal description encompasses said PDO District as a single area, shows all of its component lots and has been prepared to be recorded with the Register of Deeds for Waukesha County.
 - (h) The proposed project will be adequately served by appropriate off-street parking.
 - (i) The architectural design, landscaping, control of lighting and general site development will result in an attractive and harmonious project compatible without unreasonably affecting the property values of the surrounding neighborhood.
 - (j) The locations for entrances and exits have been designated to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets and that the development will not create an unreasonable adverse effect upon the general traffic pattern of the surrounding neighborhood.
 - (k) Provision has been made for the adequate and continuing operation and maintenance of all aspects of the project.
 - (l) The proposed project has, where applicable, been examined with respect to its compatibility with the nonmandatory Downtown Overlay District Site Design Guidelines set forth in § 335-12G.
- (3) In the case of a proposed PDO District with residential uses, the Village Plan Commission, in making its preliminary and final recommendations, and the Village Board, in making its decision on any proposed PDO District, shall also consider the following:
- (a) Such development will provide an attractive residential environment of sustained desirability and economic stability.
 - (b) The impact of the population composition of the project upon the school district's capacity to provide needed educational services.

- (c) Permanent preservation of open space areas as shown on the approved site plan is ensured by the creation of appropriate easements and recorded deed restrictions.
 - (d) The proposed mixture of uses produces a unified composite which is compatible within the underlying districts and which, as a total development entity, is compatible with the surrounding neighborhood.
- (4) In the case of a proposed Industrial PDO District, the Village Plan Commission, in making its preliminary and final recommendations, and the Village Board, in making its decision on any proposed PDO District, shall also consider the following:
- (a) The operational character, physical plant arrangement and architectural design of structures will be compatible with the latest in industrial development design and performance standards and will not result in an adverse effect upon the property values of the surrounding neighborhood.
 - (b) The proposed project will include adequate provisions for off-street parking and truck service areas and will be adequately served by rail and/or arterial highway facilities.
 - (c) The proposed project is compatible with the available transportation system of the community and will not result in an adverse effect on the safety and efficiency of the public streets.

I. Determination.

- (1) The Village Board, after due consideration, may deny the petition, approve the petition as submitted or approve the petition subject to additional conditions and restrictions. The approval of a PDO District shall be based upon, and shall include as conditions thereto, approval of the plan of operation for the project and execution by all necessary parties to the development agreement as provided for in § 335-30J.
- (2) Rezoning to the Planned Unit Development Overlay District shall not become effective until a development agreement has been approved by the Village Board, is fully executed by all parties and recorded with the Waukesha County Register of Deeds.

- J. Development agreement contents and demonstration of consent.
- (1) The Village Board's review and approval process shall be conditioned upon the execution by the Village Board and the applicant of the development agreement approved by the Village Board in conjunction with its approval under § 335-30I embodying all of the terms and conditions of the specific project plan and any additional terms of implementation.
 - (2) The development agreement shall be submitted to the Plan Commission for its recommendation prior to approval by the Village Board and shall include, without limitation by reason of enumeration:
 - (a) Timetables for performance/completion of improvements;
 - (b) Performance requirements and standards and assurances for all improvements and/or modifications pertaining to the PDO District;
 - (c) Inspection requirements;
 - (d) Prohibitions on any division/combination of the real estate lots included within the PDO District except as otherwise provided, including an exception for residential condominium units;
 - (e) Provision for lapsing of specific plan approval and automatic reversion of the zoning status of the property to non-PDO District status upon specified changes of circumstances or upon failure of the project to materialize as agreed to in the development agreement;
 - (f) Agreements, bylaws, provisions and/or covenants or additional deed restrictions to be recorded against the lot(s) within the PDO District that will perpetually govern the organizational structure, use, maintenance and continued preservation and protection of the project and any of its common services, common open areas and/or other facilities; and
 - (g) Exhibits, drawings or other attachments that depict improvements, including but not limited to structures, fixtures and landscaping and their relative locations in the development area as well as design and engineering details as may be necessary to document to a reasonable degree of specificity the type, character and nature of the improvements to be made within the development area.

