

**CITY OF ARLINGTON
ORDINANCE NO. 227**

**AN ORDINANCE REPEALING AND REPLACING SECTION 11 OF ORDINANCE 169, THE
ARLINGTON ZONING ORDINANCE, RELATING TO PLANNED UNIT DEVELOPMENTS**

THE CITY COUNCIL OF THE CITY OF ARLINGTON, MINNESOTA TO PROMOTE THE
PUBLIC SAFETY, HEALTH AND WELFARE, HEREBY ORDAINS:

**I. SECTION 11 OF ORDINANCE 169 SHALL BE HEREBY REPEALED AND REPLACED WITH
THE FOLLOWING:**

SECTION 11: PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT.

Subd. 1. Purpose and Intent.

The purpose of this chapter is to provide for flexibility in site design requirements when exceptional quality community designs result in planned developments that: preserve environmentally significant and/or environmentally sensitive areas; provide exceptional or unique open space amenities; incorporate creative design in the layout of buildings, open space and circulation; assure compatibility with surrounding land uses and neighborhood character; conforms to the goals and policies of the Comprehensive Plan; and, provide greater efficiency in the layout and provision of roads, utilities, and other infrastructure. Throughout this title, "PUD" shall mean the same as "planned unit development."

Subd. 2. Definitions.

- A. Development, Greenfield shall mean development proposed for sites not previously serviced by centralized water, sanitary sewer, or storm sewer service.
- B. Planned unit development (PUD) shall refer to one or more lots, tracts, or parcels of land to be developed as a single entity, the plan for which may propose density or intensity transfers, density or intensity increases, mixing of land uses, or any combination thereof, and which may not correspond in lot size, bulk, or type of dwelling or building, density, intensity, lot coverage, parking, required common open space, or other standards to zoning use district requirements that are otherwise applicable to the area in which it is located. Density herein refers to the number of dwelling units (residential) or building square footage (non-residential) as a portion of the entire developable site area; intensity refers to the intensity of building coverage as a percentage of the lot size.
- C. PUD, Residential Cluster shall mean a residential plan/plat proposing a transfer of allowable net density from one portion of the PUD to another as a means of preserving environmentally significant or sensitive areas under Subd. 3(A) of this Section, preserving architectural or historically important existing structures under Subd. 3(D) of this Section, or the elimination of blighted areas, deteriorated structures or incompatible uses within a previously built-up urban area through redevelopment or rehabilitation under Subd. 3(E) of this Section.
- D. PUD, Residential Open Space shall mean a residential plan/plat proposing a transfer of allowable net density from one portion of the PUD to another as a means of preserving in perpetuity or establishing and preserving in perpetuity open space amenities under Section 3(B) of this Section.
- E. PUD, Residential Amenity shall mean a primarily residential plan/plat proposing a transfer of allowable net density from one portion of the PUD to another as a means of providing for a unique scenic or recreational amenity or facility under Subd. 3(G) of this Section.
- F. PUD, Residential Mixed Use shall mean a primarily residential plan/plat proposing a transfer of allowable net density from one portion of the PUD to another as a means of providing for mixed housing types and values combined with site amenities under Subd. 3(C) of this Section.
- G. PUD, Commercial Mixed Use shall mean a transfer of allowable net density from one portion of the PUD to another as a means of combining commercial storefronts and residential dwelling units within a single structure under Subd. 3(F) of this Section, or the combination of commercial and residential uses on separate parcels within a master planned area which eliminates blighted areas.

deteriorated structures or incompatible uses within a previously built-up urban area through redevelopment or rehabilitation under Subd. 3(E) of this Section.

- H. Project Area, Gross shall mean the total area proposed to be developed as a PUD.
- I. Project Area, Net shall mean the remaining project area after subtracting from the gross project area all areas proposed to be used for public streets, all stream areas, public waters, wetlands (National Wetland Inventory), preserved floodplains, steep slopes, all floodways, and other natural resource areas in which development is prohibited under the City's Zoning Ordinance or Subdivision Ordinance.

Subd. 3. Demonstrated Benefit to the Public Required.

Planned unit developments shall demonstrate at least one of the following benefits to the public. The applicant shall submit factual evidence to support an intended public benefit(s) will result from the planned development. The Applicant bears the burden of proving a public benefit(s) exist:

