

12.26-6 RC RURAL CLUSTER DEVELOPMENT OVERLAY DISTRICT (8/6/02)

(a) Primary Purpose and Characteristics.

The purpose of the RC Rural Cluster Development Overlay District is to preserve rural landscape character, sensitive natural areas, farmland and other large areas of open land, while permitting residential development at low, rural densities, in an open space setting, located and designed to reduce the perceived intensity of development and provide privacy for dwellings. Specific objectives are as follows:

- 1 To maintain and protect rural character by preserving important landscape elements, including those areas containing unique and environmentally sensitive natural features such as woodlands, hedgerows, stream corridors, wetlands, floodplains, shorelands, prairies, ridge tops, steep slopes, and critical species habitat by setting them aside from development. Such areas are contained in primary environmental corridors as identified by the Southeastern Wisconsin Regional Planning Commission and are of particular significance for conservation.
- 2 To preserve scenic views and to minimize views of new development from existing streets.
- 3 To provide for the unified and planned development of clustered, single-family, low density residential uses, incorporating large areas of permanently protected common open space.
- 4 To provide for greater design flexibility in the siting of dwellings and other development features than would be permitted by the application of standard district regulations in order to minimize the disturbance of the rural landscape elements, scenic quality, and overall aesthetic value of the landscape.
- 5 To increase flexibility and efficiency in the siting of services and infrastructure, by reducing street length, utility requirements, drainage requirements, and the amount of paving required for residential development, where possible.
- 6 To create groups of dwellings with direct visual and physical access to common open space.
- 7 To permit active and passive recreational use of common open space by residents of developments within this district and by the public, when appropriate.
- 8 To reduce erosion and sedimentation by the retention of existing vegetation, and the minimization of development on steep slopes.
- 9 To allow for the continuation of agricultural uses in those areas best suited for such activities and when such activities are compatible with adjoining residential uses.
- 10 To permit various means for owning common open space and for protecting it from development in perpetuity.
- 11 To create an attitude of stewardship for the land within common open space by requiring a land management plan for the common open space.
- 12 To implement the objectives of any applicable adopted comprehensive plan or comprehensive plan component.

(b) RC Rural Cluster Development District Designation.

An RC Rural Cluster Development District designation may be placed on any site in the A-2, R-1 and C-2 Districts meeting the minimum tract size requirements specified in Section 12.26-6(g).

(c) Principal Uses.

- 1 Clustered single-family detached dwellings.
 - 2 Single-family farmstead dwellings with associated agricultural structures as listed in Section 12.26-6(c) 6.f.
 - 3 Community living arrangements having a capacity for 8 or fewer persons and which shall be in conformance with all state statutory requirements.
 - 4 Essential services.
 - 5 Foster family homes having less than 4 foster children and not exceeding 8 total occupants and which are in conformance with all state statutory requirements.
 - 6 Common open space for cluster development with uses permitted as follows:
 - a Conservation of land in its natural state (for example, woodland, fallow field, or managed meadow.)
 - b Game farm, fish hatchery, hunting and fishing preserve, wildlife sanctuary, forest preserve, or similar uses designated for the protection and propagation of wildlife.
 - c Agricultural uses, including the cultivation, harvesting and sale of crops and related farm products, the raising and sale of livestock or fowl, along with associated pasture and barnyards, orchards, nurseries, greenhouses and related horticultural activities.
 - d Pasture for recreational horses.
 - e Growing and sale of Christmas trees.
 - f Agricultural structures such as barns, silos, storage sheds, cribs, coops, and stables.
 - g Interior cluster group open space.
 - h Passive recreation, including, but not limited to, hiking trails, bicycle or bridle trails, picnic areas, community gardens, and lawn area.
 - i Active recreation, including, but not limited to, playing fields, playgrounds and courts.
 - j Parking areas where necessary to serve active recreation facilities.
 - k Easements for access, drainage, sewer and water lines, or other public purposes.
 - l Storm water management facilities including detention and retention basins.
 - m Water supply and sewerage systems for individual lots, cluster groups, or the entire development.
 - n Utility and street rights-of-way except that their land areas shall not count toward the minimum open space requirement.
- (d) The following uses and activities are prohibited in common open space:
- 1 Use of motor vehicles except on approved roads, driveways and parking areas. Maintenance, law enforcement, emergency and farm vehicles are exempt from this provision.
 - 2 Cutting of healthy trees, regrading, cutting and filling, topsoil removal, altering, diverting or modifying water courses or water bodies, except in compliance with a land management plan for the tract, conforming to customary standards of forestry, erosion control and engineering.
 - 3 Intensive animal feed lot operations.
- (e) Permitted Accessory Uses.

