

CHAPTER 27.19
PLANNED UNIT DEVELOPMENT DISTRICT (PUD)

§ 27.19.010. Intent.

A planned unit development district shall serve as an overlay zoning district. It shall function in concert with one or more of the underlying zones to provide a comprehensive, integrated development plan which will serve to modify the underlying zone and, where appropriate, subdivision standards with the intent of providing flexibility of architectural design and density as well as providing the option to mix land uses and densities while preserving and enhancing the integrity and environmental values of an area.

(Ord. 1677, 7-19-2010)

§ 27.19.020. General.

The following application and review procedures shall apply to designation and approval of all planned unit developments in the city.

- (1) **Initiation of Application.** The land owner(s) or designee(s) shall schedule a pre-application meeting with the planning department prior to official submission of a PUD application. The PUD application shall be submitted on a form provided by the City. Where multiple owners of the property or properties exist, all owners shall either sign the application or submit a letter of consent authorizing submission of the PUD application.
- (2) **PUD Application Thresholds.** It is anticipated that PUD applications will be submitted in one of two forms, a PUD full application meeting all the requirements of this section and a PUD Placeholder application which serves as a place marker for a future PUD application. Within any PUD application it is possible to incorporate one or both of the categories listed below:
 - (a) **PUD Full Application.** This application will be processed in accordance with the full provision of this chapter and will require the submission of all application materials required in subsection (3) PUD Application Materials below.
 - (b) **PUD Placeholder Application.** This submittal typically is involved with annexation and initial zoning or a rezoning in which the applicant requests a PUD designation noting the applicant's intent to develop a PUD and enter into a development agreement with the city, binding the property to a future PUD application but not providing any application materials or development plan nor receiving any entitlements other than a commitment between the city and the applicant that when development is to proceed it will be done via the PUD process.
 1. Prior to the use or development of any property within the PUD Placeholder beyond the specifically listed uses and activities within this section, the applicant shall submit an application for and proceed with the

full PUD application process as outlined in subsection (3) below.

2. Interim use in a PUD Placeholder prior to development of the full PUD is allowed based on the criteria below:
 - a. All proposed uses and activities of the land and existing structures must comply with the underlying zone.
 - b. An administrative conditional use permit would be required to document and approve the interim use or activity.
 - c. Only the following activities are allowed:
 - i. Remodeling/repair/removal of existing structures or buildings;
 - ii. Parking of vehicles and equipment for storage as long as the purpose is not meant for display from a public right-of-way;
 - iii. Fencing and lighting; and
 - iv. Earth work, site leveling and drainage work.
 - d. The following new uses and activities are not allowed without the full PUD application process:
 - i. Freestanding signs;
 - ii. Additional access points onto a public road system;
 - iii. Expansion of existing structures by more than 10%; and
 - iv. New structures or building development beyond what is otherwise specifically allowed under this section.
 - e. Interim use of the property as described above does not relieve the owner from compliance with overall PUD requirements at the time additional development beyond the scope of interim development occurs.
- (3) PUD Application Materials. The full PUD application submittal shall contain the following information in the form of an overall PUD development plan and supporting text:
 - (a) A listing of each deviation or class of deviation from the underlying zoning district and a justification of the appropriateness for the deviation.
 - (b) A listing of each deviation or class of deviation from the city subdivision regulations design standards and a justification of the appropriateness for the deviation.
 - (c) An existing topo map showing existing building and features and a proposed topo map showing proposed topography using one to five foot intervals drawn to a scale not less than one inch equals 200 feet showing all proposed streets,

lots, buildings, open space, wetlands, floodplain, environmental hazards, stormwater facilities and other elements basic to the development.

- (d) Proposed locations, areas, densities and types of residential and nonresidential uses and structures within the area proposed to be developed and maximum height of buildings or structure.
- (e) Proposed plans for handling:
 - 1. Vehicular traffic;
 - 2. Pedestrian traffic routes and trails including safe routes to school;
 - 3. Sewage disposal; conceptual storm water drainage and water supply;
 - 4. Parks and open space;
 - 5. Parking;
 - 6. Prominent landscaping, buffering, site perimeter and entrance treatment features;
 - 7. Club houses, sales offices;
 - 8. Retaining wall work in excess of 3 feet in height;
 - 9. Common fencing designs and locations where proposed;
 - 10. Commercial, directional and entrance signage;
 - 11. Street lighting and parking lot lighting where applicable;
 - 12. Any other pertinent site development features.
- (f) Elevation drawings which demonstrate visually the general architectural features of each proposed building or architecturally distinct group or type of buildings and the site perimeter treatment. Note: This may be waived by the Zoning Administrator on a case specific situation for uses listed below which may include but are not limited to:
 - 1. Single family detached housing when the lots equal or exceed the minimum lot size of the underlying zone; and
 - 2. Two unit townhouse or duplex development which is alley loaded and the lots equal or exceed the minimum lot size of the underlying zone.
- (g) The PUD plan shall show the boundary lines of adjacent subdivided or unsubdivided land and the existing zoning of the area proposed for the PUD overlay;
- (h) A timeline expressing the order in which the development shall occur and estimated time for completing key components or phases;