- (3) Execution of the development agreement shall constitute evidence of consent and subordination of the entire project area to the terms of the development agreement. The development agreement and all agreements, bylaws, provisions covenants and/or additional deed restrictions required here under shall be recorded, shall run with all of the land included within the approved PDO District and shall fully bind all parties to such agreement and those subsequently taking interest in the property or properties.
 - (4) No approval of a PDO District shall take effect and no rights shall vest in regard to any PDO District petition approved by the Elm Grove Village Board until the development agreement and all of its exhibits have been duly recorded with the Waukesha County Register of Deeds.
- K. Changes and additions. Any subsequent change or addition to the plans or uses of a PDO District or project located therein shall first be submitted for review to the Village of Elm Grove Plan Commission and then to the Village Board utilizing the procedural requirements, including the payment of fees, contained in § 335-30G.
- L. Subsequent land division.
- (1) Except as otherwise provided in the development agreement, the division of any land or lands within a PDO District for the purpose of change or conveyance of ownership shall not be favored and shall not be permitted unless there is a demonstration of substantial and significant benefit to the public interest arising out of the specific land division.
 - (2) Any land division request shall be accompanied by a detailed proposed certified survey map of the lands to be divided.
 - (3) In addition to complying with any other applicable procedural requirements, any proposal for division of any land within a PDO District shall detail how the various dimensional, density, parking, green space, impervious surface, public infrastructure improvements approved pursuant to the development agreement and other requirements established by the initial granting of the PDO District will be affected or altered. Such proposal shall further demonstrate that all necessary components and obligations associated with the project, including, but not limited to, physical and legal undertakings, will be otherwise be provided so that the proposed division will not negatively impact the

organizational structure, use, maintenance and continued preservation and protection of the project and any of its common services, common open areas and/or other facilities.

- (4) The approval of any division of lands within a PDO District is discretionary.

stage.

- (g) Conditions. The Plan Commission may condition approval of either the concept plan or development plan to provide for the following:
- (1) Landscaping.
 - (2) Exterior materials.
 - (3) Lighting.
 - (4) Fencing and other types of visual screening.
 - (5) Traffic circulation and access.
 - (6) Deed restrictions.
 - (7) Bulk requirements greater than those required in Article D of this Chapter.
 - (8) Parking requirements greater than those required in Article H of this Chapter.
 - (9) Maximum amount of gross floor area.
 - (10) Signage.
 - (11) Drainage.
 - (12) Other requirements deemed necessary by the Plan Commission to fulfill the purpose and intent of this Chapter.

SEC. 10-1-33 PUD PLANNED UNIT DEVELOPMENT DISTRICT.

- (a) Description and Purpose. The planned unit development district is established to provide a voluntary regulatory framework designed to encourage and promote improved environmental and aesthetic design in the Village by allowing for greater design freedom, imagination and flexibility in the development of land while insuring substantial compliance with the basic intent of this Chapter and the Village Comprehensive Plan. To further these goals, the district allows diversification and variation in the bulk and relationship of uses and structures and spaces in developments conceived as comprehensive and cohesive unified plans and projects. The district is further intended to encourage developments consistent with coordinated area site planning.
- (b) Lot Area, Lot Width, Height, Floor Area Ratio, Yard, Usable Open Space Requirements, Land Use, Signs and Off-Street Parking Requirements. In the planned unit development district there shall be no predetermined specific lot area, lot width, height, floor area ratio, yard, usable open space, land use, sign and off-street parking requirements, but such requirements as are made a part of an approved recorded specific development plan agreed upon by the owner and the Village shall be, along with the recorded plan itself, construed to be and enforced as a part of this ordinance.
- (c) Criteria For Approval. As a basis for determining the acceptability of a planned unit development district application, the following criteria shall be applied with specific consideration as to whether or not it is consistent with the spirit and intent of this ordinance and has the potential for producing significant community benefits in terms of

environmental and aesthetic design.

