

DIVISION 11. - RPUD RESIDENTIAL PLANNED UNIT DEVELOPMENT DISTRICT^[7]

Footnotes:

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Cross reference— Planned unit development, § 78-1001 et seq.

Sec. 78-621. - Purpose.

The purpose of the residential planned unit development (RPUD) district is to provide a district which will allow for the implementation of certain residential housing goals established in the 2000—2020 Orono Community Management Plan ("CMP" or "comprehensive plan"). The RPUD district is established to accommodate the densities and types of residential development contemplated in the CMP by incorporating the principles of the planned unit development concept. The RPUD district will encourage the following:

- (1) Flexibility in land development and redevelopment in order to utilize new techniques of building design, construction and land development;
- (2) Provision of housing to meet lifecycle, and affordable and moderate cost housing needs;
- (3) Energy conservation through the use of more efficient building designs and sitings and the clustering of buildings and land uses;
- (4) Preservation of desirable site characteristics and open space and protection of sensitive environmental features, including steep slopes, poor soils and trees;
- (5) High quality of design and design compatible with surrounding land uses, including both existing and planned;
- (6) Sensitive development in transitional areas located between different land uses and along significant corridors within the city; and
- (7) Development which is consistent with the comprehensive plan.

(Ord. No. 202 2nd series, § 1(1), 2-26-2001)

Sec. 78-622. - Exceptions.

This section shall not apply to any residential PUD or PRD which has received preliminary or final approval by the city council prior to the effective date of the ordinance from which this division is derived, unless such application is requested by the property owner and approved by the city council.

(Ord. No. 202 2nd series, § 1(9), 2-26-2001)

Sec. 78-623. - Permitted uses.

Within the RPUD district, no structure or land shall be used except for one or more of the following uses:

- (1) One-family detached dwellings.
- (2) Publicly owned parks and playgrounds.

- (3) Municipal buildings.
- (4) Multifamily attached dwellings only when consistent within the areas of the city designated as urban area in the comprehensive plan.

(Code 1984, § 10.20(2); Ord. No. 202 2nd series § 1(2), 2-26-2001)

State Law reference— State mandated permitted uses, Minn. Stat. § 462.357, subd. 7.

Sec. 78-624. - Conditional uses.

Within the RPUD district, no land or structure shall be used for the following uses except by conditional use permit:

- (1) *Public service structures.* Public service structures, including but not limited to electric transmission lines, buildings, such as telephone exchange stations, booster or pressure regulating stations, wells, and plumbing stations, elevated tanks, lift stations and electrical power substations, provided no building shall be located within 50 feet from any lot line of an abutting lot in an R district. Prior to granting such permit it shall be found that the architectural design of service structures is compatible to the neighborhood in which it is to be located and thus will promote the general welfare. Public service structures that have been approved by the city at required public hearings for public improvement projects shall not require a conditional use permit, but such structures shall be subject to all other appropriate standards set forth in this section; amendments to approved plans involving design and/or placement of these structures will require written notice by the city to all affected property owners 14 days prior to the adoption of the amended plans by the council. Personal wireless services and commercial broadcasting antennas and towers shall not be considered public service structures. Uses allowed by conditional use permit shall be reviewed for compliance with the PUD master development plan and with the applicable conditional use permit standards of this division. Uses allowed by conditional use permit shall also be subject to site and building plan review pursuant to this division.
- (2) *Assisted living facilities.* Assisted living facilities as defined in this chapter, subject to the general conditions and multifamily-specific conditions applicable to uses in the RPUD district.

(Ord. No. 202 2nd series, § 1(3), 2-26-2001; Ord. No. 75 3rd series, § 1, 7-12-2010)

Sec. 78-625. - Accessory uses.

Within any RPUD district, the only permitted accessory uses and structures are the following:

- (1) Private garages and parking space.
- (2) Private swimming pools, tennis courts, and paddocks.
- (3) Home occupations, as defined in this chapter. All home occupations shall comply with the provisions of section 78-1376, and the licensing provisions of section 26-76, when applicable.
- (4) Signs, as regulated in this chapter.
- (5) Buildings temporarily located for purposes of constructing on the premises for a period not to exceed time necessary for such constructing.
- (6) Gardening and other horticultural uses, including aviaries and decorative landscape features.
- (7) Communication reception/transmission devices as follows:
 - a. Accessory antennas, which shall be limited to radio and television receiving antennas, satellite dishes, TVROs, and amateur shortwave radio transmitting and receiving antennas.

