

Mayor
Introduced by

Planning Department
Drafted by

Plan Commission
Referred to

October 23, 2012
Date

ORDINANCE NO. 2012-O-18

AN ORDINANCE CREATING 22-611.101 -- 22-611.113 OF THE ZONING ORDINANCE
AND AMENDING 24-9(b)(2) OF THE LAND DIVISION ORDINANCE RELATIVE TO
RURAL CLUSTER DEVELOPMENTS

The Common Council of the City of Fitchburg, Dane County, Wisconsin ordains as follows:

Section 1 – Pursuant to Wis. Stat. 66.0103 Sections 22-611.101 through 22-61. 113 of Chapter 22 Zoning Ordinance are hereby created and which have been available for public inspection not less than 2 weeks prior to it being enacted, is hereby adopted by reference as is fully set forth herein.

Section 2 - The City Clerk is directed to publish a copy of this enabling ordinance and to keep a copy on file in his/her office permanently and open for public inspection during regular office hours, Chapter 23 SmartCode Zoning District, with the amendments, as adopted hereby.

Section 3 –Section 24-9(b)(2) of Chapter 24 Land Division Ordinance is hereby amended to read as follows:

(2) *Outside urban service area.* Except for Rural Cluster zoning, no subdivision or multifamily development shall be approved for lands outside of an urban service area.

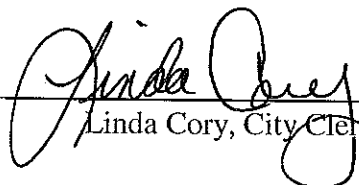
Section 3 – Except as otherwise set forth herein, after approval by the Common Council, this Ordinance, and the creation of Sections 22-611.101 through 22-61. 113 of Chapter 22 Zoning described herein, of the Fitchburg General Code of Ordinances as amended, hereby take effect on the day after publication.

Adopted this 11th day of December, 2012.

Approved by:


Shawn Pfaff, Mayor

Attested by:


Linda Cory, City Clerk

Published December 27, 2012

CITY OF FITCHBURG, WISCONSIN

ORDINANCE NO. 2012-O-18

ADOPTED BY COMMON COUNCIL – 12-11-2012

Rural Cluster Zoning

22-611.101 RC RURAL CLUSTER DISTRICT

(1) The Rural Cluster (RCD) District provides a regulatory framework to provide limited development by using the potential splits of 1 per 35 acres (see the City's *Rural Residential Development Criteria*, Appendix B – *City of Fitchburg Comprehensive Plan*) on property outside of the urban service area and future urban development boundary, while complying with the Comprehensive Plan as well as maintaining compatibility with the surrounding agricultural uses. Such clustered development is intended to better harmonize rural development with surrounding agricultural activities recognizing that it is the City's primary goal to preserve and enhance farming and farmland in rural Fitchburg. This option is intended to conserve agricultural, forested and open space land, historic and natural features. Such clustered development is intended to permit the compact grouping of homes located to blend with the existing landscape and other natural features and to preserve the visual character of the landscape.

(2) RCD has no set standards or specifications, other than what is set forth in this section. Developers are encouraged to propose uses that preserve, complement and enhance natural features such as but not limited to topography, woodlands, wetlands, and streams. The Common Council shall approve the standards and specifications which shall constitute the zoning and architectural controls of the property.

22-611.102 PROCEDURES FOR GENERAL IMPLEMENTATION PLAN (GIP)

In addition to the procedure required for all zoning changes, the following information describing a general implementation plan shall be filed by the applicant with Plan Commission staff:

- (1) A survey of the project area including its relationship to surrounding properties and uses, with topographic, soil type and other key features, such as, but not limited to, woodlots, heritage or specimen trees, streams, all drainage channels, waterways, wetlands, floodplains, environmental corridors, rock outcroppings, and existing buildings or improvements. Specific wetland, woods or tree inventories, impact analysis, or other studies relative to key features may be required by planning staff or the plan commission.
- (2) An overview map which shall place the proposed site in the middle of an area at least one half mile in the four directions to clearly identify adjacent land ownership and uses.
- (3) A statement as to the rationale as to why the RC zoning is proposed. Identify the private and public benefits and liabilities of the development.