- 1 Accessory structures such as detached garages, sheds and boathouses (see also section 12.27-6)
- 2 Home occupations and professional home offices.
- 3 Small wind energy system
- 4 Solar energy system
- 5 Swimming pools and spas (see also section 12.17)
- 6 Fences (see also section 12.15-2)

(f) Conditional Uses.

- 1 Community living arrangements having 9 but not more than 15 persons which shall be in conformance with all state statutory requirements.
- 2 Model single-family homes and related real estate sales office located within the model unit
- 3 Utility substations.
- 4 Large wind energy system
- 5 Golf courses.
- 6 Community swimming pools.
- 7 Community center for the use of residents of the cluster development.

(g) Density and Dimensional Standards.

- 1 For residential dwelling with individual on-site sewage disposal absorption systems:

Development Standard	A-2 District	R-1 District and C-2 District
Minimum tract size	50 acres	25 acres
Maximum density [1]	1 du/10 acres	1 du/5 acres
Minimum lot area [2]	80,000 sq. ft.	40,000 sq. ft.
Minimum lot width [3]	200 feet	150 feet
Street yard	75 feet	50 feet
Shore yard	Not less than 75 feet from the ordinary high water mark of any navigable water	Not less than 75 feet from the ordinary high water mark of any navigable water
Side yard [4]	50 feet	25 feet
Rear yard	75 feet	50 feet
Accessory buildings setback and size regulations [5]	See section 12.27-6	See section 12.27-6
Minimum common open space [6]	60 percent	60 percent
Maximum building height (excluding agricultural structures)	35 feet	35 feet
Maximum building coverage (percentage of individual lot)	10 percent	10 percent

- a Existing dwellings that may or may not be part of a farmstead shall be counted towards the total density. For the purposes of this section, acres refers to gross

land area including all lands within the tract, except existing street, railroad, and utility rights-of-way. Only 20 percent of wetlands and floodplain may be counted toward the calculation of density.

- b For an existing farmstead on a tract used for cluster development, the minimum lot area shall be 5 acres or a lot large enough to accommodate all structures within a building envelope created by a 100-foot setback from all sides of the lot, whichever is larger. For farmsteads with livestock, the setback shall be increased to 200 feet.
- c Lot frontage may be reduced on lots located on a cul-de-sac or curve to 100 feet of frontage in the A-2 District and 80 feet in the R-1 and C-2 Districts provided there is at least 200 feet of width at the required setback line in the A-2 District and 150 feet in the R-1 and C-2 Districts.
- d When dwelling units are not located on individual lots, such as in a condominium development, they shall be separated from one another by a minimum distance of 100 feet in the A-2 District and 50 feet in the R-1 and C-2 Districts.
- e Accessory buildings are not permitted in front yards.
- f In the calculation of common open space areas, the following shall be excluded: private lot areas, public or private street and highway rights-of-way, railroad and utility rights-of-way, parking areas, and areas not meeting the requirements of Subsection 12.26-6(j) 9.