- (i) Adequate provision for a homeowners association or other public or private management organization to provide for the operation and maintenance of all private (non-governmental) common facilities including any private streets or alley ways, homeowners parks, club houses, sales offices, open space, trails, recreational facilities and amenities, shared parking facilities, private lighting systems, subdivision entrance signage and common mail receptacles;
- (j) Adequate provisions shall be made for maintenance of all public common facilities (e.g., a trail or park) which are developed on public land, but intended to be maintained by a private organization or homeowners association;
- (k) Where a PUD also involves a subdivision of land, it shall also meet the application requirements of the Kalispell Subdivision Regulations and the Montana Subdivision and Platting Act at the time the preliminary plat is submitted;
- (l) For multi-phase projects to be developed over a long period of time or where project components are proposed which may not be built for many years;
 - 1. The first phase of development must comply with the full application process outlined above.
 - 2. Each phase of a multi-phase PUD must be able to be free standing.
 - 3. Each phase of a PUD shall not exceed the density provisions of the underlying zone as limited by the PUD. Where a phase is proposed that complies with the overall PUD plan but the actual density of the particular phase may exceed the average density allowed by the underlying zone and PUD agreement, the applicant shall either provide the necessary corresponding open space or park facilities or suitably bond for them for development in a latter phase.
 - 4. Future phase or major development components may show conceptual street designs, proposed park and open space areas, trail concepts, proposed residential density, housing types (single family, townhouse, apartment, etc.) and commercial areas versus detailed lot, block, street and park development and building designs. Based on a finding and associated conditions placed on the PUD at time of approval, the applicant may be required to provide more specific information prior to development of succeeding phases based on one of the following processes: (Note: The planning staff, Planning Board or council, at their discretion, may also request additional or more complete information relative to the future phases or components prior to recommending or granting initial PUD approval).
 - a. A finding that the outstanding items are significant and therefore future phases or components should follow the full PUD application process;
 - b. A finding that the outstanding items are generally minor and

therefore future phases or components should be reviewed under the conditional use permit process; or

- c. A finding that the outstanding issues are insignificant and therefore future phases or components should be subject to administrative review by the Kalispell Site Review Committee; or
 - d. A combination of the above provisions.
- (m) Any other information, plans and details which the city staff, Planning Board and/or City Council may request to fully evaluate the development proposal and its impacts.
- (4) Review of Application. Upon submission of the application the Zoning Commission shall review such application based on the following:
- (a) The compliance of the proposed PUD with the city growth policy and in particular the density and use policies of the plan;
 - (b) The extent to which the PUD departs from the underlying zoning and the reasons why such departures are or are not deemed to be in the public interest, and the mitigating conditions that the PUD provides to address the deviations;
 - (c) The extent to which the PUD departs from the subdivision regulations (if subdivision is anticipated) and the public works standards for design and construction applicable to the subject property, the reasons why such departures are deemed to be in the public interest, and the mitigating conditions that the PUD provides to address the deviations;
 - (d) The overall internal integrity of the PUD including the appropriate use of internal design elements, the use of buffers between different land uses, the use of transitions between uses of greater and lesser intensity, the use of enhanced design features to provide connectedness for both vehicle and pedestrian traffic throughout the PUD and the use of innovative and traditional design to foster more livable neighborhoods;
 - (e) The nature and extent of the public parks and common open space in the PUD, the reliability of the proposal for maintenance and conservation of these areas and the adequacy or inadequacy of the amount and function of the parks and open space in terms of the land use, densities and dwelling types proposed in the PUD;
 - (f) The manner in which the PUD plan makes adequate provision for public services, provides adequate control over vehicular traffic and furthers the amenities of recreation and visual enjoyment;
 - (g) The relationship, beneficial or adverse, of the PUD plan upon the neighborhood in which it is proposed to be established in concert with the underlying zone;
 - (h) In the case of a plan which proposes development over a period of years, the

sufficiency of the terms and conditions proposed to protect and maintain the integrity of the PUD; and