- (4) An analysis of the social, environmental, traffic and economic impacts on the community of the project.
- (5) An analysis of how the proposal is consistent with, and will advance the goals, policies and objectives of the Comprehensive Plan.
- (6) A General Development Plan of the proposed project showing and describing at least the following information in sufficient detail to make a possible evaluation against criteria for approval:
- a. Public and private roads, driveways, and parking facilities, current and planned.
 - b. Land uses, arrangement, location and size of lots.
 - c. All proposed buildings or groups of buildings with their uses identified.
 - d. Impact of traffic with trips generated and likely traffic routes and count increases.
 - e. A waste disposal plan including septic limitations and system types required. Per Chapter 24, Land Division Code, in no case shall a new building site or new habitable building be allowed if sanitary service is required by a holding tank.
 - f. A water supply plan with types of well or wells and how they are shared.
 - g. An inventory of trees, prairies or prairie remnants, wetland and wetland plants, 300 foot wetland buffer, natural features, threatened and endangered species and fence lines.
 - h. An inventory of existing historic features, historic buildings or buildings of possible historic value.
 - i. General landscape treatment plan, including species to be used. Native and non-invasive species are required.
 - j. Statistical data on the size of the development, density, ratio of land uses, expected staging and any other plans or data required by the Plan Commission or Common Council.
 - k. Soil types by name and class, and percent of development on each class type.
 - l. Tillage history.
- (7) An outline of the intended ownership structure including owners association if any, ownership of open space, deed restrictions, and the provision of common services, if any.
- (8) For wooded or partly wooded site, a forestry plan.
- (9) Ownership of claims that are being used to allow dwelling unit construction at one claim per dwelling unit planned. Agreement for the purchase of claims (with signatures from the owners) will need to be submitted for each dwelling unit proposed at the time of the rezone to GIP.

(10) A map identifying the lands to which the claims are associated and an outline of potential areas (35 acres per each claim) to be placed in a restriction, limiting the property to agricultural uses of land [Note: uses to be determined] in favor of the City of Fitchburg during the SIP approval process. The restriction may be removed or altered by a two-thirds (2/3) majority vote of the Common Council, but only after entry of the property into the urban service area. Nothing herein contained shall prevent a property owner from instituting a non-removable restriction, such as an agricultural conservation easement, through agreement with a third party or other means. Land subject to restriction in favor of the City of Fitchburg shall not be located within the urban service area or a long-term growth boundary.

(11) Neighborhood input.

- a. Prior to the formal petition for rezoning, the applicant shall make a reasonable effort to meet with property owners and individuals within and near the area of the proposal. Property owners and residents within the project area and those within 300 feet or a minimum of the three closest property owners of the project boundary shall be noticed at least ten days prior to a meeting in which the conceptual project will be presented. The meeting shall be fashioned to solicit feedback on the proposed design. More than one neighborhood meeting may be necessary to gather input, address comments received and provide information relative to any intended application.
- b. A statement describing the reasonable efforts made to meet with and receive input from individuals required to receive notice shall be submitted with the rezoning petition application when it is filed for review at the planning department.

22-611.103 PLAN COMMISSION REVIEW.

(1) Following determination by the Zoning Administrator that an application is complete, the matter shall be reviewed by City staff and shall then be placed on a Plan Commission agenda for initial review, prior to the filing of a formal application. Initial review is a review of the project at the concept level and is not binding. The preferred procedure is for an iteration of the Plan Commission's initial review to occur prior to introduction of a formal petition for rezoning. The purpose of this meeting, or meetings, is to allow a discussion of the Plan Commission regarding the possible planned development zoning application and the environmental, economic, social and other benefits of design to be obtained from the proposal and general statistics on the possible project.

(2) Following the required public hearing before the Plan Commission, the Plan Commission shall meet to make a determination and recommendation whether to advise the Common Council to approve the rezoning and the General Implementation Plan, to approve it with modifications, or to deny it.