- A. The preservation in perpetuity of environmentally significant and/or environmentally sensitive areas including flood plains, ravines, shorelands, public water basins, wetlands (National Wetland Inventory), High Island Creek bank, prime agricultural soils, hydric soil, pre-settlement vegetation, and resources identified within the Sibley County Biological Survey. Preservation of such areas will require the establishment and implementation of best management practices to protect and enhance said environmentally significant and/or sensitive areas. Preservation in perpetuity may be achieved through a permanent conservation easement and/or dedication to the public.
- B. The preservation in perpetuity or establishment and preservation in perpetuity of exceptional quality open space amenities such as those which provide: for the establishment or protection of scenic views/visual amenities; for the establishment or linkage of habitat areas, wildlife corridors, or greenway corridors especially adjacent to High Island Creek; for linkage to existing or planned park or linear pathway facilities; and/or for preservation, protection and enhancement of significant mature stands of vegetation. An open space preservation plan and a maintenance plan shall be established and implemented. Preservation in perpetuity may be achieved through a permanent conservation easement and/or dedication to the public.
- C. The creation of a master planned community within one development featuring a variety of housing types (i.e. single family, attached; single family, detached; and/or apartments) and/or values (i.e. affordable, market rate, luxury rate) combined with: above average open space and/or construction of a unique or scenic recreational facility (e.g. golf course, equestrian facility, artificially constructed lake [but not a required stormwater facility] and similar facilities) and/or commercial uses in transitional zoning areas.
- D. The preservation of buildings that are architecturally or historically significant or significantly contribute to the character of the City. Such determination as 'significant' or 'contributing to the character of the City' shall be defined by a professional historian, a representative from the State Historic Preservation Office, a representative from MnDOT Cultural Resources Department, or by listing on the National Register of Historic Places.
- E. The elimination of blighted areas, deteriorated structures or incompatible uses within a previously built-up urban area through redevelopment or rehabilitation. A finding of 'blighted area' shall be made by the City Council with Federal Small Cities Development Program guidelines used as a reference. A finding of 'deteriorated structure' shall be made by the City Building Official. A finding of an incompatible use shall be made by the City Zoning Official.
- F. The creation of mixed uses within a single structure which combine compatible commercial storefronts with residential units (above or behind) within the Central Business District. "Compatibility" of proposed commercial and residential uses shall consider hours of operation, separation of space, building construction, noise/odor/vibration levels, and electromagnetic interference.
- G. The creation of a master planned community in conjunction with enhanced amenities such as the construction of a unique or scenic recreational facility or amenity such as a golf course, an equestrian facility, an artificially constructed lake (but not a required stormwater facility) and similar facilities. Such amenities shall be held in perpetuity. Preservation in perpetuity may be achieved through a permanent conservation easement and/or dedication to the public.

Subd. 4. Planned Unit Development as an Overlay District.

- A. Planned unit developments shall be superimposed over existing zoning classifications.
- B. Allowable uses within the PUD shall be those uses allowed in the underlying zoning classification.
- C. Maximum density standards of the underlying zoning district(s) apply, except that:

1. Allowable net densities may be transferred from one area of the subdivision and clustered in another area of the same subdivision meaning that lots within the PUD may vary in size but the total of lots may not exceed those allowed as calculated under this Section using the underlying zoning classification as a base.
2. A density increase may be allowed when a public benefit under Subd. 3 (A) or Subd. 3 (B) or Subd. 3 (C) or Subd. 3 (G) is combined with a public benefit under Subd. 3(D), Subd. 3(E), or Subd. 3(F) of this Section. Such density increases shall not be greater 133% of that allowed by the underlying zoning district(s).
3. The Zoning Official shall calculate the number of units allowed within a PUD. To make this calculation the Zoning Official shall exclude from the project area acreage required to be used for street right-of-way, utility easements, stormwater ponding, and other required improvements for subdivisions. The acreage available after making the aforementioned exclusions shall be the 'net project area.' The Zoning Official shall calculate the number of units available by dividing the net project area by the lot size required by the underlying zoning that that applies to the project.

Subd. 5. Types of Planned Unit Developments Allowed – Where Permitted.

- A. PUD, Residential Cluster shall be allowed within all residential zoning classifications. As a result of density transfers/increases the requirements of the underlying zoning district related to: lot area, lot size, lot coverage, lot width, and lot depth may be decreased provided setbacks for individual lots required by the underlying zoning district are maintained.
- B. PUD, Residential Open Space shall be allowed within all residential zoning classifications providing the entire project area is at least twenty (20) acres in size. The size limitation is intended to retain adequate useful open space and development opportunities. As a result of density transfers/increases the requirements of the underlying zoning district related to: lot size, lot area, lot coverage, lot width, and lot depth may be decreased provided setbacks for individual lots required by the underlying zoning district are maintained.
- C. PUD, Residential Amenity shall be allowed within all residential zoning classifications providing the entire project area is at least twenty (20) acres in size. The size limitation is intended to retain adequate useful space for special amenities and development. As a result of density transfers/increases the requirements of the underlying zoning district related to: lot size, lot area, lot coverage, lot width, and lot depth may be decreased provided setbacks for individual lots required by the underlying zoning district are maintained.
- D. PUD, Residential Mixed Use shall be allowed within all residential zoning classifications providing the entire project area is at least twelve (12) acres in size. The size limitation is intended to retain adequate space creating superior amenities and a mix of residential development. As a result of density transfers/increases the requirements of the underlying zoning district related to: lot size, lot area, lot coverage, lot width, and lot depth may be decreased provided setbacks for individual lots required by the underlying zoning district are maintained.
- E. PUD, Commercial Mixed Use combining commercial storefronts and residential dwelling units within a single structure under Subd. 3(F) of this Section shall be allowed within the Central Business District. Commercial mixed use PUD's proposing the combination of commercial and residential uses on separate parcels within a master planned area which eliminates blighted areas, deteriorated structures or incompatible uses within a previously built-up urban area through redevelopment or rehabilitation under Subd. 3(E) of this Section shall be allowed within the Central Business District, the R-2 District, or any combination of the two. As a result of density transfers/increases the requirements of the underlying zoning district related to: lot size, lot area, lot coverage, lot width, and lot depth may be decreased provided setbacks for individual lots required by the underlying zoning district are maintained.
- F. A PUD may be comprised of one or more of the above types, subject to compliance with allowable uses within the underlying zone(s) in which the PUD is proposed to be located, the standards of A – E above, and the all other requirements of this Section.
- G. Prohibited Planned Unit Developments. The following types of planned unit developments and any type not identified as reasonably similar to those expressly allowed are prohibited from qualifying for PUD overlay status and must conform to the standards of the City of Arlington Zoning and Subdivision Ordinances.
 1. Commercial or industrial PUD proposing subdivision of property.
 2. Non-residential and residential uses combined and proposing an increase in density. This standard shall not prohibit density transfers within proposed non-residential/residential mixed use PUD and/or mixed residential/non-residential PUD within transitional areas (i.e. areas guided to non-residential use transitioning to areas guided for higher density residential use transitioning to areas guided toward lower density residential use) as illustrated within the Comprehensive Plan Future Land Use Map.

