

Section 10.21. **"PUD" Planned Unit Development District**

Subd. 1. **Purpose.** The purpose of the "PUD" Planned Unit Development District is to permit great flexibility in the use and design of structures and land in situation where modification of specific provisions of this Ordinance would not be contrary to its intent and purpose or significantly be inconsistent with the planning on which it is based, and will not be harmful to the neighborhood in which the district occurs. The PUD process, by allowing deviation from the strict district and performance standards may allow:

A. Variety: Within a comprehensive site design concept a mixture of land uses, housing types, and densities.

B. Sensitivity: By departing from the strict application of required performance standards associated with traditional zoning, planned unit development can maximize the development potential of land while remaining sensitive to its unique and valuable natural and scenic characteristics.

C. Efficiency: The consolidation of areas for recreation and reductions in street lengths and other utility-related expenses.

D. Density Transfer: The project density may be clustered, basing density on number of units per acre instead of specific lot dimensions.

E. District Integration: The combination of uses which are allowed in separate zoning districts such as:

a. Mixed residential allows both densities and unit types to be varied within the PUD.

b. Mixed commercial, residential, or institutional land use with the integration of compatible land uses within the PUD.

F. Infill: Encourage infill within areas of the city which are characterized by existing development.

Subd. 2. **Permitted Uses.** The following are permitted uses in the "PUD" District:

All permitted and conditional uses allowed in Sections 10.05 through 10.17 of this Ordinance.

Subd. 3.           **Accessory Uses.**       The following are permitted accessory uses in the "PUD" District:

          All accessory uses allowed in Sections 10.05 through 10.17 of this Ordinance.

The uses allowed in a "PUD" District must be in conformance with the district where the PUD is proposed.

Subd. 4.           **Procedural Requirements.**

          A.       The establishment of "PUD" District shall be subject to the amendment requirements as outlined in Section 10.23 of this Ordinance.

          B.       When reviewing proposals for PUDs in the shoreland area as defined in the City Code, staff shall consider whether the PUD proposal meets the standards and criteria in Section 10.20, Subdivision 8 (Shoreland District, Planned Unit Development). If there is a case where the standards and criteria in Section 10.20, Subdivision 8 are not consistent with those in this section, the most restrictive standards shall apply.

          C.       Requests for variances of this Ordinance may be approved when such requests are consistent with the purpose of this section. Any requests for the platting or replatting of property within the "PUD" District shall include recording of the final plan and/or subdivision plat with the Douglas County Recorder.

          D.       Upon approval of the Planned Unit Development, the Zoning Administrator shall record the "PUD" District onto the Zoning Map and designate the district as PUD-1. Thereafter, future approved PUD Districts shall be designated in sequential order, i.e., PUD-2, PUD-3, PUD-4, etc.

Subd. 5.           **Bonus Density**

          A.       Purpose for Bonus Densities. Bonus densities are intended to provide incentives to encourage the development of affordable housing, provide additional public amenities or preserve valuable natural or cultural resources and features. The satisfaction of any of the bonus density criteria specified in Subdivision D of this section is considered to be in the public interest and worthy of a bonus density.

          B.       Eligibility for Bonus Densities. Eligibility to obtain a bonus density is based upon site plan review and approval by the City as part of the preliminary PUD Plan process. Such bonus

densities may be granted to deserving applications if the PUD plan submitted is judged by the City to have achieved one or more of the bonus density criteria.

C. Maximum Bonus Density. The maximum bonus density allowed is limited to an additional 20 percent over the density allowed in the underlying zone district. In addition to criteria provided in this subdivision, the density shall be compatible with the site's natural constraints and the character and density of the surrounding area. Compatibility for bonus density shall also be determined by proximity of the site to arterial roads, transit service, employment and shopping areas and planned amenities.