22-611.104 CRITERIA FOR RC APPROVAL

The intent of this code is to allow for limited development outside of the future urban development boundary while preserving certain natural characteristics of the property. To this end, the Plan Commission shall evaluate each proposed rezoning in light of the following criteria:

(1) RC rezoning requests shall be located on land at least 75% of which has either no tillage history and/or has a soil classification of IV, V, VI, VII, or VIII for that portion to be divided to accommodate the residential development. Specific site reviews should be based on the types of agricultural uses surrounding the rural cluster. If high quality agricultural soils with large contiguous acres are present, the compatibility and blending should occur to maintain the large contiguous agricultural acres, with the cluster being located at the edge/corner.

(2) RC requests shall be considered on the basis of one dwelling unit per 35 acres, utilizing 1979 as the base year. Potential claims that are outside of the future urban development boundary may be transferred to another property for the intent of creating a rural cluster that is located outside of the future urban development boundary. Agreements for the purchase of claims (with signatures from the owners and mortgage holders) will need to be submitted with the GIP. As a condition of SIP approval, land (35 acres per each claim) shall have a restriction with the City recorded at the Dane County Register of Deeds restricting development to approved agricultural land uses [Note: Uses to be determined]. This restriction shall follow criteria identified in 22-611.102(10). A land owner may, at their option, also file a non-removable restriction, such as a conservation easement, with a recognized 501(c)(3) land trust or conservancy, or other acceptable means.

(3) Requests are to be compatible with nearby agricultural zoning uses and shall provide for only one single family detached dwelling unit per claim, and require all new residential lots to have a right to farm document recorded to protect surrounding agricultural operations. A Rural Cluster shall consist of at least two and no more than ten single family detached dwelling units.

(4) The rezoning requests shall incorporate techniques to accomplish the following:

- a. Protection and preservation of farmland and natural features.
- b. Preservation and enhancement of natural features, including but not limited to woodlands, wetlands, prairies, streams, ponds, lakes, and other natural features.
- c. Preservation of wildlife and flora habitat.
- d. Enhancement of wildlife and flora habitat, including but not limited to small game, birds, waterfowl, and other fauna.
- e. Be consistent with or advantageous for the Fitchburg Parks and Open Space Plan.

(5) Aesthetic desirability and effect on rural viewscape:

- a. Preserve scenic views by minimizing views of new development from existing roads.

- b. Rural clusters may be visible from access and surrounding roads so long as the cluster is designed to be unobtrusive in the rural viewscape. This can be accomplished as follows:
 - i. The buildings are grouped together to appear as a single farmstead and are designed utilizing historicist architecture (See Section 22-611.113).
 - ii. The buildings are grouped together to appear to be a rural hamlet and are designed utilizing historicist architecture.
 - iii. The visible buildings from access and surrounding roads of a cluster fulfill the requirements of i. or ii. above and the balance of the buildings are not visible.
 - iv. The visible buildings of the cluster are designed with organic architecture so that their visual impact is minimal, blending into the landscape.
- c. Building groupings to permit reduced minimum lot sizes. Where practicable, each lot shall adjoin another lot. Each lot shall have frontage and driveway access to a public street. The public street to serve a rural cluster shall provide at least two separate and distinct routes of travel.
- d. Fencing, new plantings, and other screening.
- e. Historic restoration.
- f. Woodland, wetland or prairie restoration, improvement or expansion, along with maintenance.
- g. Other features of site design and construction, building and structural design and construction and landscaping that are not listed above may also be addressed by the Plan Commission as advisory suggestions within the design review process upon a finding that the suggestion would be desirable to make the development a positive asset to the visual appearance of the community and positive contribution to the growth and stability of the community tax base.

(6) Compatibility with recreational trails, bike trails - specifically the Fitchburg Heritage Circle Route and wildlife corridors noted in the Fitchburg Park and Open Space Plan.