2 For residential dwellings with public sanitary sewer:

Development Standard	A-2, R-1 and C-2 Districts
Minimum tract size	A-2 District: 50 acres R-1 and C-2 Districts: 25 acres
Maximum density [1]	A-2 District: 1 du/10 acres R-1 and C-2 Districts: 1 du/5 acres
Minimum lot area [2]	20,000 square feet
Minimum lot width [3]	100 feet
Street yard	30 feet
Shore yard	Not less than 75 feet from the ordinary high water mark of any navigable water
Side yard [4]	10 feet minimum one side 20 feet both sides
Rear yard	25 feet
Accessory building setback from side and rear lot lines [5]	See Section 12.27-6
Minimum common open space [6]	70 percent
Maximum building height (excluding agricultural structures)	35 feet
Maximum building coverage (percentage of individual lot)	15 percent

- a Existing dwellings that may or may not be part of a farmstead shall be counted towards the total density. For the purposes of this section, acres refers to gross land area including all lands within the tract, except existing street, railroad, and

utility rights-of-way. Only 20 percent of wetlands and floodplain may be counted toward the calculation of density.

- b For an existing farmstead on a tract used for cluster development, the minimum lot area shall be 5 acres or a lot large enough to accommodate all structures within a building envelope created by a 100-foot setback from all sides of the lot, whichever is larger. For farmsteads with livestock, the setback shall be increased to 200 feet.
- c Lot frontage may be reduced on lots located on a cul-de-sac or curve to 50 feet of frontage provided there is at least 100 feet of width at the required setback line.
- d When dwelling units are not located on individual lots, such as in a condominium development, they shall be separated from one another by a minimum distance of 60 feet.
- e Accessory buildings are not permitted in front yards.
- f In the calculation of common open space areas, the following shall be excluded: private lot areas, public or private street and highway rights-of-way, railroad and utility rights-of-way, parking areas, and areas not meeting the requirements of Subsection 12.26-6(j) 9.

(h) Separation Distances for Cluster Groups.

- 1 The outer boundaries of all cluster groups shall conform to the following separation distances:

From abutting arterial street proposed rights-of-way or from scenic roads, if defined in a town comprehensive plan of comprehensive plan component	100 feet
From all other external street proposed rights-of-way	50 feet
From all tract boundaries	100 feet
From cropland or pasture land	100 feet
From barnyards or buildings housing livestock	300 feet
From other cluster groups	100 feet
From wetlands, floodplains, or watercourses	35 feet
From active recreation areas, such as courts or playing fields	100 feet

- 2 All separation areas for cluster groups along existing streets shall be landscaped in accordance with Section 14.08-15 of the Kenosha County Land Division Control Ordinance in order to block views of new residential development, preserve scenic views, and to protect rural landscape character.

- 3 The dimensional standards in Section 12.26-6(h) 1 may be reduced as follows:

- a The separation distances along existing arterial streets and tract boundaries may be reduced to a minimum of 50 feet if the applicant can demonstrate that existing vegetation, topography or a combination of these form an effective visual screen.
- b All other separation distances may be reduced up to 50 percent if the applicant can demonstrate that such reduced setbacks improve the plan's compliance

with the cluster group design standards in Section 12.26-6(j), the intent of this ordinance, and the objectives of any applicable comprehensive plan or comprehensive plan component.

(i) Design Standards for Cluster Groups.