D. Basis for Approval of Bonus Density. Upon submittal of the Preliminary PUD application, the City shall review the proposed project and submit recommendations and proposed findings of fact and conclusions with respect to the allocation of bonus densities for the project to the Planning Commission. The allocation of bonus densities should be based upon a comprehensive review of the entire project. It is the intention of this section to allow bonus densities where a PUD applicant proposes design attributes providing public benefits in addition to those required by local, state or federal land use or environmental regulations. Bonus densities will not be allowed for site design proposals, which merely reflect mandatory requirements of local, state and federal codes or regulations. Consideration of the following criteria should be given, but need not be limited to these:

1. Preservation of Open Space and Natural, Historical and Cultural Features (Exceeding Mandatory Code Requirements).

Items for consideration in meeting this criterion may include the preservation and minimum disturbance of natural features and wildlife habitat; preservation of unique historical or cultural features; preservation of open space; dedication to the City of land within the City's potential park or open space areas and corridor as designated in the comprehensive plan; and preservation of air, sunlight and scenic resources.

2. Public Service and Facility Availability (Exceeding Mandatory Code Requirements).

Items for consideration in meeting this criterion may include the provision of public schools; public park or other public facilities and/or sites; bicycle and pedestrian pathway systems;

and special site design for special needs residents to situate or cluster uses within a reasonable distance of fire and police protection, medical, shopping, church and other such amenities.

3. Energy Efficiency (Exceeding Mandatory Code Requirements).

Items for consideration in meeting this criterion may include preservation of solar access; south orientation with added glazing for inhabited structures; the use of landscaping and topography for windbreaks and shading; common wall construction; transportation management strategies, the use of solar energy systems either passive or active for heating and/or cooling; energy conserving design of roadways and other structures; and higher insulation levels.

4. Public Recreation Facilities (Exceeding Mandatory Code Requirements).

Items for consideration in meeting this criterion may include provision for public recreational features such as tennis courts, active play areas, swimming pools, passive open space areas, bicycle and pedestrian pathway systems.

5. Environmental Design (Exceeding Mandatory Code Requirements).

Items for consideration in this section may include onsite designs providing regional benefits, including drainage control using natural drainage and landscaped drainage retention facilities; significant public access provided to designated potential open space or park areas, shoreline areas, trails, scenic sites and viewpoints; provision for substantial and exceptional landscape treatment; and the use of recycled materials and resource conserving designs.

6. Affordable Housing (Exceeding Mandatory Code Requirements).

Items for consideration include the provision of a mix of housing types, utilization of townhouses, condominiums and apartments directed to providing a reasonable mix or diversity of bona fide affordable housing opportunities for a diverse segment of the community. Bonus densities will also be allowed for projects providing affordable housing in market rate developments. In such developments and other developments seeking bonus densities for the provision of affordable housing opportunities, the amount of

bonus will be linked to the level of affordability, i.e., the lower the cost or rental rate per unit, the greater the bonus afforded to the development. Density bonuses for affordable housing projects will be granted only where all of the following conditions are satisfied:

a. The developer must agree to sell or rent the units to qualifying residents;

b. The developer must ensure the continued affordability of the units by qualified residents for a minimum of 40 years through the use of restrictive covenants or other deed restrictions approved by the city; and

c. The units must be of an innovative design and compatible with existing neighborhood character, with adequate assurances that such design and compatibility will be maintained throughout the 40-year period.

7. Other suitable items believed by the City to be worthy of consideration may also be included as bonus density criteria.

**Subd. 6. Planned Unit Development; Type, Process, Application, Approval and Decision Criteria, and Open and Recreation Space Requirements.**

A. Types of planned unit developments - Where permitted.

1. Two types of planned unit developments are established:

a. Single-family PUDs, comprising detached dwelling units on individual lots; the necessary streets and other public and/or private rights-of-way to serve such dwelling units; and any appurtenant common open space, recreational facilities or other areas or facilities. Proposals for single-family PUDs are allowed in the R-1, R-1A, and R-2 zoning districts.

b. Non-single-family PUDs, comprising attached dwelling units, detached dwelling units not on individual lots, retail, office, service or industrial buildings, or any combination thereof, the necessary streets and other public and/or private rights-of-way to serve such uses, and any appurtenant common open space, recreational facilities or other areas or

facilities. Proposals for non-single family PUDs are allowed in the R-1, R-2, R-3, B-1, B-2, R-B, I-1, I-2, and I-B districts

A PUD may comprise both of the above types, subject to compliance with the use regulations of the zone in which the PUD is proposed to be located.

B. Preliminary and final approval required - Type of action - Combined applications.

1. Each PUD shall require a pre-application conference, preliminary and final approval. Both preliminary and final PUD approvals shall be processed in accordance with the procedures for such actions as set forth in this Code.