(7) *Engineering Design Standards.* Streets and other ways, provision for stormwater drainage, sanitary sewer/septic service, water supply, or other similar environmental and municipal engineering considerations of current ordinance requirements shall, at a minimum be met, but advanced environmental design will likely be required. Dark sky certified outdoor lighting shall be used. The Plan Commission and Common Council may require the use of higher levels of transportation and lighting improvements, stormwater management or water conservation techniques than is required by current ordinance or other governmental guidelines. Such standards shall be appropriate to advancing environmental design objectives and the public health, safety and welfare as determined by the City. Stormwater stay on-shall be at 90-100% of the predevelopment rate.

(8) *Driveways.* Each residential building shall be served by its own driveway from the public street and follow standards created and set forth by the Public Works Department under Section 27-399 of the Fitchburg Municipal Code.

(9) *Preservation and maintenance of open space in a Rural Cluster District.* Provision shall be made for the preservation and maintenance of any open spaces either by public reservation or dedication to public entities or commitment to preservation by a private entity. RC agreements shall contain specific reference to the ownership of such open space areas and to provision for maintenance. Rural Clusters shall provide plans and documents in written and graphic form to fully describe the project and its benefits. Draft deed restrictions, easements, and preservation and maintenance of open space documents shall be submitted with the application. This section is only relevant if providing a public or private community open space within the cluster.

(10) Park dedication or fee in lieu and park improvement fees are part of the land division approval process and shall be determined as defined in Sec. 24-2 (d) 1 – 3 of the City's Land Division Code.

(11) *Transmittal of Plan Commission recommendations, report and related matters.* The Plan Commission's reports and recommendations shall be made in a written report to the Common Council. A complete set of maps, plans and written documentation fully describing the proposed development as recommended by the Plan Commission at a General Implementation Plan level shall accompany the report of the Plan Commission. The matter shall not be considered by the Council unless this documentation has a signature by the Plan Commission secretary over a statement that the documentation is complete and that it accurately reflects Plan Commission recommendations. In a situation in which the applicant disagrees with certain recommendations of the Plan Commission and is urging the Common Council to approve with modifications, the applicant must supply documentation of those modifications to the Council prior to the matter being placed on the agenda of the Common Council.

22-611.105 OWNER'S CONSENT

The owners of record and mortgage holders of all included rezone parcels shall consent in writing and provide an original signed and notarized document to the City Clerk and a signed copy to the Zoning Administrator within a single 30 day period following Common Council adoption in order for the RC General Implementation Plan (RCD-GIP) zoning to take effect. Consent shall be binding upon future owners of the parcels in question.

22-611.106 EFFECT OF RCD-GIP ZONING

The approval of a General Implementation Plan shall not authorize issuance of building permits. The permits may not be issued until approval by the City of the Specific Implementation Plan, and the conditions of the approval are met.

22-611.107 FILING: EFFECTIVE DATE

When the consent signatures for lands in the parcel being rezoned to RCD-GIP are all acquired and delivered to the City Clerk and Zoning Administrator within the 30 days as required by Section 22-611.105, the documentation on Plan Commission and Common Council action and on the General Implementation Plan and the consent signatures shall be logged in and filed by the City, and the property

shall be indicated as rezoned on City zoning maps. The date this occurs is the effective date of the rezoning. The map indication shall be RCD-GIP. The City Clerk shall record at the Dane County Register of Deeds the ordinance or an affidavit of notice of RC zoning against all real property included in the district. This shall be done as near the effective date of the RCD-GIP rezoning as is possible. The City shall require the applicant to supply necessary property descriptions, parcel numbers and to pay recording and publication fees.

22-611.108 SPECIFIC IMPLEMENTATION PLAN (SIP)

After the Common Council approval and recording of the RCD-GIP ordinance, the applicant may file a Specific Implementation Plan for review and recommendation by the Plan Commission and approval by the Common Council. The specific implementation plan (for the entire RCD-GIP) shall be filed within three years of the date of council approval of the RCD-GIP.

