

Subd. PD Planned Development District.

18. A. Intent.

1. Providing greater flexibility in environmental design and relaxation of strict application of the zoning ordinance in exchange for greater creativity and environmental sensitivity.
2. Recognizing the economic and cultural advantages that will accrue to the residents of a planned community.
3. Encouraging a more creative and efficient approach to the use of the land.
4. Encouraging the preservation and enhancement of desirable site characteristics, natural features, and open space.
5. Encouraging a development pattern that is consistent with land use density, transportation facilities and community facilities objectives of the Comprehensive Plan.

B. Standards. The provisions of this Code shall be interpreted in accordance with the following:

1. Rules of interpretation:

- a. Where inconsistent therewith, the requirements set by this section shall be followed for planned developments. This section shall have no effect upon other developments or district requirements.
- b. Planned developments may be excluded from certain requirements of the zoning code when specifically approved as a part of the planned development. Such exclusions shall only be granted for the purpose of creating better overall design and an improved living environment and not solely for the economic advantage of the developer. All provisions of the zoning codes not specifically excluded in the preliminary and/or final plan shall apply to the planned development.
- c. Building permits shall not be issued that are not in conformity with the approved planned development.
- d. Whenever a dispute arises concerning the interpretation and/or application of any section of this Code, the matter may be referred to the board of adjustments and appeals for hearing as governed elsewhere in this chapter.

2. Relation of planned development site to adjacent areas. The design of a planned development shall take into account the relationship of the site to the surrounding areas. The perimeter of the planned development shall be so designed to minimize undesirable impact of the development on adjacent properties and conversely, to minimize undesirable impact of adjacent land use and development characteristics on the planned development.

3. Residential unit densities. A planned development may provide for a variety of housing types in any one of the basic residential zoning districts. The total number of dwelling units allowed in a development shall be determined by either:

- a. The density specified by the city's Comprehensive Guide Plan. A plan may provide for a greater number of dwelling units per acre than would otherwise be permitted by the zoning regulations otherwise applicable to the site; however, the applicant has the burden to show that such excess will not have an undue and adverse impact on existing public facilities and on the reasonable enjoyment of neighboring property. The council, in determining the reasonableness of the increase in the authorized dwelling units per acre, shall recognize that increased density may be compensated for by additional private amenities and by increased efficiency in public facilities and services to be achieved by:

1. The location, amount and proposed use of common open-space,
2. The location, design and type of dwelling units, and
3. The physical characteristics of the site.
4. Open space.

- a[1]. A primary function of this planned development section is to encourage development which will preserve and enhance the worthwhile, natural terrain characteristics and not force intense development to utilize all portions of a given site in order to arrive at the maximum intensity or density allowed. In evaluating each individual proposal, the recognition of this objective will be a basic consideration in granting approval or denial including but not limited to the following:

1. The amount and location of private common open-space area shall be consistent with the stated purpose of this section and in no case shall be less than 15 percent of the total project area. The residential portion of the project area shall further conform to the mandatory public park, playground and open space area dedication requirements of [the] Code.
2. All open-space shall be labeled as such and as to its intent or designed functions.

- b. Operation and maintenance of common facilities. In the event certain land areas or structures are provided within the planned development for recreational use or as service facilities, the owner of such land and buildings shall file a suitable agreement with the city that assures the continued operation and maintenance to a pre-determined reasonable standard. These common areas may be placed under the ownership of one of the following, depending which is more appropriate:

1. Landlord control.
2. Homeowner's association, provided all of the following conditions are met:
 - a. The homeowner's association must be established prior to any sale.
 - b. Membership must be mandatory for each owner, and any successive buyer.
 - c. The open-space restrictions must be permanent, not for a given period of years.
 - d. The association must be responsible for liability insurance, local taxes and the maintenance of residential and other facilities.