2. Prior to the submittal of an application for a PUD, the applicant shall schedule a pre-application conference with the City's Development Review Team. The primary purpose of the conference shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of the proposal for the area which it is proposed and its conformity to the provisions of this section before incurring substantial expense in the preparation of plans, surveys and other data. At least ten (10) days prior to the meeting, the applicant shall submit a concept plan containing the following information:

- a. Overall maximum PUD density.
- b. Specific location of major streets and pedestrian ways.
- c. Location and extent of public and common open space.
- d. Staging and time schedule of development.
- e. Other special criteria for development.
- f. Specific location of residential and nonresidential land uses with approximate type and intensities of development.

g. Narrative describing how the proposed development will be superior or more innovative than conventional development undertaken through the City's land use regulations. The statement shall also substantiate how the proposed PUD will provide a benefit to the public beyond what is available through conventional development.

3. The preliminary development plan and the final development plan may be combined and together processed through review as a final development plan. In addition, the applicant may file a concurrent subdivision application, in accordance with the procedures as set forth in this Code and/or a concurrent rezone application, in accordance with the procedures as set forth in this Code, which application(s) shall be processed concurrently with the PUD application(s).

C. Phased development.

1. Development of the project may be phased, in which case each complete phase may be processed separately through both preliminary development plan review and final development plan review. A map showing all property owned or controlled by the developer which is contiguous to the development site or which is within the area determined by the community development director to be relevant for comprehensive planning and environmental assessment purposes, together with a conceptual plan of said properties' eventual development through all potential phases, shall be submitted with the application for the first phase. The developer is not responsible for providing a conceptual plan for contiguous or nearby property which is not owned or controlled by the developer. The conceptual plan shall conform to the purposes of this chapter and shall be used by the city to review all phases of the development. All phases of the development shall conform to the conceptual plan, all conditions of approval, and applicable regulations.

D. Preliminary PUDs - Contents of complete application.

1. The applicant shall file with the City a preliminary development plan, including the following:

a. A legal description of the property proposed to be developed;

b. A map of the subject property and surrounding area determined by the City to be relevant for

comprehensive planning, environmental assessment or zoning review purposes, which map shall depict comprehensive plan designations, zoning classifications and existing land uses, including streets;

c. A proposed site plan for the subject property depicting the following:

(1) Topography at two-foot contours.

(2) Individual trees over eight inches in trunk diameter measured four feet above the base of the trunk in areas to be developed or otherwise disturbed;

(3) Designated placement, location, and principal dimensions of lots, buildings, streets, parking areas, recreation areas and other open space, landscaping areas and utilities;

(4) If the developer owns or otherwise controls property adjacent to the proposed development, a conceptual plan for such property demonstrating that it can be developed in a compatible manner with the proposed development;

d. A conceptual landscape plan showing existing and proposed landscaping, in accordance with the requirements of this Code.

e. Drawing and/or text showing scale, bulk and architectural character of proposed structures;

f. For PUDs proposed in the R-1 or R-2 zoning district, a conceptual drawing depicting the number and location of lots, which would be allowed if no regulations were modified;

g. Special features including but not limited to critical areas and sites or structures of historic significance;

h. A text describing conditions or features, which cannot be adequately displayed, on maps or drawings;

i. A narrative stating how the proposed development complies with the goals and policies of the Comprehensive Plan, including level of service standards and

guidelines, and with the development regulations contained in this and other titles;

j. Draft conditions, covenants and restrictions, and other documents relating to operation and maintenance of the development, including all of its open areas and recreational facilities;

k. Preliminary drainage, grading, and utility service system plans;

l. Other information required by the City, or by any other section of this Code.

2. The applicant may submit to the City proposed development standards which, if approved by the city council, shall become a part of the preliminary plan in lieu of the requirement of subsection (A) (2) of this section for specifying placement, location and principal dimensions of buildings, streets, and parking areas. This alternative process is intended to accommodate the need for flexibility in large-scale non-single-family developments, while insuring that sufficient information as to the nature of the development is available upon which to base a decision concerning the preliminary development plan. Proposed development standards shall specifically set forth parameters for location, dimensions and design of buildings, streets and parking areas.

