

DIVISION 8. - PLANNED UNIT DEVELOPMENT REGULATIONS

Sec. 31-800. - Description.

A planned unit development (PUD) is a land use design incorporating the concepts of density and common open space. Common open space shall include, but is not limited to, community amenities such as parks, gardens, pedestrian trails, recreation areas, and usable undisturbed, natural areas. The PUD designation serves as an "overlay zoning and development classification." In this capacity, the designation permits specific negotiated development regulations to be applied to the base land use zoning district(s) in which the property is located. When a parcel of land receives a PUD designation, the entire parcel must be assigned one or more standard zoning district classifications. However, the added PUD overlay classification enables the developer of the site to request that specific land use development regulations be applied to his development site. Such specific land use and development regulations shall not take effect until they are reviewed, public hearings held and approved by both the planning and zoning commission and the city council.

(Ord. No. 05-101, § III, 10-25-05; Ord. No. [14-092](#), § I, 12-9-14)

Sec. 31-801. - Purpose.

The PUD classification is an overlay designation to provide the flexibility to permit development projects which may include multiple land uses. This classification serves the following purposes:

- (a) Establish a procedure for the development of a parcel of land under unified control to reduce or eliminate the inflexibility that might otherwise result from strict application of land use standards and procedures designed primarily for individual lots;
- (b) Ensure structured review and approval procedures are applied to unique development projects that intended to take advantage of common open space and promote pedestrian circulation;
- (c) Allow developers greater freedom to be innovative in selecting the means to provide access, light, open space and amenities; and
- (d) Provide flexibility from the strict application of existing development regulations and land use standards and allow developers the opportunity to take advantage of special site characteristics and location.

The regulatory provisions of this classification are intended to achieve the above purposes while maintaining the spirit of the current City of Killeen Development Regulations, as amended. As such, these provisions represent the governing body's minimum quality of life standard and no variance or exception shall be granted thereto.

(Ord. No. 05-101, § III, 10-25-05)

Sec. 31-802. - Location, districts, and minimum requirements.

A PUD may be permitted in any zoning district. No PUD may be located outside of the corporate limits of the City of Killeen or in an area which does not have access to a full compliment of urban infrastructure and includes development plans for water, sanitary sewer, storm sewer, or other appropriate drainage infrastructure and paved streets. The following minimum requirements shall apply:

- (a) PUDs shall be located within one-mile radius of an arterial street.
- (b) PUDs shall conform to City of Killeen ordinances and zoning requirements unless specifically exempted by negotiated development regulations approved for use within the development.
- (c) In no case shall a PUD be exempted from compliance with existing city land use, utility, or thoroughfare master plans.

- (d) Generally, the minimum acreage for a planned development shall be five acres. The planning and zoning commission may recommend approval of PUDs on less acreage on a case-by-case basis.
- (e) Combinations of residential, office and commercial land use activities may be permitted under the PUD classification. The submitted land use plan will be evaluated based on the compatibility of land uses to each other and the degree to which landscaping and screening are used to buffer less compatible land uses.
- (f) Yard sizes within the PUD should generally follow guidelines for similar districts in the zoning ordinance; however, modifications to the yard sizes and lot areas may be requested when the open space and common area amenities justify the overall deviation.
- (g) Open space landscaped buffers shall be required to separate land uses within the planned development from land uses adjacent to the planned development unless the planning and zoning commission and the city council conclude that no incompatibility exists between the land uses. No structure, parking lot, equipment pad, or other man-made construction not approved by the city shall be placed in an open space buffer. The minimum size of an open space buffer shall be 25 feet measured from the property line. This buffer may be extended and screening and/or landscaping may be required within the buffer based on the perceived degree of incompatibility between land uses or other criteria such as development density or topography as determined by the planning and zoning commission or the city council. No structures within the PUD that exceed thirty-five (35) feet in height may be constructed on lots adjacent to single-family and two-family districts.
- (h) Parking area and number of spaces shall not be less than regulations for applicable uses prescribed in this ordinance and may be increased as deemed necessary by the planning and zoning commission.

(Ord. No. 05-101, § III, 10-25-05; Ord. No. [14-092](#), § I, 12-9-14)

Sec. 31-803. - General procedure.

The procedure for requesting, processing, and approving a PUD classification shall conform to those procedures prescribed for requesting a zoning change. The development regulations which the developer desires to have approved for the proposed PUD will be submitted concurrent with the requested zoning change for a PUD classification. Development plats shall not be submitted until approval action on the PUD classification has been taken by the city council.