3. Commercial mixed use PUD in greenfield areas; such PUD's are reserved for redevelopment projects within the Central Business District and/or the R-2 District.

Subd. 6. General Requirements for All PUDs.

- A. The design of a PUD shall take into account the relationship of the site to the surrounding areas. The perimeter of the PUD shall be so designed as to minimize undesirable impact of the PUD on adjacent properties and, conversely, to minimize undesirable impact of adjacent land use and development characteristics on the PUD.
- B. Common areas, open space, amenities, and/or preservation areas shall be held in perpetuity through: legal common ownership by all owners in the PUD, placement in a conservation or similar easement, or dedicated to the public use with approval of the City Council.
- C. Whenever possible, common open space shall be linked to the open space areas of adjoining developments. Common open space shall be of such size, shape, character, and locations as to be useable for its proposed purpose.
- D. To prevent the appearance of excessive structural bulk, a single structure shall not have a single exterior wall longer than forty (40) feet without an offset in the exterior wall height or depth. The employment of windows and doors may be substituted for offsets in wall height or depth if approved by the Zoning Administrator and provided such windows/doors are designed in a manner which is substantially consistent with the windows/door styles employed in the building front (entry).
- E. Building Height. Building height shall be governed by the requirements of the underlying zone district classification.
- F. All permitted, permitted accessory and or conditional uses contained in the underlying zoning district shall be treated as permitted, permitted accessory and conditional uses in PUD overlay district. Uses not listed as permitted or conditional in a specific district shall not be allowed in a PUD unless it is found that the use is complimentary to the functionality of the development and the other uses found therein.
- G. Off-street parking and loading space shall be provided in each PUD in the same ratios for types of buildings and uses as required in the underlying zoning district. However, the City may reduce the number of parking spaces required provided PUD applicants submit information demonstrating a reduced need for parking facilities (e.g. senior housing complex, PUD's featuring joint parking facilities, parking study, proximity to and availability of bus service coupled with transit-friendly design, etc.).
- H. The streets connecting with any planned unit development must be of sufficient size and character to accommodate the traffic to be produced by the project. The streets connecting with any PUD shall not significantly alter the character of existing residential neighborhoods. Evaluation of the proposal pursuant to this section shall include consideration of the following criteria:
 1. The increase in traffic which will be generated by the development;
 2. The present width and condition of streets to be affected;
 3. Presence or absence of improved sidewalks;
 4. Potential impacts upon the value of surrounding properties;
 5. Anticipated effect upon availability of parking;
 6. Existence of a particular conflict between vehicular and pedestrian traffic;
 7. The street type designated in the comprehensive plan.
- I. The required right-of-way width for streets with a functional classification of 'local' may be reduced up to 30% provided the proposed width is adequate to accommodate pavement width and other improvements required within the right-of-way. The minimum paved width available for vehicular travel shall not be less than 24 feet so as to provide adequate clearance for emergency vehicles. Parking may be restricted on one or both sides streets with reduced right-of-way widths.
- J. Private Streets. Private streets may be allowed within PUDs provided:
 1. An easement for the full right of way width required by the Subdivision Ordinance is provided.

2. The City Engineer and City's emergency service providers (Fire, Ambulance and Police) review the PUD determine adequacy of proposed pavement width. The City may require on-street parking be prohibited to allow for adequate width and access by emergency service providers.
3. A legal common ownership document providing for establishment and maintenance of an escrow account as approved by the City for all road construction and maintenance is in effect and recorded; and,
4. All potential property owners are made aware in writing of the fact that the streets must be maintained privately by all persons party to the legal common ownership document and that the City is not responsible for street maintenance, snow plowing and the like.

Subd. 7. Subdivision Requirements.

The approval of a subdivision shall be required of all projects which involve or contemplate the platting or replatting of land. Property currently described by metes and bounds shall be platted if contemplated for development as a PUD. The procedures set forth in the subdivision ordinance shall be followed concurrently with the PUD standards. The approved final development plan shall be a binding site plan. A lease of land not involving a residential structure shall be exempt from the subdivision ordinance if the lease conforms to the final development plan.

Subd. 8. Pre-Application/Informational Meeting and Concept Plan Required.

- A. Informational Meeting. Prior to filing an application for preliminary PUD plan approval, the applicant of the proposed PUD shall arrange for and attend an informational meeting with City staff. At such conference, the applicant shall be prepared to generally describe their proposal for a PUD. The primary purpose of the meeting shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of the conformity to the provisions of this code before incurring substantial expense in the preparation of detailed plans, surveys, and other data.
- B. Following a pre-application/informational meeting but prior to submitting an application for preliminary plan/plat approval, the applicant for a proposed PUD shall submit to the City a general concept plan.
 1. Purpose. The general concept plan provides an opportunity for the applicant to submit a plan to the City showing their basic intent and the general nature of the entire development without incurring substantial cost. This concept plan serves as the basis for the informational meeting so that the proposal may be considered at an early stage. The following elements of the proposed general concept plan represent the immediate significant elements which the City shall review and for which a decision shall be rendered:
 - a. Type of PUD contemplated.
 - b. Overall maximum PUD density range.
 - c. General location of major streets and pedestrian walkways.
 - d. General location and extent of public and/or common open space.
 - e. Preservation areas.
 - f. General location of residential and non-residential land uses with approximate intensities of development.
 - g. Staging and timetable of development.
 - h. Other special criteria for development.

