

## *ARTICLE XIII*

### *"PUD" PLANNED UNIT DEVELOPMENT DISTRICT*

**SECTION 1. INTENT.** The intent of the Planned Unit Development District is to encourage innovation in residential, commercial and industrial development by greater variety in type, design, and layout of buildings; to encourage a more efficient use of land reflecting changes in the technology of land development; to encourage the expansion of urban areas incorporating the best features of modern design while conserving the value of land; and to provide a procedure which relates the type, design, and layout of development to the particular site and the particular demand at the time of development in a manner consistent with the preservation of property values within established neighborhoods.

The "PUD" District in this ordinance is an overlay zone which may be used in conjunction with any of the standard residential, commercial or industrial zones. Although the specific conditions within this district are predetermined, the location of a proposed district must be carefully reviewed to assure that these conditions can be met. A development plan shall be submitted by each applicant for "PUD" zoning in accordance with the provisions and conditions that follow.

**SECTION 2. PERMITTED USES.** All uses, however such uses, must be approved as shown on the development plan as specified in the regulations.

#### **SECTION 3. GENERAL PROVISIONS.**

1. The Planning Commission shall make a report to the Governing Body setting forth its reasons for recommendation of approval or denial of the application, along with specific evidence and facts showing that the proposed Planned Unit Development meets or does not meet the following conditions:
  - a. Said Planned Unit Development shall be in general conformity with the provisions of the adopted comprehensive plan.
  - b. Said Planned Unit Development shall not have a substantially adverse effect on the development of the neighboring area.
2. The Planned Unit Development District may be established exclusively for residential, commercial or industrial development or any combination of those types of development.
3. The minimum size allowed for a Planned Unit Development shall be as follows:

Residential	2 acres
Commercial	3 acres
Industrial	5 acres

Any "PUD" which has combined two or more types of use into a single plan shall have a minimum allowable size for the "PUD" equal to the sum of the minimum land areas required for each of the two or more types contained therein.

4. Height, bulk and setback requirements may be varied so as to promote an efficient and creative "PUD".

#### SECTION 4. STANDARDS AND CONDITIONS FOR PLANNED UNIT DEVELOPMENT.

1. Upon recommendation of the Planning Commission the Governing Body may from time to time adopt general policies or specific rules and regulations for Planned Unit Developments and place said policies or rules and regulations of public record in the office of the Zoning Administrator; provided said policies and/or rules and regulations are not inconsistent with the adopted standards and conditions; and provided that no policies, rules or regulations shall be revised or added to, so as to be applicable to a specific proposal for a Planned Unit Development after an application for preliminary approval of a specific development plan has been filed.
2. A Planned Unit Development shall not be inconsistent with the following general standards for use of land, and the use, type, bulk, design, and location of buildings, the density or intensity of use, open space, public facilities and the development by geographic division of the site.
  - a. The applicant shall satisfy the Planning Commission and the Governing Body that he has the ability to carry out the proposed plan and shall prepare and submit a schedule of construction. The proposed construction shall begin within a period of 18 months following approval of a final plan by the Governing Body, and a minimum of fifty percent (50%) of the total planned construction shall be completed within a period of three (3) years following such approval or the approval of the plan. The period of time established for the completion of the development may be modified from time to time by the Governing Body upon the showing of good cause by the developer.
  - b. The applicant may designate divisible geographic sections of the entire parcel to be developed as a unit, and shall, in such case, specify reasonable periods within which developments of each such unit must be commenced. In the case of residential Planned Unit Developments, the Governing Body may permit in each unit deviations from the number of dwelling units per acre established for the entire planned development, provided such deviation shall be adjusted for in other sections of the development so that the number of dwelling units per acre authorized for the entire planned development is not affected.