- 1 All dwelling shall be grouped in clusters groups, each of which shall contain at least 2 but not more than 12 units and shall be surrounded by common open space.
- 2 Cluster groups may contain more than 12 units, and cluster groups may be assembled into larger groupings not separated by common open space, provided that the applicant can demonstrate that such an alternative plan is more appropriate for the tract and will meet both the general intent and design standards of this ordinance.
- 3 A plat may contain one or more cluster groups.
- 4 Cluster groups shall be defined by the outer perimeter of contiguous lotted areas or abutting streets, and may contain lots, streets, and interior open space. When the development does not contain individual lots, as in a condominium, the outer perimeter shall be defined as an area encompassed by a line drawn around the units, no point of which is closer to any unit than 100 feet.
- 5 The outer boundaries of each cluster group shall meet the separation distances specified in Section 12.26-6(h).
- 6 Cluster groups shall be defined and separated by common open space in order to provide direct access to common open space and privacy to individual lot or yard areas. Cluster groups may be separated by streets if the street right-of-way is designed as a boulevard.
- 7 All lots in a cluster group shall take access from interior streets.
- 8 All lots in a cluster group shall abut common open space to the front or rear for a distance of at least 50 feet. Common open space across a street shall qualify for this requirement.
- 9 In locating cluster groups, disturbance to woodlands, hedgerows, and individual mature trees shall be minimized. However, when the objective is to preserve prime agricultural soils and large areas of contiguous land suitable for agricultural use, dwellings may be located within woodlands, provided that no more than 20 percent of a single wooded lot is cleared for the construction of a dwelling, driveway, garage, storage building, well, and onsite soil absorption system.
- 10 Street trees shall be required in cluster groups at a minimum rate of one 2-inch caliper tree per dwelling unit and shall comply with the requirements of Section 14.08-15 of the Kenosha County Land Division Control Ordinance.

(j) Design Standards for Common Open Space

- 1 The location of common open space shall be consistent with the objectives of any applicable comprehensive plan or comprehensive plan component.
- 2 All open space areas shall be part of a larger contiguous and integrated open space system. At least 75 percent of the common open space shall be contiguous to another common open space area. For the purpose of this section, contiguous shall be defined as located within 100 feet across which access is possible, for example on opposite sides of an internal street.

- 3 Common open space shall, to the greatest extent possible, protect site features identified in the site inventory and analysis as having particular value in the context of preserving rural character, in compliance with the intent of this ordinance. Primary and secondary environmental corridors and isolated natural areas as identified by the Southeastern Wisconsin Regional Planning Commission are of particular significance for protection.
- 4 Natural features shall generally be maintained in their natural condition, but may be modified to improve their appearance, or restore their overall condition and natural processes, as recommended by professionals in the area being modified. Permitted modifications may include woodland management, reforestation, meadow management, wetlands management, stream bank protection, and buffer area landscaping.
- 5 All wetland, floodplain, unique wildlife habitat areas, steep slopes over 12 percent, 100 percent of lowland environmental corridor and at least 80 percent of upland primary environmental corridors shall be contained in common open space.
- 6 Common boundaries with existing or future open space on adjacent tracts, when shown in an applicable comprehensive plan or comprehensive plan component, shall be established whenever possible.
- 7 To preserve scenic views, ridge tops and hill tops should be contained within common open space wherever possible. Trees shall not be removed from ridge tops or hill tops.
- 8 At least 80 percent of the area of existing woodlands shall be contained within common open space; 20 percent of the area of existing woodlands may be used for lot areas and residential development. This limitation may be exceeded under the following conditions:
 - a The site is primarily wooded and development at permitted density would not be possible without encroaching further on woodlands.
 - b Any encroachment on woodlands beyond 20 percent shall be the minimum needed to achieve maximum permitted density.
- 9 No common open space shall be less than 10,000 square feet in area, with the exception of landscape islands in cul-de-sac streets, and not less than 30 feet in width at any point. Open space not meeting this standard shall not be counted toward the total required percentage of common open space.
- 10 The boundaries of common open space shall be marked by natural features wherever possible, such as hedgerows, edges of woodlands, streams, or individual large trees. Where no such natural demarcations exist, additional plantings, fences, or other landscape features shall be added to enable residents or the public, if applicable, to distinguish where common open space ends and private lot areas begin. Where structural demarcations, such as fences or fence posts, are used, they shall be the minimum needed to accomplish the objective.
- 11 Trails in common open space that are located within 50 feet of homes in cluster groups shall be identified by plantings, fences, or other landscape features.
- 12 Under no circumstances shall all common open space be isolated in one area of the development. Common open space shall be distributed appropriately throughout the development to properly serve and enhance all dwelling units, cluster groups, and other common facilities.