Subd. 9. This Subdivision Reserved for Future Use.

Subd. 10. Preliminary PUD and Final PUD Plan Approval Required.

- A. Each PUD shall require preliminary and final plan approval.

- B. If land subdivision is requested in conjunction with the PUD plan, both preliminary and final PUD approvals shall be processed in concurrently with the platting procedures set forth in the City's Subdivision Ordinance. Required data, parkland/fee in-lieu of parkland dedication, design standards and required improvements shall be the same as per a conventional subdivision and as set forth within the City's Subdivision Ordinance. In addition to the data requirements itemized within the Subdivision Ordinance the application shall also include information necessary to process the PUD preliminary and final plan(s) as contained within this chapter. The Zoning Official may waive requirements determined to be redundant.
- C. The preliminary development plan and the final development plan may be combined and together processed through review as a final development plan. In addition the applicant may file a concurrent rezone application in accordance with the procedures set forth in the zoning ordinance.
- D. Preliminary Plan, Process.
- E. Final Plan, Process.

Subd. 11. Phased Development.

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

Subd. 12. Preliminary PUDs – Contents of Complete Application.

- A. The applicant shall file with the City a preliminary development plan (ten large scale copies and one 11 X 17 reproducible copy).
- B. The data submittal requirements of the following Table entitled "Table of Data Submittal Requirements" for preliminary PUD Plans shall apply.
- C. Text describing conditions or features which cannot be adequately displayed on maps or drawings;
- D. A narrative stating how the proposed development complies with the goals and policies of the Comprehensive Plan;
- E. A narrative stating how the proposed plan impacts adjacent property owners;
- F. A narrative describing in factual terms the public benefit of the proposed PUD;
- G. A narrative describing proposed operation/maintenance of the development including open areas, preservation areas, stormwater features and recreational facilities resulting from the subdivision;
- H. Information normally required within the underlying zoning classification relating to site plan review.
- I. Other information required by the City.
- J. Table of Data Submittal Requirements.

TABLE OF DATA SUBMITTAL REQUIREMENTS

X = required at indicated review stage

G = less detail required (conceptual or general)

| <u>Item Description</u> | <u>Concept Plan</u> | <u>Preliminary PUD Plan</u> | <u>Preliminary Plat</u> | <u>Final PUD Plan</u> | <u>Final Plat</u> |
|--|----------------------------|------------------------------------|--------------------------------|------------------------------|--------------------------|
| <u>General Information</u> | - | - | - | - | - |
| <u>Name, address of owner and</u> | X | X | X | X | X |

TABLE OF DATA SUBMITTAL REQUIREMENTS

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| <u>Item Description</u> | <u>Concept Plan</u> | <u>Preliminary PUD Plan</u> | <u>Preliminary Plat</u> | <u>Final PUD Plan</u> | <u>Final Plat</u> |
|---|---------------------|-----------------------------|-------------------------|-----------------------|-------------------|
| <u>applicant</u> | | | | | |
| <u>Name, license number, address, and signature of persons involved in preparation of the plan/plat (i.e. architect, surveyor, engineer)</u> | X | X | X | X | X |
| <u>Title block</u> | X | X | X | X | X |
| <u>Key map showing location of tract with reference to surrounding area</u> | X | X | X | X | X |
| <u>A listing of required and proposed performance standards including lot area, width, depth, setbacks, lot coverage, and required parking.</u> | G | X | X | X | X |
| <u>North arrow and scale</u> | X | X | X | X | X |
| <u>Proof taxes are current</u> | - | X | X | X | X |
| <u>Appropriate certification blocks</u> | - | - | X | - | X |
| <u>Existing and proposed legal descriptions</u> | - | - | X | - | X |
| <u>Acreage of tract</u> | G | X | X | X | X |
| <u>Location and dimensions of existing and proposed streets</u> | G | X | X | X | X |
| <u>Proposed lot lines and area of lots in square feet</u> | - | X | X | X | X |
| <u>Existing or proposed deed restrictions or covenants</u> | X, existing only | X | X | X | X |
| <u>Existing or proposed easements or land reserved for or dedicated to public use</u> | X | X | X | X | X |
| <u>Proposed development staging or timeline for development</u> | G | X | X | X | X |
| <u>List of required regulatory approvals or permits</u> | - | X | X | X | X |
| <u>Requested or obtained variances</u> | G | X | X | X | X |
| <u>Requested or obtained rezoning</u> | G | X | X | X | X |
| <u>Payment of application fee</u> | - | X | X | X | X |
| <u>Setting & Environmental Information</u> | - | - | - | - | - |
| <u>Property boundaries of all parcels within 200' of the subject parcel</u> | - | X | X | X | X |
| <u>Existing streets, water courses, flood plains, wetlands, or other environmentally sensitive areas on and within 200 feet of the subject site</u> | G | X | X | X | X |
| <u>Existing rights-of-way and/or easements on and within 200' of the subject site</u> | G | X | X | X | X |
| <u>Topographical features of the subject property</u> | G | X | X | X | X |
| <u>Existing and proposed contour intervals for subject property and</u> | - | X | X | X | X |

