

STATEMENT OF PURPOSE

The "PUD" planned unit development district is established for the following purposes:

- To provide flexibility in the planning and construction of development projects by allowing a combination of uses developed in accordance with an approved plan that protects adjacent properties.
- To encourage the preservation and enhancement of natural amenities and cultural resources; to protect the natural features of a site that relate to its topography, shape and size; and to provide for a minimum amount of open space.
- To provide for a more efficient arrangement of land uses, buildings, circulation systems and infrastructure.
- To encourage infill projects and the development of sites made difficult for conventionally designed development because of shape, size, abutting development, poor accessibility or topography.
- To allow for private streets and gated entrances for new subdivisions.

(a) Applicability and Evaluation Criteria. This section shall apply to all planned unit development districts established prior to January 1, 2016. Planned unit development districts established subsequent to January 1, 2016, shall comply with [section 35-344.02](#) of this chapter. In order to foster the attractiveness of a planned unit development and its surrounding neighborhoods and thereby preserve property values, and in order to provide an efficient road and utility network, ensure the movement of traffic, implement comprehensive planning, and better serve the public health, safety, and general welfare, the following criteria shall be utilized by the planning commission in reviewing PUD plans. These criteria shall neither be regarded as inflexible requirements, nor are they intended to discourage creativity or innovation.

- (1) Insofar as practicable, the landscape shall be preserved in its natural state by minimizing tree and soil removal.
- (2) Proposed buildings shall be sited harmoniously to the terrain and to other buildings in the vicinity that have a visual relationship to the proposed buildings.
- (3) With respect to vehicular and pedestrian circulation and parking, special attention shall be given to the location and number of access points to public streets, width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic, and the arrangement of parking areas that are safe and convenient and, insofar as practicable, do not detract from the design of proposed structures and neighboring properties.
- (4) Private streets and gates shall conform to article V of this chapter.
- (5) Planned unit developments in the ETJ shall comply with the provisions contained in this section with the exception of subsections (c) related to density,

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(d) related to height and yard requirements, and (j) related to PUD plans. In addition, planned unit developments in the ETJ are exempt from the zoning procedures contained in this section.

(6) The description "planned unit development" or "PUD" shall be prominently indicated in the subdivision plat name.

(b) Minimum Size. There is no minimum size for a planned unit development.

(c) Permitted Uses and Density.

(1) Uses. A planned unit development may include residential, commercial, and industrial uses; cluster housing; common areas; unusual arrangements of structures on-site; or other combinations of structures and uses that depart from standard development. The uses permitted in a "PUD" are those designated in the approved PUD plan. Density limits are used to determine the maximum number of permitted dwelling units.

Planned unit developments containing one (1) single zoning district shall be annotated with the zoning district (PUD "RE," PUD "R-20," etc.) and may be developed to the density indicated in the maximum density table in subsection (2) below.

Planned unit developments which contain more than one (1) zoning district shall have each zoning district annotated as (PUD "RE," PUD "R-20," etc.) and each individual district may be developed to the density indicated in the maximum density table in subsection (2) below.

(2) Density Table. The PUD plan shall divide the PUD into land use categories and shall indicate the uses permitted in each category. For residential land use categories, the maximum number of dwelling units permitted per acre for each land use category is as follows:

Land Category	Use	Maximum Density
"RE"		1
"R-20"		2
"R-6"		5
"RM-6"		5
"R-5"		6
"RM-5"		6
"R-4"		7

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"R-3"	10
"RM-4"	7
"MF-18"	18
"MF-25"	25
"MF-33"	33
"MF-40"	40
"MF-50"	50
"MF-65"	65

Total allowable density is calculated by multiplying the amount of net usable acres times the appropriate number above. Floodplains (100-year), steep slopes, non-buildable areas and existing easements are not used to determine net acreage.

Example: On a twelve (12) acre tract with one and one-half (1½) acres of unusable space, with an "R-6" zoning district. Usable acreage ten and one-half (10½) times table number (5) allows fifty-two and one-half (52½) units. The maximum number of units that may be built may not be further increased by using the provisions of division 6 flexible zoning of this article.

(3) Attached Dwelling Units. Dwelling units may be attached in all PUD districts except for land use categories designated "RE" and "R-20."