#### E. Preliminary PUDs - Criteria for approval.

Preliminary PUD approval shall be granted by the city only if the applicant demonstrates that:

1. The proposed project shall not be detrimental to present and potential surrounding land use.

2. Land surrounding the proposed development can be planned in coordination with the proposed development and can be developed so as to be mutually compatible.

3. Streets and sidewalks, existing and proposed, are suitable and adequate to carry anticipated traffic within the proposed project and in the vicinity of the proposed project, in light of the criteria set forth in this Code and in compliance with transportation level of service standards and guidelines contained in the comprehensive plan.

4. Services including potable water, sanitary sewer and storm drainage are available or can be provided by the development prior to occupancy so as to comply with level of service standards or guidelines contained in the comprehensive plan.

5. Each phase of the proposed development, as it is planned to be completed, contains the required parking spaces, recreation spaces, landscape and utility areas necessary for creating and sustaining a desirable and stable environment.

6. The project conforms with the purposes and standards prescribed in this chapter.

7. The project conforms to the Comprehensive Plan, and any applicable sub-area plan that has been adopted by the city.

8. If a subdivision application is being processed concurrently, conformance with the requirements of City Code Section 11.

F. Preliminary PUDs - Minor and major changes to an approved preliminary PUD.

1. A proposed minor change to an approved PUD shall be incorporated into the application for final PUD approval, and any notification regarding such final PUD approval shall describe the proposed minor change(s). A "minor change" means any departure from the conditions of preliminary approval, which is not a "major change" and includes but is not limited to the following:

a. Reductions in the number of dwelling units in a structure;

b. Reductions in the number of nonresidential structures;

c. Reductions in the heights of structures;

d. Revisions to location of internal roads;

e. Revisions similar in nature to those above as determined by the Zoning Administrator.

2. A proposed change to an approved preliminary PUD shall require reapplication for preliminary PUD approval as set forth in this Code and any notification regarding such preliminary PUD approval shall describe the proposed major change or changes. A major change is any departure from the conditions of preliminary PUD approval, which would result in any of the following:

- a. Revisions to the approved design concept;
- b. Revisions to the approved use(s);
- c. An increase in the number of residential dwelling units;
- d. An increase in square footage of nonresidential structures;
- e. A decrease in the amount of landscaping, site perimeter buffering, and open space; and
- f. An increase in traffic volumes or change in circulation patterns which impacts surrounding development.

A. Final PUDs - Contents of complete application.

Within 12 months following the approval of the preliminary PUD, the applicant shall file with the City a final PUD conforming to the approved preliminary PUD, including any proposed minor changes pursuant to this Code. Should the approved preliminary PUD include a preliminary subdivision, the applicant shall file a final development plan within the time period required by law. Such a final subdivision shall not be approved unless and until the associated final PUD is approved. In addition to the information required under Section 11 of this Code for the preliminary PUD, the final PUD shall include the following:

- 1. A survey of the property, showing for all areas to be developed or disturbed existing features, including topography at two-foot contours, buildings, structures, trees over eight inches in trunk diameter measured four feet above the base of the trunk, streets, utility easements, rights-of-way, and existing land uses;

2. Elevation and perspective drawings of project structures and improvements;

3. Proposed final conditions, covenants and restrictions (CC&Rs) and other documents relating to operation and maintenance of the development, including all of its open areas and recreational facilities, which CC&Rs and other documents shall be recorded upon final PUD approval;

4. Proposed final agreements, which may have been required as conditions of preliminary PUD approval;

5. A development schedule, if development may extend over more than a two-year period;

6. The following plans and diagrams:

a. An off-street parking plan;

b. A circulation diagram indicating the proposed movement of vehicles and pedestrians within the planned unit development, and to and from existing and programmed thoroughfares; any special engineering features and traffic regulating devices needed to facilitate or insure the safety of this circulation pattern must be shown;

c. Landscaping and tree planting plan, including site grading;

d. A topographic map or model of the site and surrounding vicinity;

e. Final drainage plan.

7. In the event that development standards were submitted and approved as part of the preliminary development plan pursuant to this code, development standards shall be made binding upon all future developers of the property in a manner acceptable to the city, and may be submitted in lieu of elevation and perspective drawings of project structures and improvements.