TABLE OF DATA SUBMITTAL REQUIREMENTS

X = required at indicated review stage

G = less detail required (conceptual or general)

| <u>Item Description</u> | <u>Concept Plan</u> | <u>Preliminary PUD Plan</u> | <u>Preliminary Plat</u> | <u>Final PUD Plan</u> | <u>Final Plat</u> |
|--|---------------------|-----------------------------|-------------------------|-----------------------|-------------------|
| <u>within 200' of the subject site</u> | | | | | |
| <u>Boundary, limits, nature, and extent of wooded areas, specimen trees, and other significant physical features</u> | G | X | X | X | X |
| <u>Existing system of drainage of subject site</u> | - | X | X | X | X |
| <u>Drainage area map</u> | - | X | X | X | X |
| <u>Drainage calculations</u> | - | X | X | X | X |
| <u>Perc tests</u> | - | X | X | X | X |
| <u>Improvements & Construction Information</u> | - | - | - | - | - |
| <u>Proposed utility infrastructure plans, including sanitary sewer, water, and storm water management</u> | - | X | X | X | X |
| <u>Soil erosion and sediment control plans</u> | - | X | X | X | X |
| <u>Spot and finished elevations at all property corners, corners of all structures or dwellings, existing or proposed first floor elevations</u> | - | X | X | X | X |
| <u>Construction details</u> | - | X | X | X | X |
| <u>Road and paving cross sections and profiles</u> | - | X | X | X | X |
| <u>Proposed street names</u> | - | X | X | X | X |
| <u>New block and lot numbers</u> | - | X | X | X | X |
| <u>Lighting plan and details</u> | - | X | X | X | X |
| <u>Landscape plan and details</u> | - | X | X | X | X |
| <u>Site identification signs, traffic control signs, and directional signs</u> | - | X | X | X | X |
| <u>Vehicular and pedestrian circulation patterns</u> | G | X | X | X | X |
| <u>Parking plan showing spaces, size and type, aisle width, curb cuts, drives, driveways, and all ingress and egress areas and dimensions</u> | - | X | X | X | X |
| <u>Preliminary architectural plan and elevations</u> | - | - | - | X | X |

Subd. 13. Preliminary PUDs – Process.

- A. Following the pre-application meeting and following review of the concept plan, the applicant shall prepare a request for approval of the preliminary plan for the planned unit development, as provided within this Section. The request shall be filed with the City on an official application form. A fee as provided for by City Council Ordinance shall accompany such application.
- B. The applicant shall also submit any necessary applications for variances from the provisions of this or any City land use or subdivision ordinance.

- C. The Zoning Administrator shall review the application to determine whether or not the application and required material submissions are complete. The preliminary plan shall be considered as being officially submitted only when all of the information requirements are complied with and the appropriate fees paid. If the Zoning Administrator determines the application is incomplete, the applicant shall be notified of all deficiencies in the application, in writing within fifteen (15) calendar days of receipt of the application. The Council shall approve or disapprove the preliminary plan within one hundred twenty (120) days following the receipt of a completed application in compliance with this Ordinance unless an extension of the review period has been approved.
- D. Upon receipt of the completed application as outlined in A – C above, the Zoning Administrator shall set a public hearing for public review of the preliminary plan by the Planning Commission. Notice of the hearing may be a legal or display advertisement and shall consist of a legal property description, description of the request, and shall be published in the official newspaper at least ten (10) days prior to the hearing. Written notification of the hearing shall be mailed at least ten (10) days prior to the hearing. Requests affecting and located within non-planted areas of the City shall be noticed to all property owners within three hundred fifty (350) feet of the property in question. A copy of the notice and a list of the property owners and addresses to which the notice was sent shall be attested and made a part of the records of the proceeding.
- E. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Section provided a bona fide attempt has been made to comply with the notice requirements of this Section.
- F. The Zoning Administrator shall prepare technical reports or cause such technical reports to be created. The Zoning Administrator shall provide general assistance in preparing a recommendation on the action to the Planning Commission. Technical reports may include those from the City Engineer, Building Official, City Attorney, and public or private utility departments, and others.
- G. The Zoning Administrator or the Administrator's designee shall also refer copies of the plan map to the following individuals or bodies:
1. City Engineer;
 2. City Attorney;
 3. School District;
 4. Commissioner of Transportation if the proposed planned unit development includes land abutting an established or proposed trunk highway;
 5. County Engineer if the proposed planned unit development includes land abutting a County or County State-Aid Highway;
 6. State Commissioner of Natural Resources if the proposed planned unit development adjoins a public body of water;
 7. The Watershed District Board, if applicable;
 8. Other City department heads as appropriate;
 9. Park Board;
 10. Planning Commission.
- H. The Park Board, Planning Commission, City Council, and City staff shall have the authority to request additional information from the applicant concerning the proposed planned unit development and its operational factors or impact, or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors or impacts, when said information is to be declared necessary to establish performance conditions in relation to all pertinent sections of this Ordinance. Failure on the part of the applicant to supply all necessary supportive information may be grounds for denial of the request.
- I. The Planning Commission shall conduct a public hearing. The applicant or a designated representative thereof may appear before the Council at the public hearing in order to answer questions concerning the proposed request. Following the closing of the public hearing, the Planning Commission shall take one of the courses of action:
1. Approval of the preliminary plan: as presented – with findings of fact.
 2. Conditional approval of the preliminary plan: conditions for approval and findings of fact itemized.
 3. Denial of the preliminary plan, with findings of fact.