- 13 Common open space shall include lands located along existing public roadways in order to preserve existing rural landscape character as seen from these roadways, and shall, in no case, contain less than the required buffer, setback area, or separation distance.
- 14 Safe and convenient pedestrian access and access for maintenance purposes shall be provided to common open space areas that are not used for agricultural purposes, in accordance with the following:
 - a At least one access point per cluster group shall be provided, having a width equal to or greater than the minimum width of a lot within the cluster group. This width may be reduced to no less than 50 feet if the applicant can demonstrate that, due to natural site constraints, meeting the lot width requirement would run counter to the objectives of this ordinance.
 - b Access to common open space used for agriculture may be restricted for public safety and to interference with agricultural operations.

(k) Ownership and Maintenance of Common Facilities and Open Space.

- 1 The following methods may be used, either singly or in combination, to own common facilities. Common facilities shall not be transferred to another entity except for transfer to another method of ownership permitted under this section, and then only when there is no change in the common facilities. Ownership methods shall conform to the following:
 - a Homeowners Association.
Common facilities shall be held in common ownership as undivided proportionate interests by the members of a homeowners association, subject to the provisions set forth herein. The homeowners association shall be governed according to the following:
 - 1) The applicant shall provide to the Kenosha County Department of Planning and Development a description of the organization, including its bylaws, and all documents governing maintenance requirements and use restrictions for common facilities.
 - 2) The organization shall be established by the owner or applicant and shall be operating (with financial subsidy by the applicant, if necessary) prior to the sale of any dwelling units in the development.
 - 3) Membership in the organization shall be mandatory for all purchasers of dwelling units therein and their successors and assigns.
 - 4) The organization shall be responsible for maintenance and insurance of common facilities.
 - 5) The members of the organization shall share equitably the costs of maintaining, insuring, and operating common facilities.
 - 6) The organization shall have or hire adequate personnel to administer, maintain, and operate common facility.
 - 7) The applicant for any tract proposed to contain common facilities shall arrange with the Town Assessor a method of assessment of the common facilities which will allocate to each to each tax parcel in the development a share of the total tax assessment for such common

facilities. Real estate taxes shall be paid by the individual unit owner directly to the Town.

- 8) Written notice of the proposed transfer of common facilities by the homeowners association or the assumption of maintenance of common facilities must be given at all members of the organization and to the Town and County at least 39 days prior to such event.

b Condominium

Common facilities shall be controlled through the use of condominium agreements. Such agreements shall be approved by the Town/County Attorney and shall be in conformance with the "Condominium Ownership Act" of 1977 (Chapter 703, Wisconsin Statutes), as amended. All common open space and other common facilities shall be held as "common element" by the unit owners in the form of undivided percentage interests in accordance with the condominium documents. An association of unit owners shall be formed to govern the affairs of the condominium and membership shall be mandatory.

c Fee simple dedication to a public agency.

The Town/County or other public entity acceptable to the Town/County may, but shall not be required to, accept any portion of the common facilities, provided that:

- 1) There shall be no cost of acquisition (other than costs incidental to the transfer of ownership, such as title insurance);
- 2) Any facilities so dedicated shall be accessible to the residents of the Town/County, if the Town/County so chooses;
- 3) The Town/County or other public entity shall maintain such facilities.
- 4) The residents of the development shall hold a conservation easement on the land and facilities so dedicated, protecting the common open space from development in perpetuity.

d Dedication of conservation easements to a public agency.