(4) Lots. There is no minimum area requirement for lots and lots need not front onto a street. Lot boundaries may coincide with structure boundaries except where perimeter lot setbacks are required.

(d) Height and Yard Requirements.

(1) Height Limitation. The maximum height of structures shall be as prescribed below; however, any portion of a structure may exceed this limit provided such portion is set back from the side and rear lot lines, or setbacks if required, one (1) foot for each two (2) feet of height in excess of the maximum building height. Distance credit shall be permitted for space occupied by structures of conforming height extending from the lot lines or setbacks as applicable.

Structures devoted to the following uses:	Shall be restricted to the following height:
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Dwelling, one family; Dwelling, single-family; Duplex; Dwelling, one-family attached; Dwelling, single-family detached; Dwelling, two-family (duplex); Dwelling, two-family attached; Dwelling, three-family (triplex); Dwelling, four-family (quadraplexes)	35 ft
Multi-Family not exceeding 25 units/acre	45
Multi-Family not exceeding 33 units/acre	60
Multi-Family not exceeding 40 units/acre	84
Multi-Family not exceeding 65 units/acre	—
Commercial Buildings, except as otherwise listed below	35
Malls, shopping centers, or collection of shops - regional center (enclosed mall with two (2) or more anchors) or super regional center (similar to regional, but with three (3) or more anchors)	45
Light Industrial uses (uses permitted in the "L" district)	35
General Industrial uses (uses permitted in the "I-1" and "MI-1" districts)	60
Mixed use buildings may be as tall as allowed by the most intense use included in the structure pursuant to this table	

(2) Fences.

A. Along collector and arterial streets, fences or walls within a PUD may extend to a height of eight (8) feet subject to the clear vision area requirements for fences in [section 35-514](#).

B. No such fence or wall, or portion thereof, shall exceed one hundred (100) horizontal feet in length unless one (1) of the following architectural features visible from the paved surface of the street is provided as part of the fence:

1. A column or pillar; or
2. Articulation of the surface plane wall by incorporating plane projections or recesses having a depth of at least one (1) foot and extending a horizontal distance not less than three (3) or more than twenty (20) feet.

C. The provisions of subsection B., above, shall not apply to a fence or wall constructed of brick, masonry, or wrought iron consisting of at least fifty (50) percent open voids. The square footage of the fence shall be measured by taking the total square footage of an area defined by the length of the fence and its average height. The percentage of open voids shall then be derived

by dividing the total square footage of the open voids by the total square footage of the area calculated above and multiplying this figure by one hundred (100). The fence's framing (the vertical posts supporting the fence from the ground and no more than three (3) horizontal cross bars between the posts, or brick or stone pillars) shall not be included in the calculation of the total square footage, provided the framing posts and cross bars do not exceed a four-inch width and the posts are spaced at least eight (8) feet apart.

(e) Required Setbacks.

(1) Residential Including Multi-Family Uses. Required PUD perimeter setbacks shall be twenty (20) feet.

(2) Nonresidential Uses. Required PUD perimeter setbacks shall be the same as for the applicable zoning district which the nonresidential use would be allowed in if it were not a PUD.

The PUD perimeter setback lines shall be indicated on the PUD plan prior to receiving approval of the PUD plan. The planning commission may approve lesser setbacks after considering physical features such as the location of trees, waterways, steep slopes, easements, other buffers and/or compatibility of the PUD with adjacent land uses provided such setbacks meet the requirements of the current adopted International Building Code.

No setbacks are required for residential or nonresidential interior lots provided the requirements of the currently adopted International Building Code or the International Residential Code are met. Provisions of subsection [35-373\(c\)](#) zero lot line development do not apply in a PUD.

(3) If access to a garage is provided from the front or side of a lot, then the garage shall maintain a setback as indicated in subsection [35-516\(g\)](#) of this chapter.

(f) Infrastructure Requirements.

(1) Streets and Sidewalks. Streets within a PUD may be public or private. Vehicular circulation may also be provided by internal private drives. Private drives must meet the requirements for fire lanes as per the International Fire Code Appendix D for width, lengths turnarounds, and parking requirements whether for a commercial or residential base zoning. A building permit must be obtained for private drives and would include site plan review and inspection for flatwork/civil work within the public ROW. However, the planning commission may require dedication and construction of public streets through or into a PUD through the platting process. Public or private streets shall conform to the transportation standards of this chapter (see [section 35-506](#) of this chapter).