- (1) Character and intensity of land use. A planned unit development district's uses and their intensity, appearance and arrangement shall be of a visual and operational character which:
 - a. Are compatible with the physical nature of the site or area.
 - b. Will produce an attractive environment of sustained aesthetic desirability, economic stability and functional compatibility with the Village Comprehensive Plan.
 - c. Will not adversely affect the anticipated provision for school or other municipal service unless jointly resolved.
 - d. Will not create a utility, traffic or parking demand incompatible with the existing or proposed facilities to serve it unless jointly resolved.
 - e. Economic impact. A planned unit development district shall not adversely affect the economic prosperity of the Village or of surrounding properties.
 - (2) Preservation and maintenance of open space. A planned unit development district shall make adequate provision for the improvement and continuing preservation and maintenance of attractive open space.
 - (3) Implementation schedule. A planned unit development district shall include suitable assurances that each phase could be completed in a manner which would not result in an adverse effect upon the community as a result of termination at that point.
 - (4) Adherence to Comprehensive Plan. A planned unit development district shall further the Village Comprehensive Plan.
- (d) Procedure. A petition for a planned unit development district shall be filed with the Zoning Administrator on a form prescribed by the Zoning Administrator. The application shall be accompanied by a general development plan. Upon submission of a complete application form, general development plan and payment of the required fee, the Zoning Administrator shall forward the application to the Plan Commission.
- (1) General development plan (GDP). The plan shall include the following:
 - a. A statement describing the general character of the intended development.
 - b. An accurate map of the project area including its relationship to surrounding properties and existing topography and key features.
 - c. A plan of the proposed project showing sufficient detail to make possible the evaluation of the criteria for approval as set forth in Section 10-1-33(e).
 - d. A statement addressing relevant items under Section 10-1-33(c) above.
 - e. A general outline of the intended organizational structure related to

- property owner's association, deed restrictions and private provision of common services.
- f. An economic feasibility study of the proposed use and proof of financial capability.
 - g. When requested, any other information necessary to evaluate the proposal.
- (2) Hearing and Referral.
- a. The general development plan shall follow the rezoning process contained in Section 10-1-125(c). Notice of hearings on general development plans and modifications to such plans shall provide notice according to Section 10-1-125(c)(2)a.
 - b. Approval of the re-zoning and related general development plan shall establish the basic right of use for the area when in conformity with the plan as approved, which shall be recorded as an integral component of the district regulations, but such plan shall be conditioned upon subsequent approval of a specific development plan, and shall not make permissible any of the uses as proposed until a specific development plan is submitted and approved for all or a portion of the general development plan. If the approved general development plan, or notice thereof in a form approved by the Village, is not recorded with the Dane County Register of Deeds within twelve (12) months of the date of approval by the Board, or such other time as the Village may allow in approving the General Development Plan, the approval shall be null and void and a new petition and approval process shall be required to obtain general development plan approval. The Village Board may extend the time allotted to record a General Development Plan. Applicants shall provide proof of recordation to the Zoning Administrator. If a specific development plan for all or part of the general development plan area is not submitted to the Village within twelve (12) months of the date of approval by the Board of the general development plan the general development plan shall be null and void. If the general development plan has been recorded, the applicant may request extension of the time allotted to submit a specific development plan. Such a request shall be considered by the Plan Commission.
- (3) Specific development plan (SDP). The specific development plan shall be submitted to the Plan Commission and shall conform to the requirements of Section 10-1-108 of this Chapter. A specific development plan may be submitted for consideration concurrently with a general development plan, however, such a submittal shall clearly delineate which components are part of the GDP and which are part of the SDP, and shall include the required materials for each submittal.
- (4) Approval of the specific development plan.
- a. Following a review of the specific development plan, the Plan Commission shall recommend to the Board that it be approved as submitted, approved with modifications or disapproved.