The Town/County or other public agency acceptable to the Town/County may, but shall not be required to, accept easements for public use of any portion of the common facilities, title of which is to remain in private ownership, provided that:

- 1) There shall be no cost of easement acquisition (other than costs incidental to the transfer of ownership, such as title insurance);
- 2) A satisfactory maintenance agreement shall be reached between the owner and the Town/County.
- 3) Lands under a Town/County easement may or may not be accessible to the residents of the Town/County.

e Fee simple dedication to a private conservation organization.

An owner may dedicate any portion of the common facilities to a private, not-for-profit conservation organization, provided that:

- 1) The organization is acceptable to the Town/County and is a bona fide conservation organization;
- 2) The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions.
- 3) A maintenance agreement acceptable to the Town/County is established between the owner and the organization.

f Transfer of easements to a private conservation organization.

- 1) The organization is acceptable to the Town/County and is a bona fide conservation organization;
- 2) The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions.
- 3) A maintenance agreement acceptable to the Town/County is established between the owner and the organization.

g Ownership retained by the original landowner.

- 1) The Town/County and the residents of the development shall hold conservation easements on the land protecting it from any further development.
- 2) Resident access to the land is limited only by agreement of the residents of the development, as indicated by documents signed at the time of purchase of individual dwelling units.

h Other methods acceptable to the Kenosha County Department of Planning and Development.

2 Maintenance and operation of common facilities.

a A plan and narrative for the use, maintenance, and insurance of all common facilities, including provisions for funding, shall be provided to and approved by the Kenosha County Department of Planning and Development prior to preliminary plan approval. Such plan shall:

- 1) Define ownership;
- 2) Establish necessary regular and periodic operation and maintenance responsibilities, including mowing schedules, weed control, planting schedules, clearing and cleanup.
- 3) Estimate staffing needs, insurance requirements, and other associated costs and define the means for funding the same on an on-going basis.
- 4) At the discretion of the Kenosha County Department of Planning and Development, the applicant may be required to escrow sufficient funds for the maintenance and operation costs of common facilities for a maximum of one year.

- b In the event that the organization established to own and/or maintain common facilities, or any successor organization thereto, fails to maintain all or any portion of the aforesaid common facilities in reasonable order and condition in accordance with the development plan and all applicable laws, rules and regulations, the County/Town may serve written notice upon such organization, and upon the residents and owners of the uses related thereto, setting forth the manner in which the organization has failed to maintain the aforesaid common facilities in reasonable condition. Such notice shall set forth the nature of corrections required and the time within which the corrections shall be made. Upon failure to comply within the time specified, the organization, or any successor organization, shall be considered in violation of this ordinance, and any permits may be revoked or suspended. The County/Town may enter the premises and take corrective action.
- c The costs of corrective action by the County/Town shall be assessed ratably, in accordance with tax assessments, against the properties that have the right of enjoyment of the common facilities and shall become a lien on said properties. The County/Town, at the time of entering upon such common facilities for the purpose of maintenance, shall file a notice of such lien in the office of the County Register of Deeds upon the properties affected by such lien.

3 Leasing of common open space lands.

Common open space lands may be leased to another person or other entity for use, operation, and maintenance, provided that:

- a The residents of the development shall at all times have access to such leased lands, except in the case of lease for agricultural purposes, in which case the residents, with their agreement, may be restricted from accessing the lands.
- b The common open space lands to be leased shall be maintained for the purpose set forth in the ordinance.
- c The operation of such leased open space lands may be for the benefit of the residents of the development only, or may be open to the public, if so determined by the residents.
- d The lease, and any transfer of assignment thereof, shall be subject to the approval of the County/Town Board.
- e Lease agreements so entered upon shall be recorded in the office of the County Register of Deeds within 30 days of their execution, and a copy of the recorded lease shall be filed with the County/Town/ Board.

4 Conservation.

Common open space shall be restricted in perpetuity from further subdivision and/or land development by deed restriction, conservation easement, or other agreement in a form acceptable to the Kenosha County Department of Planning and Development and duly recorded in the office of the County Register of Deeds.