4. The Planning Commission may, at its discretion and with the approval of the applicant, table the matter pending further information from the applicant that will help it render a recommendation to the City Council. An extension of the preliminary plan review period (i.e. total of 120 days) may be necessary.
- J. The Zoning Administrator shall notify the applicant of the Planning Commission's recommended action together with the findings of fact for such recommended action and what requirements, if any, will be necessary for the Planning Commission to recommend approval of the Plan. The recommended approval of the Preliminary Plan does not constitute an acceptance of the planned unit development.
- K. Following review by the Planning Commission, the request shall be scheduled for review by the City Council.
- L. City Council Action:
1. The reports and recommendations of City staff, Park Board and the Planning Commission shall be entered in and made part of the permanent written record of the City Council meeting.
 2. The Council shall approve or disapprove the preliminary plan within one hundred twenty (120) days following delivery of an application completed in compliance with this Ordinance unless an extension of the review period has been agreed upon by the applicant and the City.
 3. When the preliminary plan is approved, conditionally approved or denied by the City Council, the findings of fact for such action shall be recorded in the proceedings of the Council and shall be transmitted in writing to the applicant. If the preliminary plan is approved or conditionally approved, such approval shall not constitute acceptance of the final design and layout. Subsequent approval will be required of the engineering proposals and other features and requirements as specified by this Ordinance to be indicated on the final plan. The City Council may impose such conditions and restrictions as it deems appropriate or require such revisions or modifications in the preliminary plan or final plan as it deems necessary to protect the health, safety, comfort, general welfare and convenience of the City.

Subd. 14. Preliminary PUDs – Criteria for Approval.

- A. Preliminary PUD approval shall be granted by the city only if the applicant demonstrates that
1. The proposed project shall not be detrimental to present and potential surrounding land use.
 2. There is a factual and defined public benefit.
 3. Land surrounding the proposed development can be planned in coordination with the proposed development and can be developed so as to be mutually compatible.
 4. Streets and sidewalks, existing and proposed, are suitable and adequate to carry anticipated traffic within the proposed project and in the vicinity of the proposed project, in light of the criteria set forth in the Subdivision Ordinance and the comprehensive plan.
 5. Services including potable water, sanitary sewer and storm drainage are available or can be provided by the development prior to occupancy.
 6. Each phase of the proposed development, as it is planned to be completed, contains the required parking spaces, recreation spaces, landscape and utility areas necessary for creating and sustaining a desirable and stable environment.
 7. The project conforms with the purpose of this Section and the standards prescribed herein.
 8. The project conforms to the Comprehensive Plan.
- B. Conformance with the design standards and required improvements as set forth within the Subdivision Ordinance.

Subd. 15. Preliminary PUDs – Minor and Major Changes to an Approved Preliminary PUD Prior to Final Plan Approval.

- A. A proposed minor change to an approved PUD require a public hearing and shall be incorporated into the application for final PUD approval, and any notification regarding such final PUD approval shall describe the proposed minor change(s). A "minor change"

means any departure from the conditions of preliminary approval which is not a "major change" and includes but is not limited to the following:

1. Revisions to number of dwelling units in a structure;
 2. Revisions to number of nonresidential structures;
 3. Revisions to heights of structures;
 4. Revisions to location of internal roads;
 5. Revisions similar in nature to those above as determined by the city.
- B. A proposed major change to an approved preliminary PUD shall require reapplication for preliminary PUD approval and any notification regarding such preliminary PUD approval shall describe the proposed major change or changes. A major change is any departure from the conditions of preliminary PUD approval which would result in any of the following:
1. Revisions to the approved design concept;
 2. Revisions to the approved use(s);
 3. An increase in the number of residential dwelling units;
 4. An increase in square footage of nonresidential structures;
 5. A decrease in the amount of landscaping, site perimeter buffering, and open space; and
 6. An increase in traffic volumes or change in circulation patterns which impacts surrounding development.

Subd. 16. Final PUDs – Contents of Complete Application.

- A. Within 12 months following the approval of the preliminary PUD, the applicant shall file with the City a final PUD conforming to the approved preliminary PUD.
- B. The final PUD shall meet the data submittal requirements illustrated in the "Table of Data Submittal Requirements" contained in Subd. 12(J) of this Section apply.
- C. The applicant shall submit with the final plan a current Abstract of Title or Registered Property Certificate, along with any unrecorded documents, and a Certificate of Title.
- D. When the City has agreed to install improvements in a development, the developer may be required to furnish a financial statement satisfactory to the City indicating the developer's ability to develop the plan.
- E. In the event that development standards were submitted and approved as part of the preliminary development plan, development standards shall be made binding upon all future developers of the property in a manner acceptable to the city and may be submitted in lieu of elevation and perspective drawings of project improvements.

Subd. 17. Final PUDs – Process.