- b. Upon receipt of the Plan Commission recommendation, the Board may approve the plan and authorize the development to proceed accordingly, modify the plan or disapprove the plan and send it back with specific objections to the Plan Commission for further negotiation with the developer.
 - c. In the event of approval of the specific development plan, the building, site and operational plans for the development, as approved, as well as all other commitments and contractual agreements with the Village offered or required with regard to project value, character and other factors pertinent to an assurance that the proposed development will be carried out basically as presented in the official submittal plans, shall be recorded by the developer within twelve (12) months of the date of approval by the Board, or such other time as the Village may allow in approving the Specific Development Plan, in the Dane County Register of Deeds Office. Applicants shall provide proof of recordation to the Zoning Administrator. This shall be accomplished prior to the issuance of any zoning permit. If the specific development plan, as approved, or notice thereof in a form satisfactory to the Village, is not recorded with the Dane County Register of Deeds and a building permit has not been acquired within twelve (12) months of the date of approval by the Board, and the Village Board has not extended the time for recording the specific development plan, the approval shall be null and void, and a new petition and approval process shall be required to obtain specific development plan approval. If the specific development plan has been recorded, the applicant may request extension of the time allotted to acquire a building permit. Such a request shall be considered by the Plan Commission.
- (5) Any subsequent change or addition to the specific development plan shall be submitted to the Zoning Administrator.
- a. Changes to signage that are in compliance with either the Village sign ordinance or the approved specific development plan and that do not result in a net addition of signage beyond the square footages that were approved in the specific development plan, may be approved administratively by the Zoning Administrator.
 - b. The Zoning Administrator shall forward other specific development plan modifications to the Plan Commission for consideration. Minor modifications to the approved SDP shall be considered by the Plan Commission. If, in the judgment of the Plan Commission, the proposed modifications constitute a major change to the SDP, the Plan Commission shall forward the application to the Village Board with a recommendation to approve, approve with conditions, or deny the application.
 - c. The Village Board shall approve, approve with conditions, or deny a major SDP modification.
- (6) The provisions of this section relating to the time for recording General

Development Plans and Specific Development Plans, and relating to changes or additions to specific development plans, shall apply to General Development Plans and Specific Development Plans approved before the effective date of this section.

The Zoning Administrator shall not issue a zoning permit or certificate of occupancy for a planned unit development district unless the application conforms to the approved recorded specific development plan.

SEC. 10-1-34 THROUGH SEC. 10-1-39 RESERVED FOR FUTURE USE.

DRAFT Village of Elm Grove PUD Ordinance

§ 335-30 Planned Unit Development District (PUD District)

A. Description and Purpose.

B. Site Requirements.

(Lot Area, Lot Width, Height, Floor Area Ratio, Yard, Usable Open Space Requirements, Land Use, Signs and Off-Street Parking Requirements)

C. Criteria For Approval.

- (1) Character and intensity of land use. A planned unit development district's uses and their intensity, appearance and arrangement shall be of a visual and operational character which:
 - (a) Are compatible with the physical nature of the site or area.
 - (b) Will produce an attractive environment of sustained aesthetic desirability, economic stability and functional compatibility with the Village Comprehensive Plan.
 - (c) Will not adversely affect the anticipated provision for school or other municipal services unless jointly resolved.
 - (d) Will not create a utility, traffic or parking demand incompatible with the existing or proposed facilities to serve the development, unless jointly resolved.
 - (e) Economic impact. A planned unit development district shall not adversely affect the economic prosperity of the Village or of surrounding properties.
- (2) A petition for development, redevelopment and/or rehabilitation of a site using a PUD District may encompass one or more individual lots or structures, together with allowed compatible uses and related accessory uses or structures (collectively, the "project") may be approved in accordance with this section.
- (3) Preservation and maintenance of open space. A planned unit development district shall make adequate provision for the improvement and continuing preservation and maintenance of attractive open space.
- (4) Implementation schedule. A planned unit development district shall include suitable assurances that each phase could be completed in a manner which would not result in an adverse effect upon the community as a result of termination at that point.
- (5) Adherence to Comprehensive Plan. A planned unit development district shall further the Village Comprehensive Plan.
- (6) The granting of a zoning amendment establishing a PUD District shall be discretionary.

41 D. Procedural requirements.

42 (1) Conceptual review.

43 (a) All parties contemplating a request for the establishment of a PUD District shall first confer with
44 the Zoning and Planning Administrator prior to appearing before the Plan Commission or filing a
45 rezoning petition and provide sufficient written details and drawings concerning the proposed
46 project as necessary to permit an adequate staff review.

47 (b) A staff review may involve other Village departments and professional consultants in the
48 assessment of the feasibility and potential impact of the project on Village infrastructure and
49 resources as well as its conformity with the provisions of the Village's Zoning Code.