- c. The developer shall provide and record easements and covenants, shall make such other arrangements, and shall furnish such performance bonds, escrow deposit, or other financial guarantees as may be determined by the Planning Commission and approved by the Governing Body, to be reasonably required to assure performance in accordance with the development plan and to protect the public interest in the event of abandonment of said plan before completion.
- d. The site shall be accessible from public roads that are adequate to carry the traffic that will be imposed upon them by the proposed development. The streets and driveways on the site of the proposed development shall be adequate to serve the residents or occupants of the proposed development. If it is determined that traffic control signals are required to prevent traffic hazards or congestion in adjacent streets, the control signals shall be provided at the developer's expense.
- e. The development shall not impose an undue burden on public services and facilities, such as water and sewer systems and fire and police protection.
- f. The entire tract or parcel of land to be submitted for Planned Unit Development shall be held in single ownership or control, or if there are two or more owners, the application for such Planned Unit Development shall be filed jointly.
- g. The location and arrangement of structures, parking areas, walks, lighting, and appurtenant facilities shall be compatible with the surrounding land uses, and any part of a Planned Unit Development not used for structures, parking and loading areas, or access-ways shall be landscaped or otherwise improved.
- h. Off-street parking and loading shall be provided in accordance with Article XXIII.
- i. When a commercial or industrial use within a Planned Unit Development district abuts a residential district, a solid or semi-solid fence or wall at least six (6) feet, but not more than eight (8) feet high and having a visual density of not less than ninety (90%) percent per square foot, shall be provided adjacent to any adjoining residential district except where the commercial or industrial development is separated from the residential zone by a street right-of-way. A ten (10) foot wide landscape buffer which shall consist of trees, shrubs and evergreens located along the property line which shall be maintained by the owner or owners of the property in the Planned Unit Development district, may be substituted for the solid or semi-solid fence when approved by the City.
- j. All commercial and industrial buildings shall set back not less than forty-five (45) feet from the right-of-way of any street and twenty (20) feet from any district boundary line that does not abut a street right-of-way. Additional setback from a heavily traveled thoroughfare may be required by the Governing Body, when recommended by the Planning Commission for protection of health, safety, and general welfare.

- k. Building coverage shall not exceed the following percentages of the net developable area of each individual parcel and of the total development for each type of Planned Unit Development:

Residential	40% maximum
Commercial	35% maximum
Industrial	35% maximum

- l. A minimum of thirty (30%) percent of the net area of the part of Planned Unit Development reserved for residential development shall be provided for open space as defined by these regulations. At least one-half (1/2) of this open space shall be provided for the leisure and recreational use of all "PUD" residents and maintained by owners of property in the development as through a homeowner's association in the case of a townhouse or a residential subdivision. The common open space shall be developed for appropriate recreational facilities and a minimum of fifty (50%) percent of the proposed recreational facilities shall be constructed prior to the development of one-half (1/2) of the project, and all recreational facilities shall be constructed by the time the project is seventy-five (75%) percent developed.
- m. The "PUD" shall include such provisions for the ownership and maintenance of the common open spaces as are reasonably necessary to insure its continuity, care, conservation and maintenance, and to insure that remedial measures will be available to the Governing body if the common open space is permitted to deteriorate, or is not maintained in a condition consistent with the best interests of the Planned Unit Development or of the entire community.
- n. Modifications of the zoning or other regulations that would otherwise be applicable to the site may be permitted, providing the design of the Planned Unit Development and the amenities incorporated in it are not inconsistent with the interest of the public generally.
- o. No residential use shall have direct access onto an arterial street.
- p. All commercial or industrial areas must have access to a collector or arterial street, however, no individual commercial or industrial use may have direct access onto collector or arterial streets, unless deemed necessary by the Planning Commission and approved by the Governing Body.
- q. Sidewalks shall be built to city specifications along all public and private streets, however, an alternative pedestrian and sidewalk plan may be developed which provides pedestrians access between each use in the Planned Unit Development.
- r. Consideration shall be given for the provision of bicycle traffic along collector and arterial streets or along the approved pedestrian-sidewalk system.

**SECTION 5. APPLICATION FOR APPROVAL OF PRELIMINARY PLAN.**

1. An application for a Planned Unit Development shall be handled in the same manner prescribed for amending the zoning ordinance. The same requirements for notice, advertisement of public hearing, protests and adoption shall be required as in conventional zoning.
2. The applicant shall prepare and submit twenty (20) copies of the preliminary development plan for review and recommendation by the Planning Commission, which said plan shall include:
  - a. A site plan showing:
    - (1) Contours at intervals of two (2) feet.
    - (2) General location, size and use of all proposed structures in conformance with the yard requirements; or designation of individual lots if such lots are proposed to be sold to individual owners.
    - (3) All points of ingress and egress, driveways, circulation aisles, parking lots, parking spaces, and service areas.
    - (4) All streets adjoining subject property and the width of the existing right-of-way.
    - (5) Areas set aside for public and private open space with the type of recreational facilities planned for each area indicated.
    - (6) Designation of individual parcels if the proposed development is to be set up in separate construction phases.
    - (7) Location of required screening.
    - (8) Location of natural features such as ponds, tree clusters and rock outcropping.
    - (9) Existing development on adjacent properties within two hundred (200) feet.
  - b. The above described site plan shall also include a section designated as "General Provisions" and said section shall include the following items when said items are applicable.