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(2) Utilities. All utility systems shall comply with the utilities standards of this chapter. Water and sanitary sewer systems within a PUD may be publicly or privately owned; however, the maintenance of private systems shall be the responsibility of the PUD community association. Public utility systems shall be approved by the applicable agency or city department.

(3) Easements. Publicly owned and/or maintained utilities shall be placed in public streets or easements which are a minimum of sixteen (16) feet in width unless a narrower width is approved by the applicable utility. Dead-end easements shall not be permitted unless a city approved vehicular turnaround is provided at the end of each such easement.

(4) Garbage Collection. If in the opinion of the solid waste management director, private streets in a PUD are arranged so that garbage may be collected without creating a safety hazard, the city will collect the garbage provided proper indemnification is received from the community association or individual property owners. Garbage collection locations shall be subject to the approval of the solid waste management director. In the event the city does not collect garbage within a PUD, all units within the PUD may be exempted from payment of garbage fees upon furnishing of evidence ensuring acceptable removal of all garbage and refuse by private means. To receive such an exemption, a written application must be submitted to and approved by the finance director.

(g) Parks/Open Space.

(1) Residential. Each residential PUD plan shall provide for a minimum amount of parks/open space as required by the parks/open space standards (35-503) of this chapter. Residential PUDs may not use a fee in lieu of for meeting parks/open space requirements.

(2) Commercial. All commercial and industrial PUDs will contain a minimum of twenty (20) percent of park/open space.

(3) Mixed-Use. Mixed-use developments shall be divided into separate residential and commercial areas which must separately meet the requirements of this paragraph and subsection 35-344(c)(2). Mixed use buildings that include residential use shall meet the residential requirements of this subsection.

(4) Reduction in Parks/Open Space. At its discretion, the planning commission may approve a decrease in the amount of required parks/open space when the PUD plan includes unique design features or amenities which achieve an especially attractive and desirable development such as, but not limited to, terraces, sculpture, water features, preservation and enhancement of unusual natural features, or landscape sculpture (areas which are intensely landscaped).

(h) Parking Requirements. Off-street parking and truck loading facilities shall be provided in accordance with the parking standards of this chapter. Parking shall be prohibited on

any private street or private drive, excluding driveways on interior lots less than twenty-eight (28) feet in width, and if utilized on streets twenty-eight (28) feet or wider, the parking must be clearly distinguishable from the movement lanes.

(i) Common Areas and Facilities. Provisions shall be made for a property owners' association that is designated as the representative of the owners of property in a residential subdivision. The property owners' association shall have the direct responsibility to provide for the operation and maintenance of all common areas and facilities, including private streets and sidewalks, which are a part of the PUD. The applicant shall submit the dedicatory instrument(s) covering the establishment, maintenance, and operation of a residential subdivision. The dedicatory instrument(s) shall establish a plan for the use and permanent maintenance of the common areas/facilities and demonstrate that the property owners' association is self-perpetuating and adequately funded by regular assessment and/or special assessment to accomplish its purposes. The dedicatory instrument(s) shall include provisions that provide the city with permission for access at any time without liability when on official business, and further, to permit the city to remove obstructions if necessary for emergency vehicle access and assess the cost of removal to the owner of the obstruction.

"Property owners' association" means an incorporated or unincorporated association that;

- A. Is designated as the representative of the owners of property in a residential subdivision;
- B. Has a membership primarily consisting of the owners of property covered by the dedicatory instrument for the residential subdivision; and
- C. Manages or regulates the residential subdivision for the benefit of the owners of property in the subdivision.

"Dedicatory instrument" means each governing instrument covering the establishment, maintenance, and operation of a residential subdivision. The term includes restrictions or other similar instruments that subject property to restrictive covenants, bylaws, or similar instruments governing the administration or operation of a property owners' association; allow for properly adopted rules and regulations of the property owners' association; and authorize enactment of lawful amendments to the covenants, bylaws, rules, or regulations.

"Property owners' association" means the designated representative of the owners of property in a subdivision and may be referred to as a "homeowners association," "community association," "civic association," "civic club," "association," "committee," or similar term contained in the dedicatory instrument.