- e. Landowners must pay their pro rata share of the cost and the assessment levied by the association that can become a lien on the property in accordance with Minnesota Statutes.
 - f. The association must be able to adjust the assessment to meet changed needs.
 4. Permitted uses. Uses approved and permitted under a planned development shall only include permitted, conditional and accessory uses allowed in residential districts in the city and those business, industry and institutional uses specifically approved as a part of the planned development and in accordance with standards herein provided. The property to be included in the planned development shall be in single ownership or under the management or supervision of a central authority, or otherwise subject to such supervisory lease or ownership control as may be necessary to carry out the provisions of this Code.
- C. *Procedure.*
1. *General.* Planned Developments shall be proposed and approved in accordance with this section.
 2. *Concept plan.* Prior to filing a petition, any person may request a meeting with the advisory planning commission to present a concept plan to discuss the feasibility of a planned development. Such request shall be made by addressing a letter to the advisory planning commission where upon said request shall be heard at a subsequent meeting.
 3. *Petition.* The petition for a planned development shall be on a form provided by the city and shall include all of the following information:
 - a. Signature(s) of owner(s) and developer(s).
 - b. All data normally required by the city for a rezoning and preliminary plat petition.
 - c. All information and plans comprising a "preliminary development plan" as defined in herein.
 4. *Preliminary development plan approval.* The petition for a "preliminary development plan" of a planned development shall be processed by the city in the same manner in which rezoning petitions are processed as described in the Zoning Code.
 5. *Development agreements.* As a condition to approval of a preliminary development plan, the city shall require the owner and developer of a proposed planned development to execute an agreement which may include, but not be limited to, all information required in the preliminary development plan as provided herein.
 6. *Fees.* The fee for a planned development shall be the same as the fee charged for a rezoning and preliminary plat when the latter is also included.
 7. *Performance bond.* The owner and/or developer of a proposed planned development shall furnish a public contractor's performance bond as prescribed by Minnesota Statutes, with corporate surety in a penal sum equal to 125 percent of the city director of public works cost estimate for the required improvements to be furnished or installed by the owner and/or developer, including, but not limited to, street surfacing, curbs, gutters, sanitary sewer and water service and storm sewers. The performance bond shall be approved by the city attorney prior to its acceptance. A certified check shall be submitted by the owner and/or developer for the estimated inspection costs of the required improvements to be furnished or installed by said owner and/or developer. Said check shall be submitted at the time of the submission of the performance bond.
 8. *Variances.* Variances granted as a part of a planned development shall not be subject to the zoning code. Said variances shall be permitted as a part of the overall approval of the planned development provided said variance from zoning code provisions are so stated in the planned development agreement.
 9. *Effect of approval of preliminary development plan.* Upon approval of a preliminary development plan, a planned development may not be altered, revised or withdrawn without the approval of the city council.
 10. *[Public hearing.]* A public hearing shall not be required provided the final development plan is in substantial conformance with the preliminary development plan. Any major change as determined by the city shall require a public hearing.
 11. *Council action.* The approval of a preliminary development plan and a final development plan of a planned development shall require an affirmative vote of the majority of all members of the council except when the proposed rezoning is from an existing residential district to a planned development district with commercial or industrial uses in which case a two-thirds majority vote is required.
 12. *Preliminary development plan.* The Preliminary Plan of a Planned Development shall include the following information:
 - a. All information required in the Subdivision Code for a preliminary plat.
 - b. A general development plan indicating:
 1. The proposed site and existing development and adjacent properties.
 2. The proposed use of all areas of the site.
 3. The proposed density, type, size and location of all dwelling units.
 4. The general size, location and use of proposed business, industrial or institutional buildings.
 5. Public and private streets, entrance and exit drives, walkway locations.
 6. Parking areas and stall arrangement.
 7. Landscaping.
 8. Park and open space lands.