- (1) The Specific Implementation Plan shall be a precise plan for development and shall contain graphic and tabular presentations at a level of detail equivalent to the level of detail of a final plat. Accompanying plans and text information shall describe in detail the building development plans, methodologies and timetables for the area covered by the specific implementation plan. The Specific Implementation Plan shall cover all land in the approved General Implementation Plan as one submittal.
- (2) The RCD-SIP for the entire RCD-GIP shall be submitted within three years of the Common Council approval of the RCD-GIP ordinance. If the SIP request is not submitted within three years, the RCD-GIP approval lapses and a new RCD-GIP approval shall be obtained pursuant to Section 22-611.102 through 22-611.104. After three years, no RCD-SIP shall be approved unless the GIP has been reapproved.
- (3) A public hearing as if it were a matter of rezoning, shall be held on any Specific Implementation Plan (RCD-SIP) application or amendment to a RCD-SIP.
- (4) The Specific Implementation Plan submission may include site plan and design information, allowing the Plan Commission to combine design review and review of the Specific Implementation Plan. Design review (see Section 22-611.113) may, at the choice of the applicant, be deferred until a later time when specific site and building plans will be brought forth.
- (5) RC requests shall be considered on the basis of one dwelling unit per 35 acres, utilizing 1979 as the base year. Potential claims that are outside of the future urban development boundary may be transferred to another property for the intent of creating a rural cluster that is located outside of the future urban development boundary. Land (35 acres) that is tied to each potential claim shall, as a condition of SIP approval, have a restriction in accord with Section 22-611.110 and in favor of the City of Fitchburg limiting land use to agriculturally approved uses [Note: uses to be determined] recorded at the Dane County Register of Deeds. A land owner may, at their option, also file a non-removable restriction, such as a conservation easement, with a recognized 501(c)(3) land trust or conservancy, or other acceptable means. Signed agreements regarding the use of claims from outside the property, and relevant land restriction(s) shall be submitted with the RCD-SIP application, but the recording of such agreements shall be a condition of RCD-SIP approval.

(6) As part of submission for Specific Implementation Plan approval, the applicant shall submit proof of financing capability pertaining to construction and maintenance and operation of public works elements of the proposed development.

(7) A copy of the recorded General Implementation Plan and all approved and relevant documents shall be submitted with the Specific Implementation Plan request.

(8) The Plan Commission or Common Council may specify other plans, documents or schedules that must be submitted prior to consideration or approval of the Specific Implementation Plan, as such may be relevant to review procedures and standards.

(9) No land division approval, except for Comprehensive Development plan, and/or preliminary plat approval, shall occur prior to approval of RCD-SIP zoning. Final plat or certified survey map land division approval shall be a condition of RCD-SIP approval.

22-611.109 PLAN COMMISSION REVIEW

(1) When the Specific Implementation Plan submission is deemed by the Zoning Administrator to be complete, the matter shall be reviewed by staff and then placed upon the agenda of the Plan Commission for review, consideration and approval, modification or rejection.

(2) The Specific Implementation Plan submission shall be reviewed by the Plan Commission against the standards of this Ordinance, the Comprehensive Plan and the previously approved General Implementation Plan. In order to approve a Specific Implementation Plan, the Plan Commission must determine that the Specific Implementation Plan is reasonably consistent with the previously approved General Implementation Plan as well as the current standards of this chapter and the Comprehensive Plan.

(3) If the Plan Commission recommends approval of a Specific Implementation Plan, complete documentation describing this Specific Implementation Plan, and any agreements that the Plan Commission deems necessary for the implementation of the plan, shall be prepared, reviewed by Zoning Administrator as complete and, when found to be complete by said Zoning Administrator, shall be placed on the agenda of the Common Council.

22-611.110 COMMON COUNCIL REVIEW

The Common Council shall consider and act on the Specific Implementation Plan after reviewing the recommendations of the Plan Commission on same. The Specific Implementation Plan submission shall be reviewed by the Common Council against the current standards of this chapter, the current Comprehensive Plan, and the previously approved General Implementation Plan.

22-611.111 FILING AND EFFECTIVE DATE

Upon approval, and receipt of consent of property owner signatures, which shall occur within 30 days of Common Council approval of the RCD-SIP, the ordinance noting RCD-SIP zoning shall be recorded at the Dane County Register of Deeds. No land division approval, except for Comprehensive Development Plan and/or preliminary plat approval shall occur prior to approval of RCD-SIP zoning.