50 (c) Any party desiring to submit a petition for the establishment of a PUD District shall, following
51 completion of the staff review process, meet with the Village Plan Commission for a conceptual
52 review prior to the submission of the petition.

53 (d) The purpose of the conceptual review is solely for the purpose of allowing the exchange of
54 informal observations about a possible project while informing the members of the Plan
55 Commission and the potential petitioner(s) about issues that may have to be addressed in the
56 event that a petition is filed.

57 (e) All discussion about the proposed nature and scope of the contemplated project at the conceptual
58 review by Village staff and Plan Commission members shall be nonbinding commentary and
59 shall not, under any circumstance, vest any party with any right with respect to any development
60 or project contemplated or discussed.

61 (f) A request for a conceptual review shall be accompanied by the payment of the fee established by
62 Village Board resolution from time to time.

63 (2) Petition. Following completion of the conceptual review, all affected real estate owners within the
64 proposed PUD District or their agents shall file a petition with the Village Clerk for rezoning of the
65 property as a PUD District. Such petition shall be accompanied by the review fee established by
66 Village Board resolution from time to time and by all of the following information:

67 (a) A statement that describes the relationship of the proposed PUD District to the Village's Zoning
68 Code, Downtown Master Plan (or any adopted component thereof) and the Downtown Overlay
69 District Site Design Guidelines set forth in § **335-12G**, and describes in detail the uses requested
70 to be included in the proposed PUD District. The statement shall include the following
71 information:

72 [1] The amount of total area to be included in the PUD District, the amount of area of open
73 space, the amount area of business uses, the proposed number of dwelling units, together
74 with the proposed residential unit density and details of supporting calculations in accordance
75 with this § **335-30**, projected population analysis with details that support the assumptions
76 used to calculate same, requirements for and availability of municipal or school district
77 services and any other similar data pertinent to a comprehensive evaluation of the proposed
78 development.

- 79 [2] A general summary of the estimated cost of constructing public
80 and private structures, new Village infrastructure, and site-related improvements,
81 landscaping and special features.
- 82 [3] Details about the manner in which the petitioner(s) and property owners will participate in
83 the formulation and execution of the development agreement.
- 84 [4] Details concerning the organizational structure of the property owners' or management
85 association proposed to be established for the purpose of providing any necessary continuing
86 private services, implementation of the development agreement or administration of the
87 project.
- 88 [5] Any proposed departures from the standards of development as set forth in the Village
89 zoning ordinances, other Village ordinances, and applicable state and federal statutes and
90 regulations.
- 91 [6] A realistic development timetable, including all benchmark dates from commencement to
92 completion of physical development of the proposed project.
- 93 (b) A general development plan that includes:
- 94 [1] A legal description of the boundaries of all property included in the proposed PUD District
95 and its relationship to surrounding properties, including existing topography on the site with
96 contours at no greater than two-foot intervals as part of an ALTA survey.
- 97 [2] A detailed site plan for the entire PUD District showing:
- 98 [a] The type, size, arrangement, including respective use(s) and location of any individual
99 lots, building sites and proposed structures on each individual lot.
- 100 [b] The location of open space areas and areas reserved or dedicated for private or public
101 uses, including, but not limited to, easements, stormwater management facilities and
102 drainageways.
- 103 [c] Landscaping, exterior lighting and signage.
- 104 [d] The location of public and private roads, driveways and parking facilities with
105 calculations used to justify the number of parking spaces proposed, as well as the total
106 amount of impervious surface areas thereof.
- 107 [e] The existing and proposed location of public and private sanitary sewer and water supply
108 facilities.
- 109 [f] The existing and proposed location of all other public and private utilities and other
110 easements.
- 111 [g] Characteristics of soils related to contemplated specific uses.

112 [3] Anticipated uses of adjoining lands in regard to roads, surface
113 water drainage and compatibility with existing adjacent land uses.

114 [4] Architectural plans, elevation and perspective drawings and sketches illustrating the character
115 and design of all proposed structures.

116 (3) Referral to Plan Commission.

117 (a) The petition for a Planned Unit Development District shall be referred to the Village Plan
118 Commission for its review and preliminary recommendation, including any additional conditions
119 or restrictions that it may deem reasonably necessary or appropriate.