#### H. Final PUDs - Criteria for approval.

Final PUD approval shall be granted by the city only if the applicant demonstrates that the final PUD substantially conforms to the approved preliminary PUD, including minor changes. For the purposes of this section, "substantially conforms" means that, as

compared to the preliminary PUD, the final PUD contains no revisions in density, uses, design or development standards or in the site plan, other than the minor changes.

I. Final PUDs - Extension of time for filing.

For good cause shown, the city council, in its discretion, may grant an extension of time of one year for filing the final PUD and required accompanying papers, and may grant additional one-year extensions; provided, however, the city shall have the right to re-examine and update any conditions made to mitigate development impact.

J. Final PUDs - Failure to file - Termination.

1. In the event the final PUD or any required attendant papers are not filed within 12 months following approval of a preliminary PUD, except as provided in this Code, the approval of the preliminary PUD shall lapse and the approval shall be deemed null and void and without force or effect.

2. When it is determined as part of the preliminary PUD approval that the final PUD is to be phased, the final PUD for the first phase shall be submitted within 12 months of preliminary approval. The final development plan for each subsequent phase shall be submitted within the schedule established at the time of preliminary PUD approval. In the case of a PUD, which includes a subdivision, the final PUD shall be submitted within five years of receiving preliminary approval.

3. The time period for filing of final PUDs shall not include periods of time during which progress on the final PUD was reasonably halted or delayed due to the filing and pendency of legal actions challenging an approval granted by the city pursuant to this chapter; provided, that in all cases when more than two years have elapsed subsequent to the date of approval of a preliminary PUD, whether due to the pendency of litigation, city approved extensions of time for filing or otherwise, the permittee shall be required to comply with all current building, construction, subdivision and other applicable standards of the city prior to being granted approval of the final PUD.

K. Final PUDs - Adjustments to approved final PUD.

Adjustments to an approved final PUD shall be processed in accordance with the provisions of this section.

1. The Zoning Administrator is authorized to allow adjustments in accordance with subsection B of this section. The Zoning Administrator shall allow only such adjustments as are consistent with guidelines established in subsection B of this section, and in no case shall an adjustment be allowed if it will increase the total amount of floor space authorized in the approved final PUD, or the number of dwelling units or density, or decrease the amount of parking or loading facilities or permit buildings to locate substantially closer to any boundary line or change substantially any point of ingress or egress to the site.

2. For the purposes of this section, "adjustments" means any departure from the conditions of final PUD approval, which complies with the following criteria:

a. The adjustment maintains the design intent and quality of the original approval;

b. The amount of landscaping, buffering and open space shall not be reduced;

c. The number of dwelling units in residential developments and the square footage of nonresidential structures shall not increase;

d. The adjustment shall not relocate a building, street or other use more than 20 feet in any direction and shall not reduce any required yard and/or setback;

e. The height of buildings and other structures shall not increase;

f. Views from both structures on-site and off-site shall not be substantially reduced;

g. Traffic volumes shall not increase and circulation patterns shall not change;

h. Changes in colors, plant material and parking lot configurations are minor;

i. The adjustment does not add significant new environmental impacts or significantly increase environmental impacts disclosed in the original documents;

j. The Zoning Administrator determines that the change will not increase any adverse impacts or undesirable effects of the project, or that the change in no way significantly alters the project.

L. Bond required for final PUD.

No final PUD shall be implemented until the applicant files with the city a bond approved by the city, executed by a surety company authorized to do business in the state, or other equivalent security approved by the city attorney, in an amount equal to the City's estimate of the cost of all public improvements, utilities, and all landscaping portions of the final PUD, conditioned upon the permittee's completion of such portions of the project according to the submitted final PUD and the provisions of this chapter, and, in addition, providing that no change, extension of time, alteration or addition to the project will in any way affect the obligation on the bond. Said bond, or an additional bond or other equivalent security, shall also be conditioned upon full restoration of the site in the event that grading, clearing or any other site preparation or work is begun and abandoned, and in the determination of the city, it will better serve the public health, welfare and safety to restore the site rather than to require completion of public improvements, utilities and landscaping. If the PUD is also being subdivided, the bonds required to be posted by this Code, to the extent that they satisfy the requirements of this section, shall be accepted as full or partial fulfillment of the requirements hereof.