- (i) Conformity with all applicable provisions of this chapter.
- (5) Action by the Zoning Commission.
- (a) The Zoning Commission shall hold at least one work session on a proposed PUD plan prior to any public hearing. The work session is intended for information purposes only to inform both the public and the commission about the various aspects of the project. It is not intended to be a public hearing and the commission shall take no formal action on the application. As a courtesy, all adjoining property owners shall be invited to at least one work session. This invitation may be included within the formal public hearing notice or it may be sent separately.
 - (b) The Zoning Commission shall hold a public hearing on the application pursuant to Section 27.28.030. The Zoning Commission shall submit its recommendations to the City Council. The Zoning Commission may recommend approval in whole or in part, may recommend modification and can impose conditions which will clarify facets of the PUD, implement city standards, regulations or policy, or serve to mitigate potential negative impacts, or the commission may recommend disapproval.
- (6) Action by the City Council. The City Council shall consider the recommendation of the Zoning Commission and may affirm, modify or deny the PUD. If the PUD is approved, the applicant shall submit a final PUD in accordance with the conditions of approval as adopted by City Council. When the City Council approves the PUD, the area of land involved shall be re-designated as a PUD district by ordinance which shall incorporate the final PUD including any conditions or restrictions that may be imposed by the City Council and shall constitute the zoning for the district.
- (7) Preparation and Filing of Final PUD. Upon approval of the preliminary PUD by the City Council, the property owner(s) shall proceed with the preparation of the final PUD plan:
- (a) The final PUD plan shall incorporate all the conditions imposed by the City Council at the time of approval of the preliminary plan;
 - (b) The applicant shall submit three signed copies of the PUD, final plan and related documents to the planning department. Upon approval by the Zoning Administrator, one signed copy of the plan shall be returned to the applicant, a signed copy shall be retained on file in the City Clerk's office and one signed copy shall be kept on file with the Planning Department;
 - (c) Upon receipt of the final PUD plan and related documents by the Planning Department, the City Attorney shall prepare a PUD agreement between the City and the developer(s) binding the developer, his or her successors, heirs and assigns to the terms and conditions of the PUD;

- (d) The final PUD shall be submitted to the Planning Department in a timely fashion following approval by the City Council but in no case shall a final plat or building permit be issued until the final PUD plan has been submitted and approved and the PUD agreement has been executed;
 - (e) Where there is a question concerning compliance with a condition of the PUD, by either the applicant or planning staff, the issue will be forwarded to the next available Kalispell Site Review Committee meeting. If the issue cannot be satisfactorily resolved it shall be forwarded to City Council; and
 - (f) Prior to the approval of a final plat or where a subdivision is not involved prior to issuance of a certificate of occupancy or commencement of a use approved by a PUD, when specific aspects of the PUD are not yet completed that are pertinent to the phase or use, the City Council shall require bonding or any other appropriate collateral to ensure that all required public improvements or conditions of approval specifically required to be in place prior to final plat, occupancy or commencement of use as appropriate shall be satisfactorily completed in accordance to the approved plans, specifications and time schedule.
- (8) **Limitation on Rezoning.** The Zoning Commission shall not initiate any amendment to the PUD before the completion of the development as long as development is in conformity with the approved detailed PUD and proceeding in accordance with the time requirements imposed therein by the completion schedule.
- (9) **Amending an Approved Final PUD.**
- (a) Once approved, a PUD may be amended by the developer(s). Proposed amendments shall be submitted to the Kalispell Site Review Committee. The committee shall make one of the following findings:
 - 1. The change(s) is deemed minor in scope and may be granted or denied with or without conditions by the Kalispell Site Review Committee; or
 - 2. The change(s) is deemed major, in which case the amendment(s) is forwarded to the City Council for consideration and final action.