"Regular assessment" means an assessment, a charge, a fee, or dues that each owner of property within a residential subdivision is required to pay to the property owners' association on a regular basis and that is designated for use by the property owners'

association for the benefit of the residential subdivision as provided by the dedicatory instrument.

"Special assessment" means an assessment, a charge, a fee, or dues, other than a regular assessment, that each owner of property within a residential subdivision is required to pay to the property owners' association, according to the procedures required by the dedicatory instrument, for:

- A. Defraying, in whole or part, the cost whether incurred before or after the assessment, of any construction or reconstruction, unexpected repair, or replacement of a capital improvement in common areas owned by the property owners' association, including the necessary fixtures and personal property related to the common areas;
- B. Maintenance and improvement of common areas owned by the property owners' association; or
- C. Other purposes of the property owners' association as stated in its articles of incorporation or the dedicatory instrument for the residential subdivision.

(j) PUD Plan. After the PUD zoning is granted, a PUD plan shall be submitted to and approved by the planning commission prior to approval of any plats or the issuance of any building permits or certificates of occupancy. The PUD plan shall incorporate any conditions imposed with the granting of the PUD zoning.

(1) Public Hearing. Upon submission of the PUD plan, the director of development services shall distribute copies to appropriate city departments and agencies for review. Upon receipt of all required items and reviews, the director of development services shall schedule a public hearing by the planning commission on the proposed plan and shall provide written notice of the hearing to the owners of real property lying within two hundred (200) feet of the PUD boundaries. The notice shall be mailed at least ten (10) days prior to the public hearing date.

(2) Plan Approval. After the public hearing the commission may approve the plan as submitted, amend and approve the plan as amended, or disapprove the plan. If approved, the plan with any amendments shall be signed by the chairman and secretary of the commission. A copy of the approved PUD plan shall be distributed to the development services director and other appropriate departments/agencies for use in issuing permits.

(3) Amendments. Amendments for any PUD plan shall be consistent with subsection (k) below.

(k) Amendments. Amendments may be classified as minor or major in accordance with the following:

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(1) Minor amendments to the previously approved PUD plan may be made without requiring resubmission of the entire application. For purposes of this subsection, "minor amendments" are amendments which:

A. Permit equal or fewer dwelling units, floor area, lot coverage or impervious surface than that requested on the original application;

B. Reduce the impact of the development; or

C. Reduce the amount of land involved from that indicated in the notices of the hearing.

D. A minor amendment shall not, in any case, permit:

i. An increase in the overall density of the PUD by more than ten (10) percent;

ii. A different land use than that requested in the original or amended PUD plan;

iii. A larger land area than indicated in the original or amended PUD plan.

E. A minor amendment shall not reduce or eliminate conditions adopted in this chapter or otherwise adopted by city council ordinance or planning commission approval for a PUD approval.

(2) Amendments not classified as minor amendments above shall be classified as major amendments and shall require resubmission of the application to the planning commission.

(3) Major amendments shall be considered by the planning commission following the same procedure required for the initial approval of the plan, including payment of the plan review fee.

(l) Time Limit.

(1) Applications. The director of development services shall provide a written response indicating whether the planned unit development application is complete within five (5) working days after submittal. The applicant shall file a written response to any staff comments or resolve outstanding issues prior to final approval of completeness. This response shall occur within thirty (30) days of the notification date of staff comments unless a time extension is requested and granted in writing. The maximum limit on an extension is six (6) months from the original staff comment date. The appellate agency for purposes of completeness review shall be the planning commission.

PUD plan application approval shall expire and shall be void for all purposes if a PUD plan is not approved in accordance with this chapter within two (2) years from

the date of acceptance of the complete application. Upon expiration of the PUD plan application, a new PUD plan number, application, and fee shall be required when PUD plan approval is still sought.

(2) PUD Approval and Completion. A PUD plan, deemed complete and approved, shall remain valid for a period of six (6) years from the date of the last recorded plat or the date of planning commission approval if no plats are recorded. Time extensions for up to one (1) year may be granted by the planning commission if it finds that additional time is warranted. Failure to initiate development within the approved time period shall void the approved PUD plan and no building permits or utility connections shall be issued until a new application and plan have been submitted and approved.

(3) Amendments. An approved/completed PUD may be amended in the future subject to any applicable criteria or requirements of this chapter.