120 (b) No final recommendation shall be rendered by the Plan Commission until after the holding of the
121 public hearing provided in § **335-30G(4)**, which shall be attended by as many of the members of
122 the Plan Commission as feasible without necessity that a quorum be achieved.

123 (4) Public hearing.

124 (a) The Village Board shall hold a public hearing pursuant to § **335-79** of this chapter.

125 (b) Notice for such hearing shall include reference to the development plans filed in conjunction with
126 the requested PUD District.

127 E. Review criteria for petition.

128 (1) The Village Plan Commission, in making its preliminary and final recommendation on the petition,
129 and the Village Board, in making its determination, shall consider whether each of the following
130 criteria are satisfied:

131 (a) Whether the petitioner(s) for the proposed Planned Unit Development District has demonstrated:

132 [1] An intent and ability to begin the physical development of the PUD District within 18 months
133 following the approval of the petition, and to complete the project within the development
134 timetable; and

135 [2] That the necessary financial resources to carry out the project in strict conformity with the
136 development agreement have been obtained and committed.

137 (b) Whether the proposed Planned Unit Development District is consistent in all respects with:

138 [1] The purpose of this section and the spirit and intent of this chapter; and

139 [2] The Downtown Master Plan or any adopted component thereof .

140 [3] The non-mandatory Downtown Overlay District Site Design Guidelines set forth in § **335-**
141 **12G**.

142 (2) The Village Plan Commission, in making its preliminary and final recommendations, and the Village
143 Board, in making its decision on any proposed PUD District, shall consider the following criteria:

- 144 (a) The development will not be contrary to the general welfare and
145 economic prosperity of the community.
- 146 (b) The proposed site will be provided with adequate drainage facilities for surface and storm waters
147 and will comply with MMSD rules and regulations related to storm water management.
- 148 (c) The proposed site is accessible from public roads that are adequate to carry the traffic that can be
149 expected to be generated by the proposed development. The entrances and exits have been
150 located to prevent unnecessary interference with the safe and efficient movement of traffic on
151 surrounding streets and that the development will not create an unreasonable adverse impact
152 upon the general traffic pattern of the surrounding neighborhood.
- 153 (d) The private roads and driveways on the site of the proposed development are adequate to serve
154 the users of the proposed development.
- 155 (e) No undue constraint or burden will be imposed on public services and facilities (such as fire,
156 EMT and police protection), street maintenance, maintenance of public areas near the proposed
157 development and/or educational facilities.
- 158 (f) Potable water and public sanitary sewerage facilities are adequately provided.
- 159 (g) The entire tract or lots to be included in a Planned Unit Development District is subject to the
160 terms and conditions of the development agreement, and the legal description encompasses said
161 PUD District as a single area, shows all of its component lots and has been prepared to be
162 recorded with the Register of Deeds for Waukesha County.
- 163 (h) The proposed project will be adequately served by appropriate off-street parking.
- 164 (i) The architectural design, landscaping, control of exterior lighting and general site development
165 will result in an attractive and harmonious project compatible without unreasonably affecting the
166 property values of the surrounding neighborhood.
- 167 (j) {moved to ¶E.(2)(c)}
- 168 (j) Provision has been made for the adequate and continuing operation and maintenance of all
169 aspects of the project.
- 170 (k) {moved to ¶E.(1)(b)[3]}
- 171 (3) In the case of a proposed PUD District with residential uses, the Village Plan Commission, in
172 making its preliminary and final recommendations, and the Village Board, in making its decision on
173 any proposed PUD District, shall also consider the following:
- 174 (a) Such development will provide an attractive residential environment of sustained desirability and
175 economic stability.
- 176 (b) The impact of the population composition of the project upon the school capacity to provide
177 needed educational services.