- (a) *PUD review.* The planning and zoning commission will assess the impacts the proposed PUD will have on planning goals, utilities, emergency services, traffic, and all properties adjoining and likely to be influenced by the proposed PUD development. The city shall comply with the notification, public notice, and public hearing requirements mandated for changes in zoning districts. The planning and zoning commission shall make recommendations regarding approval/denial, development regulations, and any mitigating conditions required of the PUD classification to the city council. The city council may approve/disapprove the PUD classification, modify any requested development regulations, and impose any conditions relative to the development of the PUD. Unless otherwise stipulated, such conditions shall be complied with before any permit shall be issued for the construction of any structure within the PUD.
- (b) *Assessment criteria.* Each proposed PUD development shall be reviewed to determine the compatibility of the development with surrounding land uses and the compatibility of the land uses within the development. No PUD shall be approved if it is found that the proposed development:
 - (1) Does not conform with applicable regulations and standards established by this article;
 - (2) Is not compatible with existing or permitted uses on abutting sites, in terms of use, building height, setbacks and open spaces, landscaping, drainage, or access and traffic circulation;

- (3) Potentially create unfavorable effects or impacts on other existing or permitted uses on abutting sites that cannot mitigated by imposed conditions, screening, or other provision of this section;
- (4) Adversely affects the safety and convenience of vehicular and pedestrian circulation and parking in the vicinity, including traffic reasonably expected to be generated by the proposed use and other uses anticipated considering existing zoning and land uses in the area;
- (5) Fails to reasonably protect persons and property from infrastructure failure, erosion, flood or water damage, fire, odors, dust, noise, fumes, vibrations, glare, and similar hazards or impacts;
- (6) Adversely affects emergency access, traffic control, or adjacent properties by inappropriate infrastructure standards, location, access, lighting, or type of signs; or
- (7) Will be detrimental to the public health, safety and welfare, or injurious to property or improvements in the vicinity, for reasons specifically articulated by the planning and zoning commission or the city council.

(Ord. No. 05-101, § III, 10-25-05)

Sec. 31-804. - PUD development site concept plan required.

At the time the PUD classification application is submitted, the applicant shall concurrently submit a proposed development site concept plan drawn at a 1" = 100' scale. If the PUD will include existing structures or improvements, as-built drawings to scale are required. The development site concept plan shall show adjacent land uses and include all proposed land uses by lot and in general terms identify the street layout and the developer's intent with regard to easements. The concept plan shall identify, either illustrated on the plan or with attached narrative, the residential density, lot areas, lot widths, lot depth, yard depths and widths (setbacks), building heights, maximum lot coverage, parking areas, public access, landscaping, screening, signage, lighting, common spaces and amenities. The concept plan shall be accompanied with the topography (2-foot contours), existing and proposed drainage patterns, existing and proposed drainage areas, creek buffer zones and special flood hazard areas. If the project is to be completed in phases, the concept plan shall cover the complete project. The boundaries of each phase will be shown and each phase shall meet the minimum acreage requirement. The final plat for a PUD development shall be submitted only after the city council's approval of the PUD classification request. It shall conform to the City of Killeen development regulations as amended and any mitigating conditions specifically approved in the PUD ordinance. The following examples are techniques that may be used within a PUD concept plan: cluster development with a minimum of 15% common open space: projects including a minimum of 10% of common open space, with at least 50% of any proposed community amenities located outside of any FEMA regulatory floodplain area.

(Ord. No. 05-101, § III, 10-25-05; Ord. No. [14-092](#) , § I, 12-9-14)

Sec. 31-805. - Owners' associations.

If the PUD includes private infrastructure, common areas or facilities that typically are not accepted by the city for maintenance (i.e., fences, private parks, pools, entrance ways, etc.) and will not be dedicated to the city, an owners' association shall be established and shall own and be responsible to provide for operation, repair and maintenance of all common areas, fences, walls, gate equipment, landscaping, and all other common facilities including but not limited to, streets, drives, sidewalks, service areas, and parking areas and structures and common recreational areas that are a part of the planned unit development. The association's articles of incorporation, bylaws, and any covenants and restrictions must be submitted with the application for the PUD classification and approved by the city as a part of the planned unit development. The association documents shall be filed for record in the official land records of Bell County, Texas, in conjunction with the dedication. The documents shall contain the following provisions which shall not be amended without the written consent of the city, nor shall any variances or exceptions be granted thereto:

- (a) A provision to establish a self-sustaining reserve fund for the operation, repair and maintenance of all private infrastructure and common use facilities.
- (b) A provision that requires the association to maintain a current repair and maintenance plan for all private infrastructure and common use facilities demonstrating that the association is self-perpetuating and adequately funded to accomplish its maintenance responsibilities.
- (c) Lot deeds must convey mandatory membership in the association and provide for the payment of dues and assessments required by the association.
- (d) Provisions shall extend to the city written permission for practical access to public right-of-way, easements and utilities at any time without liability when on official business. This practical access will also extend to the city, without liability, permission to remove obstructions including, but not limited to, any gate, vehicle or any other type of obstacle that precludes the accomplishment of the official business. The association shall be assessed all costs incident to the removal of such obstacles.
- (e) The association may not be dissolved without the prior written consent of the city and 75% of the total membership of the association. Plans to dissolve the association must contain provisions for the liquidation of association real estate and other property assets and include a document that provides for the future maintenance of any private infrastructure and common use areas.
- (f) Association documents shall contain language whereby the association, as owner of private infrastructure and common use facilities, agrees to release, indemnify, defend, and hold harmless the city, any governmental entity, and public utility to the extent provided by law for damages to the private infrastructure and common facilities occasioned by the reasonable use of such private infrastructure and common facilities by the city, governmental entity, or public utility; for damages and injury arising from the condition of said private infrastructure and common use facilities; for damages and injury arising out of the use by the city, governmental entity, or public utility of any restricted access or entrance; and for the damages and injury arising out of any use of the planned unit development by the city, governmental entity, or public utilities for such damages and injuries. Such indemnity shall be limited to damages or injury resulting from the city, governmental entity, or public utility use of private infrastructure or common use facilities while such entity is exercising its authority to gain practical access to public right-of-way, easements or utilities in furtherance of official business.

(Ord. No. 05-101, § III, 10-25-05; Ord. No. 10-003, § VI, 2-9-10)

Sec. 31-806. - Planned unit development infrastructure.

The granting of a PUD classification shall not relieve the developer from the responsibility to comply with all other applicable governmental regulations, instructions, codes, resolutions and ordinances of the city except to the extent expressly specified in the ordinance approving the planned unit development classification and the specific modified regulations to be applied to the approved development. The following infrastructure requirements are applied to PUDs to maintain the city's interest in quality development and assure the health, safety and welfare of the public is protected. To this end, variances and exceptions to these requirements shall not be permitted:

- (a) *Utilities.* Water, sewer, drainage facilities, signage, and all utilities provided by public utility companies shall be installed in easements or public rights-of-way. Utilities shall be constructed to city standards and such easements, rights-of-way, and utilities shall be completed and dedicated to the city prior to the approval of any permit for the construction of any residential or commercial use structure within the PUD. The city shall require as-built engineering layouts of any previously installed infrastructure. Private infrastructure and any infrastructure which is not recorded on approved construction plans shall be uncovered and inspected. All city regulations relating to water, sewer and drainage infrastructure financing and city/developer cost participation shall apply to planned unit developments.

- (b) *Private streets.* A planned unit development may be planned and developed with private streets only as follows:
- (1) A PUD containing private streets shall not cross an existing or proposed thoroughfare as shown on the most recent thoroughfare plan, as amended.
 - (2) The city shall not participate for any portion of the cost to engineer, construct or maintain private streets.
 - (3) Private streets shall conform to the same standards regulating the engineering and construction as public streets. Construction plans and city engineer approval is required for public streets. Requirements pertaining to inspection and approval of improvements prior to release of lots for development shall apply. Fees charged for these services shall also apply. The city may periodically inspect private streets and require repairs necessary to assure emergency vehicle access. Standards for street naming and addressing shall apply. The term private street shall include any vehicular access way, and will include but is not limited to, terms such as road, alley, passage way, drive, access, lane, firelane, or any such similar term.
 - (4) Private streets must be constructed within a separate lot owned by an owners' association. The lot must conform to the city's right-of-way standards for public streets. An easement covering the street lot shall be granted to the city providing unrestricted use of the property for utilities and the maintenance of same. This right shall extend to all utility providers. The easement shall also provide the city with the right of access for any purpose related to the exercise of a governmental service or function, including but limited to, fire and police protection, inspection and code enforcement. The easement shall permit the city to remove any vehicle or obstacle within the street lot that impairs emergency access.
 - (5) The planning and zoning commission and/or city council may deny any private streets if in the commission's judgment the private street has the potential to: negatively affect traffic circulation on public streets; impair access to property either on-site or off-site to the PUD; impair access to or from public facilities including schools, parks, or libraries; or delay the response time of emergency vehicles.
 - (6) Any private street which has an access control gate or cross arm must have a minimum uninterrupted pavement width of 36 feet at the location of the access control device. If an overhead barrier is used, it must be a minimum of 14 feet above the road surface. All gates and cross arms must be of break-away design. A turn-around with a 50-foot turning radius must be located in front of a restricted access to allow vehicles denied access to safely exit onto public streets. Lots adjacent to controlled access gates shall not be permitted to construct fences of any material which could obscure traffic visibility. The entrance to all private streets must be marked with a sign stating that it is a private road. Restricted access points must either be staffed 24 hours per day or an alternate means must be established to assure access by emergency response vehicles and city and other utility service providers.
 - (7) Property deeds and property owners' association documents shall note that certain city services shall not be provided on private streets. Among the services which will not be provided are routine police patrols, enforcement of traffic parking ordinances, and preparation of accident reports. The city shall not provide public funds for the maintenance or lighting of private streets. All traffic regulatory signs shall conform to the Texas Manual of Uniform Traffic Control Devices.
 - (8) The City of Killeen may upon written request of the owners' association and with a favorable vote of 75% of the association members consider accepting the dedication of and the assumption of maintenance responsibility for private streets and common use areas. However, in no event shall the city be obligated to accept such dedications. Should the city elect to favorably consider the acceptance of the dedication of common use facilities or private streets, the city will inspect properties offered for dedication and assess