- A. Once a preliminary plan has been approved by the City Council, the developer may submit a request for final plan approval. In certain cases the City may allow a final plan to be submitted concurrent with a request for preliminary plan approval.
- B. The applicant shall prepare a request for approval of the final plan for the planned unit development filed with the City on an official application form. A fee as provided for by City Council Ordinance shall accompany such application. The application shall be accompanied by five (5) large-scale copies and ten (10) reduced scale (not less than 11"x17") copies of the final plan and supportive information in conformity with the requirements of this Ordinance. The final plan shall incorporate all changes, modifications and revisions required by the City, otherwise, it shall strictly conform to the approved preliminary plan.
- C. The Zoning Administrator shall review the application to determine whether or not the application and required material submissions are complete. The final plan shall be considered as being officially submitted only when all of the information requirements are

complied with and the appropriate fees paid. If the Zoning Administrator determines the application is incomplete, the applicant shall be notified of all deficiencies in the application, in writing within fifteen (15) calendar days of receipt of the application. The Council shall approve or disapprove the final plan within sixty (60) days following the receipt of a completed application in compliance with this Ordinance unless an extension of the review period has been approved.

- D. Upon receipt of a final plan, copies shall be referred to the Planning Commission, appropriate City staff and to all applicable utility companies, County and State agencies.
- E. Prior to approval of a final plan, the applicant shall have executed a Development Agreement with the City, which controls the installation of all required improvements and assures compliance with all conditions of approval unless determined unnecessary by the City Attorney. Said agreement will require all improvements and approval conditions to comply with approved engineering standards and applicable regulations.
- F. The City Council shall take action on a final plan not more than sixty (60) days after the final plan is filed with the City. If the final plan is not approved, the findings of fact for such action shall be recorded in the official proceedings of the City and shall be transmitted to the applicant.
- G. Required findings for final plan. The City Council shall make each of the following findings before granting final plan approval:
 - 1. The final plan conforms to the approved preliminary plan and any/all conditions for approval of the preliminary plan.
 - 2. All submission requirements have been satisfied.
 - 3. The plan conforms to all applicable requirements of this Title, subject only to approved rule exceptions.
- H. The applicant shall be notified by the City of the City Council's action together with the findings of fact for such action.

Subd. 18. Final PUDs – Criteria for Approval.

Final PUD approval shall be granted by the city only if the applicant demonstrates that the final PUD substantially conforms to the approved preliminary PUD. For the purposes of this section, "substantially conforms" means that, as compared to the preliminary PUD, the final PUD contains no revisions in density, uses, design or development standards or in the site plan, other than the minor changes pursuant to Subd. 11 of this chapter.

Subd. 19. Final PUDs – Extension of Time for Filing.

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

Subd. 20. Final PUDs – Failure to File – Termination.

- A. In the event the final PUD or any required attendant papers are not filed within 12 months following approval of a preliminary PUD, except as provided elsewhere in this Chapter or as noted in subsection B (immediately following this subsection), the approval of the preliminary PUD shall lapse and the approval shall be deemed null and void and without force or effect.
- B. When it is determined as part of the preliminary PUD approval that the final PUD is to be phased, the final PUD for the first phase shall be submitted within 12 months of preliminary approval. The final development plan for each subsequent phase shall be submitted within the schedule established at the time of preliminary PUD approval. In the case of a PUD which includes a subdivision, the final PUD shall be submitted within five years of receiving preliminary approval.
- C. The time period for filing of final PUDs shall not include periods of time during which progress on the final PUD was reasonably halted or delayed due to the filing and pendency of legal actions challenging an approval granted by the city pursuant to this chapter; provided, that in all cases when more than two years have elapsed subsequent to the date of approval of a preliminary PUD the permittee shall be required to comply with all current building, construction, subdivision and other applicable standards of the city prior to being granted approval of the final PUD; provided, that a change in zoning district classification enacted subsequent to approval of the final development plan shall not affect the project.

Subd. 21. Final PUDs – Adjustments to Approved Final PUD.

- A. The Zoning Official is authorized to allow adjustments in accordance with subsection B (which immediately follows this section) of this chapter. The Zoning Official shall allow only such adjustments as are consistent with guidelines established in subsection B of this section, and in no case shall an adjustment be allowed if it will increase the total amount of floor space authorized in the approved final PUD, or the number of dwelling units or density, or decrease the amount of parking or loading facilities or permit buildings to locate substantially closer to any boundary line or change substantially any point of ingress or egress to the site.
- B. For the purposes of this section, “adjustments” means any departure from the conditions of final PUD approval which complies with the following criteria:
 - 1. The adjustment maintains the design intent and quality of the original approval;
 - 2. The amount of landscaping, buffering and open space shall not be reduced;
 - 3. The number of dwelling units in residential developments and the square footage of structures shall not increase;
 - 4. The adjustment shall not relocate a building, street or other use more than 20 feet in any direction and shall not reduce any required yard and/or setback;
 - 5. The height of buildings and other structures shall not increase;
 - 6. Views from both structures on-site and off-site shall not be substantially reduced;
 - 7. Traffic volumes shall not increase and circulation patterns shall not change;
 - 8. Changes in colors, plant material and parking lot configurations are minor;
 - 9. The adjustment does not add significant new environmental impacts or significantly increase environmental impacts disclosed in the original documents;
 - 10. The Zoning Official determines that the change will not increase any adverse impacts or undesirable effects of the project, or that the change in no way significantly alters the project.

Subd. 22. Bond Required for Final PUD.