- 178 (c) Permanent preservation of open space areas as shown on the
179 approved site plan is ensured by the creation of appropriate easements and recorded deed
180 restrictions.
- 181 (d) The proposed mixture of uses produces a unified composite which is compatible within the
182 underlying districts and which, as a total development entity, is compatible with the surrounding
183 neighborhood.
- 184 F. Determination.
- 185 (1) The Village Board, after due consideration, may deny the petition, approve the petition as submitted
186 or approve the petition subject to additional conditions and restrictions. The approval of a PUD
187 District shall be based upon, and shall include as conditions thereto, approval of the plan of
188 operation for the project and execution by all necessary parties to the development agreement as
189 provided for in § **335-30J**.
- 190 (2) Rezoning to the Planned Unit Development District shall not become effective until a development
191 agreement has been approved by the Village Board, is fully executed by all parties and recorded with
192 the Waukesha County Register of Deeds.
- 193 G. Development agreement contents and demonstration of consent.
- 194 (1) The Village Board's review and approval process shall be conditioned upon the execution by the
195 Village Board and the applicant of the development agreement approved by the Village Board in
196 conjunction with its approval under § **335-30I** embodying all of the terms and conditions of the
197 specific project plan and any additional terms of implementation.
- 198 (2) The development agreement shall be submitted to the Plan Commission for its recommendation prior
199 to approval by the Village Board and shall include, without limitation by reason of enumeration:
- 200 (a) Timetables for performance/completion of improvements;
- 201 (b) Performance requirements and standards and assurances for all improvements and/or
202 modifications pertaining to the PUD District;
- 203 (c) Inspection requirements;
- 204 (d) Prohibitions on any division/combo of the real estate lots included within the PUD District
205 except as otherwise provided, including an exception for residential condominium units;
- 206 (e) Provision for lapsing of specific plan approval and automatic reversion of the zoning status of the
207 property to non-PUD District status upon specified changes of circumstances or upon failure of
208 the project to materialize as agreed to in the development agreement;
- 209 (f) Agreements, bylaws, provisions and/or covenants or additional deed restrictions to be recorded
210 against the lot(s) within the PUD District that will perpetually govern the organizational
211 structure, use, maintenance and continued preservation and protection of the project and any of
212 its common services, common open areas and/or other facilities; and

- 213 (g) Exhibits, drawings or other attachments that depict improvements,
214 including but not limited to structures, fixtures and landscaping and their relative locations in the
215 development area as well as design and engineering details as may be necessary to document to a
216 reasonable degree of specificity the type, character and nature of the improvements to be made
217 within the development area.
- 218 (3) Execution of the development agreement shall constitute evidence of consent and subordination of
219 the entire project area to the terms of the development agreement. The development agreement and
220 all agreements, bylaws, provisions covenants and/or additional deed restrictions required here under
221 shall be recorded, shall run with all of the land included within the approved PUD District and shall
222 fully bind all parties to such agreement and those subsequently taking interest in the property or
223 properties.
- 224 (4) No approval of a PUD District shall take effect and no rights shall vest in regard to any PUD District
225 petition approved by the Elm Grove Village Board until the development agreement and all of its
226 exhibits have been duly recorded with the Waukesha County Register of Deeds.
- 227 H. Changes and additions. Any subsequent change or addition to the plans or uses of a PUD District or
228 project located therein shall first be submitted for review to the Village of Elm Grove Plan Commission
229 and then to the Village Board utilizing the procedural requirements, including the payment of fees,
230 contained in § **335-30G**.
- 231 I. Subsequent land division.
- 232 (1) Except as otherwise provided in the development agreement, the division of any land or lands within
233 a PUD District for the purpose of change or conveyance of ownership shall not be favored and shall
234 not be permitted unless there is a demonstration of substantial and significant benefit to the public
235 interest arising out of the specific land division.
- 236 (2) Any land division request shall be accompanied by a detailed proposed certified survey map of the
237 lands to be divided.
- 238 (3) In addition to complying with any other applicable procedural requirements, any proposal for
239 division of any land within a PUD District shall detail how the various dimensional, density,
240 parking, green space, impervious surface, public infrastructure improvements approved pursuant to
241 the development agreement and other requirements established by the initial granting of the PUD
242 District will be affected or altered. Such proposal shall further demonstrate that all necessary
243 components and obligations associated with the project, including, but not limited to, physical and
244 legal undertakings, will be otherwise be provided so that the proposed division will not negatively
245 impact the organizational structure, use, maintenance and continued preservation and protection of
246 the project and any of its common services, common open areas and/or other facilities.
- 247 (4) The approval of any division of lands within a PUD District is discretionary.