each member of the owners' association for the expense of needed repairs concurrent with the city's acceptance of the dedication. The city will be the sole judge of required repairs. The city will also require, at the association's expense, any access controlling gates, devices or infrastructure.

(Ord. No. 05-101, § III, 10-25-05)

Sec. 31-807. - Planned unit development maintenance.

Property deeds and association documentation shall include the following property maintenance provisions and property conveyance records shall indicate that such provisions were briefed to, acknowledged, and accepted by the purchaser during the execution of the property transfer transaction. The landowner shall ensure that all common use areas and facilities are perpetually maintained. As such, the landowner shall reserve or secure perpetual access and maintenance easements to all common use areas and facilities for the purpose of inspection, repair and perpetual maintenance. The landowner may assign the respective maintenance and repair obligations to a home owners association, upon formal written consent of the same, or retain the same. The agreement shall provide for maintenance upon the dissolution of the home owners association. The maintenance easement agreements shall be presented to the city in draft form as a part of the PUD application. Following completion of the PUD, the agreement shall be recorded in the real property records of Bell County at the applicant's expense.

- (a) In the event an owners' association fails to maintain PUD common use areas or facilities or fails to fulfill other conditions associated with the PUD designation, the city will serve written notice on the association, setting forth the manner in which the association has not fulfilled its obligations. Such notice shall include a demand that the deficiencies be cured within a thirty-calendar day period. If the deficiencies are not cured within this period, the city may enter upon the common use area or facility, maintain it, and perform other related duties until such time as the association resumes its responsibilities. The city shall take such corrective action in order to prevent the common use area and facilities from becoming a public nuisance or a health and safety hazard to the public. All costs incurred by the city in carrying out the obligations of the association shall be reimbursed by the association. Should the association fail to reimburse the city within ninety (90) days, the properties within the PUD shall be subject to lien and possible foreclosure of assets including but limited to the maintenance reserve fund required per section 31-804
- (b) In the event an owners' association fails to maintain a private street, the city shall serve notice on the association, setting forth in writing the manner in which the association has not fulfilled its obligations. Such notice shall state conditions prejudicial to the health, safety and welfare of the public. Effort to correct such deficiencies shall be initiated within thirty (30) days and such deficiencies shall be cured within ninety (90) days. The city shall deem the failure to cure deficiencies within the cure period as a public hazard. In such instances, the city shall remove security devices and maintain the street to correct the cited deficiencies. All costs incurred by the city in carrying out the obligations of the association shall be reimbursed by the association. Should the association fail to reimburse the city within ninety (90) days, the properties within the PUD shall be subject to lien and possible foreclosure of assets including but not limited to the maintenance reserve fund required per section 31-805

(Ord. No. 05-101, § III, 10-25-05; Ord. No. [14-092](#), § I, 12-9-14)

Sec. 31-808. - Waiver and abandonment.

Once the PUD classification has been approved, the failure to submit a plat within a one-year period or the failure to submit plans for permit review on the development plan within a two-year period after the classification has been approved by the city council shall constitute waiver and abandonment of the PUD classification. Such period may be extended in one-year increments upon favorable recommendation by the planning and zoning commission and approval by the city council. If a plan is abandoned or the property transferred or conveyed prior to development, all negotiated land use and development

agreements and regulations which would have applied to the plan shall be considered null and void and the property shall revert to the zoning district that existed prior to the approval of the PUD classification.

(Ord. No. 05-101, § III, 10-25-05; Ord. No. [14-092](#), § I, 12-9-14)

Secs. 31-809—31-819. - Reserved.