- (1) Net area \_\_\_\_\_ square feet or \_\_\_\_\_ acres. (Note: Net area does not include land dedicated or necessary to be dedicated for public street right-of-way. If more than one (1) parcel is proposed, designate net area by parcel as well as total net area.)
  - (2) Density shall not exceed \_\_\_\_\_ dwelling units per acre or a total of \_\_\_\_\_ dwelling units for the entire plan. No parcel or unit of the plan shall exceed a density of \_\_\_\_\_ units per acre for the individual parcel by more than twenty (20%) percent.
  - (3) Building coverage shall not exceed \_\_\_\_\_ of the net area of the Planned Unit Development by individual or total development.
  - (4) A minimum of \_\_\_\_\_ percent of the development plan shall be provided for common open space as defined by this regulation. (Note: Normally, this figure should be approximately fifty (50%) percent.)
  - (5) A minimum of fifty (50%) percent of the recreational facilities shall be constructed prior to the development of one-half (1/2) of the project and all recreational facilities shall be constructed by the time the project is seventy-five (75%) percent developed.
  - (6) If more than one (1) parcel is proposed, a statement relating to the sequence of development shall be included.
  - (7) Required number of off-street parking spaces: \_\_\_\_\_.
  - (8) Gross floor area proposed: \_\_\_\_\_ square feet. (Commercial "PUD" only)
  - (9) All proposed land uses shall be listed by parcel.
- c. A statement or adequate drawings shall be included describing the manner for the disposition of sanitary waste and storm water.
  - d. The full legal description of the boundaries of the property or properties to be included in the Planned Unit Development.
  - e. A vicinity map showing the general arrangement of streets within an area of one thousand (1,000) feet from the boundaries of the proposed Planned Unit Development.
  - f. Evidence that the applicant has sufficient control over the tract to effectuate the proposed plan, including a statement of all the ownership and beneficial interest in the tract of land and the proposed development.

- g. When a Planned Unit Development includes provisions for a common open space, or recreational facilities, a statement describing the provision that is to be made for the care and maintenance for such open space or recreational facilities. If it is proposed that such open space be owned and/or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and by-laws of such entity shall be submitted.
  - h. Copies of any restrictive covenants that are to be recorded with respect to property included in the planned development district.
  - i. In the case where a Planned Unit Development calls for construction in units over a period of years, a schedule showing the proposed item and sequence within which the applications for final approval of all sections of the Planned Unit Development are intended to be filed shall be submitted.
  - j. A written statement by the applicant shall be submitted setting forth the reasons why in his opinion the Planned Unit Development would be in the public interest and would be consistent with the intent of the Governing Body on Planned Unit Development.
3. Action by Planning Commission: The Planning Commission shall, within sixty (60) days after a preliminary Planned Unit Development is filed, hold a public hearing on said development after giving notice as required by statute for hearings on amendments. Said public hearing may be adjourned from time to time and within a reasonable period of time after the conclusion of said public hearing, the Planning Commission shall prepare and transmit to the Governing Body and the applicant specific findings of fact with respect to the preliminary Planned Unit Development. The Planning Commission may recommend disapproval, approval, or approval with amendments, conditions, or restrictions.
  4. Action by Governing Body: The Governing Body shall or shall not approve the preliminary development plan and authorize the submitting of the final development plan. If the Governing Body approves the preliminary plan, it shall pass an ordinance designating the tract with an overlay of Planned Unit Development and so order the official zoning map to be amended.
  5. Substantial or significant changes in the preliminary Planned Unit Development shall only be made after rehearing and re-approval as required for the initial approval of the preliminary plan.

#### SECTION 6. FINAL PLAN APPROVAL.

1. After approval of a preliminary plan, the applicant shall submit an application for final approval. Said final application may include the entire Planned Unit Development or may be for a unit or section thereof as set forth in the approval of the preliminary plan and shall include changes required in the approval of the

preliminary plan. The application shall include twenty (20) copies of such drawings, specifications, covenants, easements, conditions and form of performance bond as set forth in the approval of the preliminary plan and in accordance with the conditions established in the zoning regulations for Planned Unit Developments.

2. A plan submitted for final approval shall be deemed to be in substantial compliance with the plan previously given tentative approval, provided any modification by the landowner of the plan as tentatively approved does not:
  - a. Vary the proposed gross residential density or intensity of use by more than five (5%) percent or involve a reduction in the area set aside for common open space, nor the substantial relocation of such area, or
  - b. Increase by more than ten (10%) percent the floor area proposed for non-residential use, nor
  - c. Increase by more than five (5%) percent the total ground area covered by buildings nor involve a substantial change in the height of buildings.
  - d. Substantially change the design of plan so as to significantly alter, as determined by the Planning Commission:
    - (1) Pedestrian or vehicular traffic flow.
    - (2) The juxtaposition of different land uses.
    - (3) The relation of open space to residential development.
    - (4) The proposed phasing of construction.
3. A public hearing need not be held for the approval of a final plan if it is in substantial compliance with the approved preliminary plan, and a public hearing need not be held to consider modifications on location and design of streets or facilities for water, storm water, sanitary sewers, or other public facilities.