No final PUD shall be implemented until the applicant files with the city a bond approved by the city, executed by a surety company authorized to do business in the state, or other equivalent security approved by the city attorney, in an amount equal to 110% of the estimated of the cost of all public improvements, utilities and landscaping, conditioned upon the permittee’s completion of such portions of the project according to the submitted final PUD and the provisions of this chapter, and, in addition, providing that no change, extension of time, alteration or addition to the project will in any way affect the obligation on the bond. Said bond, or an additional bond or other equivalent security, shall also be conditioned upon full restoration of the site in the event that grading, clearing or any other site preparation or work is begun and abandoned, and in the determination of the city, it will better serve the public health, welfare and safety to restore the site rather than to require completion of public improvements, utilities and landscaping. If the PUD is also being subdivided, the bonds required to be posted by the subdivision of property as per the Subdivision Ordinance, to the extent that they satisfy the requirements of this section, shall be accepted as full or partial fulfillment of the requirements hereof.

Subd. 23. Operating and Maintenance Requirements for PUD Common Open Space and Service Facilities.

- A. Whenever common open space or service facilities are provided within the PUD, the PUD plan shall contain provisions to assure the continued operation and maintenance of such open space and service facilities to a predetermined reasonable standard.
- B. Common open space and service facilities within a PUD shall be placed under the ownership of one or more of the following:
 - 1. Landlord control where only use by tenants is anticipated.
 - 2. Property owners association, provided all of the following conditions are met:
 - a. Prior to the use, occupancy, sale or the execution of contracts for sale of an individual building unit, parcel, tract, townhouse, apartment, or common area, a declaration of covenants, conditions and restrictions or an equivalent document as specified in Minnesota Statutes shall be filed with the Zoning Official prior to the filings of the declaration of documents or floor plans with the County Recorder’s Office.

- b. The declaration of covenants, conditions and restrictions or equivalent document shall specify that deeds, leases or documents of conveyance affecting buildings, units, parcels, tracts, townhouses or apartments shall subject the properties to the terms of the declaration.
 - c. The declaration of covenants, conditions and restrictions shall provide that an owner's association or corporation may be formed and if such an association or corporation is formed property owners must be members of the association or corporation which shall maintain all properties and common areas in good repair and which shall assess individual property owners proportionate shares of joint or common costs. This declaration shall be subject to the review and approval of the City Attorney. The intent of this requirement is to protect the property values of the individual owner through establishing effective private control.
 - d. The declaration shall additionally provide that in the event the association or corporation fails to maintain properties in accordance with the applicable rules and regulations of the City, or fails to pay taxes or assessments on properties as they become due, and in the event the City incurs any expenses not immediately reimbursed by the association or corporation, then the City shall have the right to assess each property its pro rata share of the expenses. Such assessments, together with interest thereon and costs of collection, shall be a lien on each property against which such assessment is made.
 - e. Membership in the association must be mandatory for each owner and any successive buyer and the association must be responsible for liability insurance, taxes, and the maintenance of the open space facilities to be deeded to it.
 - f. The open space restrictions must be permanent and not for a given period of years.
 - g. Property owners must pay their pro rata share of the cost of the association by means of an assessment to be levied by the association which meets the requirements for becoming a lien on the property in accordance with state law and the association must be able to adjust the assessment to meet changing needs.
 - h. The by-laws and rules of the association and all covenants and restrictions to be recorded must be approved by the City Council prior to the approval of the final PUD plan.
- C. Staging of common open space. The construction and provision of all of the common open space and public improvements and recreational facilities that are shown on the final development plan for a PUD must proceed at the same rate as the construction of dwelling units or other private facilities.

Subd. 24. Building Permits – Certificates of Occupancy.

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

Subd. 25. Extension of Time for Construction.

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

Subd. 26. Termination of Planned Unit Development – Failure to Commence or Continue Construction.

If the construction has not been started within five years from the date of approval of a final PUD with an associated subdivision, or two years from the date of approval of any other final PUD, or if construction has been commenced but the work has been abandoned for a period of one year or more, and if no extension of time has been granted as provided in herein, the authorization granted for the planned unit development project shall terminate and all permits and approvals issued pursuant to such authorization shall expire and be null and void.

The time period of commencing or continuing construction shall not include periods of time during which commencement of construction or continuation of construction was reasonably halted or reasonably delayed due to the filing of a pendency of legal action challenging an approval granted by the city pursuant to this chapter; however, in all cases, when more than five years have elapsed subsequent to the date of approval of a final PUD with associated subdivision, or more than two years have elapsed subsequent to the date of approval of any other final PUD the permittee shall be required to comply with all current building, construction, subdivision and other applicable standards of the city; provided, that a change in zoning district classification enacted subsequent to approval of the final development plan shall not affect the project.

Subd. 27. Sale of Lots.

Lots in a platted planned unit development may be sold to separate owners according to the separate lots as shown in the plat filed and approved in connection therewith. No sale shall be permitted which subdivides a lot in such a manner as to create a new lot line except as provided in the subdivision ordinance, minor subdivision standard.

Subd. 28. Lots Subject to Final PUD.

All lots or other divisions of a subdivided planned unit development shall remain subject to compliance with the final development plan regardless of the fact of subdivision in compliance with the subdivision ordinance or lot(s)/division(s) of a subdivided PUD were subsequently conveyed.

II. EFFECTIVE DATE. This Ordinance is effective upon its adoption and publication as prescribed by law.

Adopted by the City of Arlington on the 2nd day of September, 2008.

Attest:

James R. Kreft, Mayor

Matthew Jaunich, City Administrator

First Reading: August 18, 2008
Second Reading: September 2, 2008
Adopted: September 2, 2008
Published: September 11, 2008