M. Building permits - Certificates of occupancy - Common walls.

1. The city shall issue building permits for buildings and structures, which conform with the approved final PUD and with all other applicable city ordinances and regulations. The city shall issue a certificate of occupancy for completed buildings or structures which conform to the requirements of the approved final PUD and all other applicable city ordinances and regulations. The construction and development of all the open spaces and public and recreational facilities of each project phase must be completed or bonded before any certificate of occupancy will be issued.

2. In PUD projects receiving final approval, where units will have common walls, the city may issue building permits for construction of those units prior to approval of final lot lines.

N. Extension of time for construction.

For good cause shown, the city council, in its discretion, may grant one extension of time for commencement or continuation of construction subsequent to approval of the final PUD.

O. Planned Unit Development plan - Decision criteria.

The City may approve or approve with modifications a Planned Unit Development plan if:

1. The Planned Unit Development is consistent with the Comprehensive Plan; and

2. The Planned Unit Development accomplishes, by the use of permitted flexibility and variation in design, a development that is better than that resulting from traditional development. Net benefit to the City may be demonstrated by one or more of the following:

a. Placement, type, number or reduced bulk of structures, or

b. Interconnected usable open space, or

c. Recreation facilities, or

d. Other public facilities, or

e. Conservation of natural features, or

f. Aesthetic features and harmonious design, or

g. Energy efficient site design or building features; and

3. The Planned Unit Development results in no greater burden on present and projected public utilities and services than would result from traditional or other allowed development and the Planned Unit Development will be served by adequate public or private facilities including streets, fire protection, and utilities; and

4. The perimeter of the Planned Unit Development is compatible with the existing land use or property that abuts or is directly across the street from the subject property. Compatibility includes but is not limited to size, scale, mass and architectural design; and

5. Landscaping within and along the perimeter of the Planned Unit Development is superior to that which may be required by this Code and enhances the visual compatibility of the development with the surrounding neighborhood; and

6. Access to three (3) or more residential units and two (2) or more non-residential units shall be on a roadway which, whether dedicated to the public or not, conforms to the City's design criteria including sub-grade, finish grade and curb radii but not necessarily street width. Private streets not meeting these design criteria will not be allowed.

7. Open space within the Planned Unit Development is an integrated part of the project rather than an isolated element of the project; and

8. The design is compatible with and responds to the existing or intended character, appearance, quality of development and physical characteristics of the subject property and immediate vicinity; and

9. Roads and streets, whether public or private, within and contiguous to the site comply with City guidelines for construction of streets; and

10. Streets and sidewalks, existing and proposed, are suitable and adequate to carry anticipated traffic within the proposed project and in the vicinity of the proposed project; and

11. Each phase of the proposed development, as it is planned to be completed, contains the required parking spaces, open space, recreation space, landscaping and utility area necessary for creating and sustaining a desirable and stable environment.

P. Planned Unit Development plan - Open and recreation space requirement.

1. General.

Within a Planned Unit Development including residential uses:

a. At least 40 percent of the gross land area, which includes any protected area, of the subject property must be retained or developed as open space as defined by this Code; and

b. At least 10 percent of the gross land area, which includes any protected area, of the subject property must be retained or developed as common recreation space as defined by this Code; provided, however, that the requirement for recreation space may be waived if the total of protected area and protected area setback equals at least 40 percent of the gross land area; and

c. Recreation space as required by paragraph A.2 of this section may be included in the open space required by paragraph A.1 of this section if:

(1) The common recreation space meets the definition of open space, as defined in this Code; and

(2) At least 20 percent of the gross land area is non-recreation open space.

Provided, however, that recreation space may not occur in a protected area or a protected area setback;

d. The area of the site devoted to pedestrian trails shall not be included in the required common recreation space unless public trails are specifically required by the City;

e. An outdoor children's play area meeting the requirements of this Code may be included in the above described common recreation space requirement;

f. For mixed-use projects, the required open and recreation space shall be designed to meet the needs of both the residential and commercial uses.

2. Maintenance.

In appropriate circumstances the City may require a reasonable performance or maintenance assurance device in conformance with this Code to assure the retention and continued maintenance of all open and recreation space in conformance with the Land Use Code and the Planned Unit Development plan approval.

Source: Ord. 561-2<sup>nd</sup> Series  
Effective Date: 7/11/05