In the event a public hearing is not required for final approval and the application for final approval has been filed, together with all drawings, specifications and other documents in support thereof, the Planning Commission shall, within a reasonable period of time of such filing, recommend that such plan be given final approval and forward its recommendation to the Governing Body for its final approval.

4. In the event that the final plan submitted contains substantial changes from the approved preliminary development plan, the applicant shall resubmit the original plan. This preliminary development plan shall be modified in the same manner prescribed in this article for original approval.



5. In the event that a plan or section thereof is given final approval and thereafter the land owner shall abandon said plan or section, he shall so notify the city thereof in writing. In the event the land owner shall fail to commence the Planned Unit Development within eighteen (18) months after final approval has been granted, such final approval shall terminate and shall be deemed null and void unless such time period is extended by the Planning Commission upon written application by the land owner.

**SECTION 7. RECORDING.** Any approved final plan shall be filed of record with the Register of Deeds.

**SECTION 8. ENFORCEMENT AND MODIFICATION OF PROVISIONS OF THE PLAN.** To further the mutual interest of the residents and owners of the Planned Unit Development and of the public in the preservation of the integrity of the plan, as finally approved, and to insure that modifications, if any, in the plan shall not impair the reasonable reliance of the said residents and owners upon the provisions of the plan, nor result in changes that would adversely affect the public interest, the enforcement and modification of the provisions of the plan as finally approved, whether recorded by plan, covenant, easement, or otherwise shall be subject to the following provisions.:

1. Enforcement by the Municipality: The provisions of the plan relating to:
  - a. The use of land and the use, bulk, and location of buildings and structures, and
  - b. The quality and location of common open space, and
  - c. The intensity of use or the density of residential units shall run in favor of the municipality and shall be enforceable in law or in equity by the municipality, without limitation on any owners or regulation otherwise granted the municipality by law.
2. Enforcement by the Residents and Owners: All provisions of the plan shall run in favor of the residents and owners of the planned development, but only to the extent expressly provided in the plan and in accordance with the terms of the plan, and to the extent said provisions, whether recorded by plat, covenant, easement, or otherwise may be enforced at law or equity by said residents and owners, acting individually, jointly, or through an organization designated in the plan to act on their behalf; provided, however, that no provisions of the plan shall be implied to exist in favor of residents and owners of the Planned Unit Development except as to those portions of the plan which have been finally approved and have been recorded.
3. Modifications of the Plan by the Municipality: All those provisions of the plan authorized to be enforced by the municipality under Paragraph 1 of this section may be modified, removed or released by the municipality (except grants or easements relating to the service or equipment of a public utility unless expressly consented to by the public utility), subject to the following conditions:

- a. No such modification, removal or release of the provisions of the plan by the municipality shall affect the rights of the residents and owners of the Planned Unit Development to maintain and enforce those provisions, at law or equity, as provided in Paragraph 2 of this section.
  - b. No modification, removal or release of the provisions of the plan by the municipality shall be permitted except upon a finding by the municipal authority, following a public hearing called and held in accordance with the provisions of this section, that the same is consistent with the efficient development and preservation of the entire Planned Unit Development, does not adversely affect either the enjoyment of land abutting upon or across a street from the Planned Unit Development or the public interest, and is not granted solely to confer a special benefit upon any person.
4. Modification by the Residents: Residents and owners of the Planned Unit Development may, to the extent and in the manner expressly authorized by the provision of the plan, modify, remove or release their rights to enforce the provisions of the plan, but no such action shall affect the right of the municipality to enforce the provisions of the plan in accordance with the provisions of Paragraph 1 of this section.

**SECTION 9. AMENDMENTS.** A Planned Unit Development District ordinance or an approved preliminary or final development plan may be amended in the same manner prescribed in this article for approval of a preliminary or final plan. Application for amendment may be by the homeowner's association or fifty-one (51%) of the owners of the property within the "PUD".

**SECTION 10. PLATTING.** For un-platted tracts or tracts being re-platted, the approval of the preliminary Planned Unit Development shall be considered as the approval of a preliminary plat. To complete the platting process, the applicant need only submit a final plat. Said final plat shall be in accordance with the subdivision regulations.