Note: Any action of the Kalispell Site Review Committee is appealable to the City Council.
 - (b) Individual property owners within the PUD may bring forth amendments, which shall be processed as an amendment to the official zoning map in accordance with Chapter 27.29.
- (10) **Abandonment or Expiration.** The Zoning Administrator shall monitor the PUD for compliance with the completion schedule set forth in the approved development plan and to assure that all improvements have been made in accordance with the approved development plan. The following procedures are to be following when the PUD fails to comply with the completion schedule:

- (a) PUDs or portions thereof which do not involve or require a subdivision:
1. If a PUD project falls out of compliance with its approved completion schedule, notice of noncompliance with the completion schedule shall be delivered in writing to the landowner and/or developer;
 2. No later than 30 days after the notice of noncompliance is delivered the landowner and/or developer may request from the City Council an extension of time. Said request shall set forth a proposed completion schedule and/or new timetable for installation of the improvements. The City Council may grant one or more extension(s) but each extension is a matter of grace which, if approved, may be subject to additional conditions imposed by the City Council which may be deemed necessary to address issues that have arisen due to the lapse in time;
 3. Abandonment shall be deemed by the City Council to have occurred when the landowner/developer is deemed to be out of compliance with the approved completion schedule and has failed to secure an extension as provided for in subdivision 2 above;
 4. Upon the abandonment of a development authorized under this section the City Council shall direct the Zoning Administrator to do the following:
 - a. If a portion of the PUD site was developed in accordance with the PUD, the PUD shall stay in force for that portion already developed; and
 - b. For that portion of the PUD which was not developed under the terms of the PUD, the provisions of the PUD shall lapse and the site shall revert back to a PUD Placeholder designation as provided for in Section 27.19.020(2)(b).
- (b) PUDs which are implemented by or subject to a subdivision application the developer has the option to request the PUD approval coincide with the preliminary plat approval and any phasing thereof or the PUD approval may exceed the time frame approvals of the underlying preliminary plat. In this case the developer shall provide reasons the PUD approval should extend beyond any preliminary plat approvals for the Planning Board and City Council to consider:
1. If the PUD approval coincides with the underlying preliminary plat and the preliminary plat lapses, the PUD conditions of approval for that area shall lapse.
 - a. In such case the city shall notify the property owner of the lapse of the preliminary plat and associated PUD conditions of approval;
 - b. The Zoning Administrator shall modify the PUD designation on the official zoning maintaining the underlying zoning classification but

classifying the property as a PUD Placeholder as provided for in Section 27.19.020(2)(b).

2. If the PUD approval extends beyond the underlying preliminary plat approval, the developer shall request extensions of the PUD on a yearly basis after expiration of the underlying preliminary plat.
 - a. At least 30 days prior to the expiration of the PUD approval the landowner and/or developer may request from the City Council an additional one year extension. Said request shall set forth a revised completion schedule and/or new timetable for installation of the improvements and completion of the project. The City Council may grant one or more extensions but each extension is a matter of grace which, if approved, may be subject to additional conditions imposed by the City Council which may be deemed necessary to address issues that have arisen due to the lapse in time.
 - b. If the PUD project fails to secure an extension or falls out of compliance with its approved completion schedule provided for in paragraph 2.a. above, the project will be considered abandoned.
 - c. Upon the abandonment of a development authorized under this section, the City Council shall direct the Zoning Administrator to do the following:
 - I. If a portion of the PUD site was developed in accordance with the PUD, the PUD shall stay in force for that portion already developed;
 - II. For that portion of the PUD which was not developed under the terms of the PUD, the provisions of the PUD shall lapse and the site shall revert back to a PUD Placeholder designation as provided for in Section 27.19.020(2)(b).

(Ord. 1677, 7-19-2010; amd. Ord. 1744, 10-6-2014)

§ 27.19.030. Standards for Planned Unit Development District (PUD).

(1) General Standards.

- (a) Developable area of a PUD shall be defined as all land that could potentially be available for development including land in existing or potential lots, streets, open space and parks. Undevelopable area is defined as land within un-buildable areas including land in a 100 year floodplain, BPA power line easements, federally designated wetlands, and slopes in excess of 30% unless satisfactory geotechnical information is submitted by a licensed engineer.
- (b) Both the permitted and conditionally permitted uses of the underlying zone shall be deemed to be eligible for inclusion as permitted uses in a PUD however not all such uses may be deemed appropriate within the overall design of a particular PUD and may be limited or modified by the PUD plan.

(2) Establishment of PUD Districts.

(a) Residential PUD District.