Final land division approval shall be a condition of RCD-SIP approval. Applicant shall pay for all publication and recording costs.

22.611.112 EFFECT OF SIP APPROVAL: ALTERATIONS

The filing and recording of an approved Specific Implementation Plan shall only authorize release of building and other land use permits necessary to carry out development activities consistent with that approved plan, when all conditions or requirements of the SIP and other ordinances have been met. It is the responsibility of the applicant to provide proof of satisfaction of all conditions and requirements.

- (1) If a proposed amendment to the RCD-SIP is inconsistent with or alters an approved general implementation plan, the RCD-SIP shall not be approved unless the RCD-GIP is amended in accordance with the procedures pursuant to Sections 22-611.102 to 22-611.104.
- (2) Any subsequent change of use of any parcel or any modification of the Specific Implementation Plan shall first be submitted for approval to the Plan Commission and if, in the opinion of the Plan Commission, such change or modification constitutes a substantial alteration of the Specific Implementation Plan, the Specific Implementation Plan shall be required to be amended through the same procedures used to approve, file and record the Specific Implementation Plan. If, in the opinion of the Plan Commission, such changes or modification do not constitute a substantial alteration of the Specific Implementation Plan, the change may be accomplished by approval of the Plan Commission. Such approved modifications shall be documented and recorded in the official file of the City on the RC district.
- (3) All public improvements shall be required to be installed within 12 months of the date of Common Council approval unless a staging plan has been approved per Chapter 24, Land Division Code.

22-611.113 DESIGN REVIEW

- (1) All new residential, agricultural or other structures visible from access and surrounding roads shall be required to obtain Architectural Design Review approval, pursuant to Sections 22-604 – 22-606 of Chapter 22, Zoning Ordinance and Chapter 25, Architectural Control before any building permits may be issued. Architectural design review applies to all exterior structural and design features including site planning, site facilities and any building done within or on the site, as outlined in the Aesthetic desirability and effect on rural lands, Section 22-611.104 (5) 5. Any structure that is not visible from access and surrounding roads does not require design review.
- (2) Architectural standards for clusters visible from access and surrounding roads:
 - a. Historicist architecture is building design that utilizes traditional Midwestern American forms and surface decoration. These may include Greek Revival, Queen Anne, Italianate, Second Empire, Gothic Revival, Four square or Rural Victorian Vernacular styles. The use of Builder's Modern or Ranch, Shed contemporary, Norman Scansion, Georgian Revival and other suburban styles are not Historicist. Large-scale renditions of traditional forms may not be Historicist.

- b. The new building, from a reasonable distance such as the access road, shall appear to be of a building type and age similar to other pre-1930 buildings currently existing on the rural landscape. Such building, if placed next to an existing rural structure constructed prior to 1930, would not clash in scale or decorative surfaces with the pre-existing structure.
- c. Building groupings may recapitulate farmsteads, grouped farmsteads or rural hamlets, mimicking the historic forms of pre-existing pre-1930 groupings.
- d. The use of fencing, landscaping, berms and other landscaping devices to obscure or hide buildings or portions of buildings when the building themselves or their grouping does not conform to a, b, c above will be allowed as long as the viewscape goals are met.
- e. The restoration of an existing structure that has lost its original appearance may be used to provide a portion of a visible cluster. E.g. A "modernized" vinyl sided house with a traditional rural pre-1930s form may be restored or re-skinned to an original or Historicist appearance and other Historicist buildings clustered with the restored building.
- f. The restoration of significant buildings, whether originally used for residential, agricultural or commercial purposes is encouraged.
- g. The restoration of wetlands or prairies may be required as part of the landscape and viewscape improvement of the cluster. A tall grass prairie may be used with organic or historicist architecture to "stage set" a rural cluster by providing a feeling of distance between existing roads and the cluster. The expansion and restoration of wooded areas may reduce or eliminate from the viewscape some or all buildings of a cluster that do not meet the standards for visible architecture.