- 9. Dimensions.
 - 10. Proposed drainage and utility systems.
 - c. An alternative development site plan depicting each proposed use in the manner that would be required by any and all zoning requirements for the intended use under the equivalent, non-planned development zoning district application (i.e. setbacks, lot coverage, lot size, lot frontage, public streets, density, etc.).
 - d. A summary sheet indicating:
 - 1. Area of land in each use or each separate intensity of use.
 - 2. Number of residential dwelling units proposed in each area.
 - 3. Number of acres of common open space.
 - 4. Modifications of any provisions of the city Zoning Ordinance.
 - e. A staging plan indicating the geographical sequence and timing of development of the plan or portions thereof, including the date of beginning and completion of each stage. The staging plan shall also include the number of dwelling units, commercial structures, public streets, utilities and recreation areas.
 - f. A detailed plan of first phase development indicating buildings, parking areas, driveways and similar detail on the site plan and including architectural elevation drawings of all buildings.
 - g. A preliminary plat may be required by the city for those areas where development is imminent, and a sketch plan shall be required for the remaining areas.
 - h. A written statement by the applicant stating how the proposed planned development conforms to the stated objectives and purposes of this section.
 - i. A separate written statement by the applicant concisely stating how the planned development proposal would benefit the public interest.
13. *Final development plan.* The final development plan for a planned development shall be accompanied by a legal description of the total property together with the following:
- a. A final plat adopted in accordance with the requirements of the Code, except as otherwise specifically provided in this section.
 - b. A final site plan showing the locations of all structures, including placement size and type, as well as streets, parking areas, walkways, open space and similar detail areas on a scaled and dimensional drawing.
 - c. A landscape plan showing the location, species and size of all plant materials. Grading information shall be located on the landscape plan.
 - d. A utility plan showing the location and size of all utilities and easements. The utility plan shall include sanitary sewer, water, storm sewer and drainage, electrical and gas.
 - e. Building plans shall be submitted in sufficient detail to warrant issuance of a building permit. Scale architectural drawings of the exterior of all buildings shall be submitted in sufficient detail to allow the city to review said plans for the impact they will have upon adjoining properties and the general area in which the buildings are located.
 - f. Deed restrictions, covenants, agreements, by-laws or proposed homeowner's association or other documents or contracts controlling the use or maintenance of property. Where such information is lacking, the council may require a bond or similar guarantee to insure that areas held common by persons residing in the development will be developed and maintained.
 - g. Proposed zoning changes or variances with legal descriptions of any district boundary changes.
 - h. A final staging plan indicating the geographical sequence and timing of development of the plan or portions thereof, including the date of beginning and completion of each stage.
 - i. Any other information necessary to fully represent the intentions of the preliminary plan.
14. *Standards and criteria for advisory planning commission and council action.* The advisory planning commission may recommend and the council may act to approve, approve with conditions, or deny a preliminary or final plan for a planned development. The advisory planning commission, in making a recommendation, and the council, in acting upon a plan, shall consider the following factors:
- a. The consistency of the proposed planned development with the adopted or proposed Comprehensive Guide Plan of the city.
 - b. The extent to which the proposed planned development is designed to form a desirable and unified environment within its own boundaries in terms of relationship of structures, patterns of circulation, visual character and sufficiency of drainage and utilities.
 - c. The extent to which the proposed uses will be compatible with present and planned uses in the surrounding area.
 - d. That any exceptions to the city Zoning Ordinance are justified by the design or the development.
 - e. The sufficiency of each planned development phase's size, composition, and arrangement in order that its construction and operation is feasible without dependence upon any subsequent phase.
 - f. The burden or impact created by the planned development on parks, schools, streets, and other public facilities and utilities.
 - g. The impact of the planned development on environmental quality and on the reasonable enjoyment of the surrounding property.
15. *Effect of final planned development approval.*
- a. Except as provided in this section, no building permit shall be issued for any building on land for which a plan for a planned development has been approved which does not conform to the approved final plan.

- b. Except as provided in this section, development of land for which a planned development has been approved which does not conform to the approved final plan shall only be allowed after one of the following:
 1. Amendment to the approved final plan of the planned development by the city council in the same manner as required for approval of a planned development.
 2. Term of the approved planned development by the city council after notice and public hearing in the same manner as required for approval of the planned development. The council may further condition the vacation of a planned development in order to better protect the public health, safety and welfare.
16. *Termination.* Upon expiration of the specific time period approved by the city for total development of a planned development, the subject area shall become a permanent planned development district, and the conditions, provisions and restrictions of the final development plan shall continue to govern the use of the land. Provided, nevertheless, that if a planned development is not completed within the required time period, the planned development district classification shall automatically terminate as to that portion of the district that has not been developed. The requirements and provisions of the underlying zoning classification in its entirety shall thereafter apply to the undeveloped area. Any factual disputes arising under this subsection shall be presented to and determined by a majority vote of the city council.
17. *Penalties for violation.* Each provision of this Code is separable, and a judicial declaration of invalidity of any one provision thereof shall not invalidate the remainder. Any person who shall violate any of the provisions of this Code shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding minimums as adopted by Minnesota State Statute.