1. Minimum size is two acres including both developable and undevelopable area. For PUDs less than two acres in size, a PUD application may be submitted; however, such site will not be eligible for a density bonus as provided for in table 1 below.
2. A residential PUD district may be established in areas zoned R-1 through R-5, RA-1, RA-2 and the H-1.
3. Housing types within a residential PUD may include single family, duplex and multi-family housing arranged in attached, detached, townhouse, apartment or condominium configurations.
4. Residential Dwelling Unit Density. Within a proposed residential PUD district residential densities are set forth below:

Table 1 PUD Density Allocation	
Underlying Residential District	Max # Dwelling Units/ Developable Acre
R-1 District	3 dwelling units
R-2 District	4 dwelling units
R-3 District	6 dwelling units
R-4 District	10 dwelling units
R-5 District	10 dwelling units
RA-1 District	20 dwelling units
RA-2 District	40 dwelling units
H-1 District	20 dwelling units

- a. Table 1 provides for the maximum number of dwelling units per developable acre. Developable acres are based on land in developable area and exclude undevelopable land as defined in subsection (1)(a) of this section.
- b. PUDs are not entitled automatically to the maximum density allowed in Table 1 above. Density shall be established based upon:
 - I. An analysis of the environmental factors affecting the land;
 - II. Compatibility with surrounding land uses and impact on adjacent neighborhood;
 - III. Availability of public infrastructure and services; and

IV. Consistency with the Kalispell Growth Policy.

- c. Residential Density Bonuses. The maximum PUD residential density provided for in Table 1 may be increased in the following situations:
 - I. Up to a 20% increase in residential units for projects which exceed the minimum park and open space requirements as follows:
 - i. A 5% increase in density for each 10% increase over and above the minimum required developed park lands.
 - ii. A 5% increase in density for each 10% increase of open space over and above the minimum park land requirement.
 - iii. Up to a 20% bonus density (at a rate of 2 additional housing units for each affordable unit created) for projects which advance long-term work force housing opportunities (rental or owner occupied housing available to people earning up to 80% of median income). For lots/units to be eligible they must be associated with such organizations as Habitat For Humanity, a local housing authority, a single- or multi-county housing assistance organization or an incorporated land trust.
5. Commercial uses and their associated parking may be allowed in a residential PUD district, provided:
 - a. Lots devoted to commercial uses and their associated parking shall not occupy more than 10% of the developable land area of the PUD district;
 - b. Commercial uses shall be so located, designed and operated as to serve primarily the needs of persons within the district and secondarily persons residing elsewhere; and
 - c. The acreage proposed for commercial use and its parking shall be excluded from the gross acreage when computing total allowable dwelling units.
6. Residential Park/Open Space Requirements.
 - a. The minimum park land required is based on a ratio of 0.03 acres per residential unit. Residential units are defined as both owner and renter occupied units and includes single family and multi-family attached and detached construction but specifically excludes licensed retirement, assisted living or nursing home units.
 - b. Lands considered undevelopable as provided for in Section 27.19.030(1)(a) shall not be considered as meeting the minimum

park land and open space requirements.

- c. The applicant shall submit a plan for development of each of the park areas. The approved plans shall be fully implemented by the applicant.
 - d. In addition to developed park lands, the PUD shall incorporate open space features, where and when appropriate to enhance the overall development, to serve as a necessary noise or visual barrier or to protect sensitive areas such as stream setbacks, floodplains, areas of steep slopes or other fragile areas.
 - e. The first 20 feet of width of a required pedestrian trail system (trail and associated easement) shall be considered a transportation facility and shall not be counted towards any open space of park land requirement.
- (3) Commercial PUD District.
- (a) Minimum size is 2 acres of developable area.
 - (b) A commercial PUD district may be established in areas zoned B-1 through B-5, P-1 and H-1.
- (4) Industrial PUD District.
- (a) Minimum size is 2 acres of developable area.
 - (b) An industrial PUD district may be established in areas zoned I-1, I-2, P-1 and B-5.
- (5) Residential Mixed Use PUD.
- (a) The minimum size is 5 acres of developable area.
 - (b) A residential mixed use PUD may be established in areas zoned R-1 through R-5, RA-1, RA-2, B-1, P-1 and H-1.
 - (c) The predominant land use character of the PUD must be residential; commercial uses should primarily be sized and located to address the needs of the immediate neighborhood.
 - (d) The residential uses and densities appropriate to a mixed use PUD are the same as those permitted in a residential PUD.
 - (e) Commercial uses appropriate to a mixed use PUD are the same as those permitted in a commercial PUD.
 - (f) Incompatible industrial and commercial uses are not permitted.
 - (g) The combined area of all commercial/industrial lots cannot exceed 35% of the developable area.

(6) Nonresidential Mixed Use PUD.

(a) Minimum size is 2 acres of developable area.

(b) A nonresidential mixed use PUD may be established in any zoning district which would allow a commercial or industrial PUD.

(c) Uses allowed under either a commercial or industrial PUD are allowed.

(Ord. 1677, 7-19-2010; amd. Ord. 1824, 3-18-2019)