Accessory antennas that are accessory to the principal use of property are permitted accessory uses in all zoning districts, provided they meet the following conditions:

1. *Height.* A ground-mounted accessory antenna shall not exceed 20 feet in height from ground level.
 2. *Yards.* Accessory antennas shall not be located within the required front yard setback, corner side yard setback or side yard setback abutting a street.
 3. *Roofs.* If vegetation or obstructions interfere with satellite signals at a location in any allowable placement area, the accessory antenna may be placed on the roof of any authorized structure on the premises.
 4. *Location.* Accessory antennas shall not be located within a required yard or setback area or within drainage or utility easements. Antenna towers shall be set back from adjacent property lines a horizontal distance no less than the maximum height of the antenna.
 5. *Building permits.* A building permit shall be required for the installation of any accessory antenna requiring a conditional use permit. Building permit applications shall be accompanied by a site plan and structural component data for the accessory antenna, including details of anchoring. The building official must approve the plans before installation.
 6. *Lightning protection.* Each accessory antenna shall be grounded to protect against natural lightning strikes in conformance with the National Electrical Code as adopted by the city.
 7. *Electrical code.* Accessory antenna electrical equipment and connections shall be designed and installed in conformance with the National Electrical Code as adopted by the city.
 8. *Color/content.* Accessory antennas shall be of a neutral color and shall not be used as signage.
- b. Amateur shortwave radio antennas and towers which do not meet the conditions for accessory antennas may be allowed with a conditional use permit in all zoning districts, provided they meet the following conditions:
1. *Height.* When an amateur shortwave radio antenna is mounted on an antenna tower, the total height of the antenna and tower shall not exceed 65 feet.
 2. *Yards.* Amateur shortwave radio antennas and towers shall not be located within a front corner side or side yard.
 3. *Setbacks.* Amateur shortwave radio antennas and towers shall not be located within any required setback area and shall be located no less than the height of the antenna and tower from the property line.
- (8) Privately owned buildings to be used for recreational or social purposes, or for use as storage areas for maintenance equipment or rubbish.
- (9) Other uses that are customarily incidental to, and subordinate to, the allowed permitted and conditional uses in this district.

(Code 1984, § 10.20(4); Ord. No. 161 2nd series, § 6, 6-7-1997; Ord. No. 202 2nd series, § 1 (4), 2-26-2001; Ord. No. 221 2nd series, § 3, 9-23-2002; Ord. No. 106 3rd series, § 12, 6-10-2013)

Sec. 78-626. - Development standards.

Within the RPUD district all development shall be in compliance with the following:

- (1) *Minimum area; shoreland district limitation.* Each site proposed for rezoning to RPUD shall have a minimum area of five acres, excluding areas within a designated wetland, floodplain or shoreland district or right-of-way, unless the council finds the existence of one of the following:
 - a. Unusual physical features of the property itself or of the surrounding neighborhood such that development as a RPUD will conserve a physical or topographic feature of importance to the neighborhood or community.
 - b. The property is directly adjacent to or across a public street from property which has been developed previously as a RPUD or planned residential development and will be perceived as and will function as an extension of that previously approved development.
 - c. The property is located in an area where the proposed development provides a transition between a commercial or industrial area and an existing residential area or on an intermediate or principal arterial as defined in the comprehensive plan.
 - d. The property contains steep slopes or a substantial number of significant trees that could be preserved through the clustering of buildings or other design techniques not generally allowed by the existing zoning district.

No property located within 250 feet of the ordinary high water level (OHWL) of a protected lake or tributary as defined in article IX of this chapter shall be rezoned to RPUD. However, for a property that is partially located less than 250 feet from the OHWL and partially located more than 250 feet from the OHWL, the portion located more than 250 feet from the OHWL may be rezoned to RPUD at the discretion of the city council when all other requirements are met.

- (2) *Uses.* Each property rezoned to RPUD shall only be used for the use or uses for which the site is designated in the comprehensive plan, except that the city may permit rezoning to RPUD on a site designated for commercial use if the city council finds that such use is in the best interests of the city and is consistent with the requirements of this division. If a commercial site is to be rezoned to RPUD, the city may forward a copy of the request to the metropolitan council for review.
- (3) *Sewer availability.* A site proposed to be rezoned to RPUD with proposed density greater than one unit per two acres must be in the metropolitan urban services area (MUSA) and must be serviced by municipal sewer.
- (4) *Density.* Each development in the RPUD district shall have a density within the range specified in the comprehensive plan for the specific site. If the site is not designated in the comprehensive plan for residential use, the appropriate density shall be determined by the city based upon the city council's finding that such density is consistent with the intent of this division and of the comprehensive plan. Developments with proposed densities in excess of the densities contemplated in the comprehensive plan shall be allowed only on properties which are currently zoned and guided for commercial use, in order to maintain the character and integrity of the areas zoned and guided for residential use.
- (5) *Incentives.* The city may utilize incentives to encourage the construction of projects which are consistent with the city's housing goals. Incentives may include modification of density (only for properties currently zoned and guided for commercial use) and floor area ratio requirements for developments providing lifecycle housing and affordable and moderate cost housing. Incentives for affordable and moderate cost housing may be approved by the city only after the developer and city have entered into an agreement to ensure that the low and moderate cost units remain available to persons of low and moderate income for at least 20 years.
- (6) *Floor area ratio .* Floor area ratios (FARs) shall be limited per the following table:

Comprehensive Plan Designation	Maximum Floor Area Ratio*

Low or medium density residential (up to 50 and including 6.0 units per acre)	0.5
High density residential (in excess of 6.0 units per acre)	1.0

*FAR = Total Building Floor Area/Total Lot Area

Individual lots within a development in the RPUD district may exceed these standards as long as the average meets these standards.

- (7) *Development standards for attached and multifamily dwelling structures.* Each site rezoned to RPUD and developed for attached or multiple-family dwelling uses shall be subject to the following standards:
- a. *Setbacks and separation of uses.* Within the RPUD district the setback for all attached and multifamily dwelling buildings and their accessory buildings from any bordering or abutting street line shall be 35 feet for local streets and 50 feet from railroad lines or collector or arterial streets, as designated in the comprehensive plan, except that in no case shall the setback be less than the height of the building. The setback for all buildings from exterior RPUD site lot lines not abutting a public street shall be 35 feet, except that in no case shall the setback be less than the height of the building. Building setbacks from internal public streets shall be determined by the city based on characteristics of the specific RPUD site. Parking lots and driving lanes shall be set back at least 20 feet from all exterior lot lines of a RPUD site. The setback for parking structures, including decks and ramps, shall be 35 feet from local streets and 50 feet from all other street classifications, except that in no case shall the setback be less than the height of the structure. Parking structure setbacks from external lot lines shall be 50 feet or the height of the structure, whichever is greater, when adjacent to residential properties; 35 feet, when adjacent to nonresidential properties. Parking structure setbacks from internal public or private streets shall be determined by the city based on characteristics of the specific RPUD site. Where industrial uses abut developed or platted single-family lots outside the RPUD site, greater exterior building and parking setbacks may be required in order to provide effective screening. The city council shall make a determination regarding the adequacy of screening proposed by the applicant. Screening may include the use of natural topography or earth berming, existing and proposed plantings and other features, such as roadways and wetlands, which provide separation of uses. Property rezoned to RPUD shall be considered a residential district for purposes of determining building and parking setback requirements on adjacent high density residential, commercial and industrial property outside the RPUD.
 - b. *Height limitations.* For properties guided for residential use in the comprehensive plan, a building height limit of 30 feet shall apply. For properties currently zoned or guided in the comprehensive plan for commercial use, height may exceed 30 feet but shall not exceed three stories (not including underground parking level) and shall maintain a residential character by incorporating pitched or hipped roof structure. No mansard or flat roofed multiple-family building will be allowed.
 - c. *Outside storage limitations.* Building materials, recreational vehicles, boats, RV's, snowmobiles, and other items of personal property shall not be stored outside within any site used for attached or multifamily uses.

- (8) *Development standards for single-family detached dwellings in the RPUD district.* Each RPUD site developed for single-family detached dwellings at medium density (i.e., densities ranging from one unit per acre to six units per acre) shall be subject to the following standards:
- a. Permitted locations: in areas of the city where smaller single-family detached dwelling lots will allow for clustering to preserve significant natural features, or in areas where a mixture of higher density attached dwellings and lower density detached single-family dwellings will result in a development that does not exceed the overall guided density.
 - b. Minimum SFR lot size: 15,000 square feet.
 - c. Minimum lot width at the setback line: 90 feet.
 - d. Minimum lot depth: 125 feet.
 - e. Minimum front yard setback: 25 feet on internal streets within the RPUD site. On exterior or through streets a setback of 35 feet must be provided on local streets and a 50-foot setback on collector or arterial streets, as defined in the comprehensive plan.
 - f. Minimum side yard setback: ten feet along interior lot lines; 15 feet on lot lines along the exterior of the RPUD site. Side yards abutting streets must meet the minimum front yard setbacks as noted in subsection (8)e of this section. Structures in side yards abutting another residential zoning district shall meet the side yard setback requirement of the adjacent zoning district.
 - g. Rear yard setback: minimum of 40 feet or 20 percent of the depth of the lot, whichever is less.
 - h. Building height: maximum of 30 feet.
 - i. All dwelling units, including manufactured homes, shall have a depth of at least 20 feet for at least 50 percent of their width. All dwelling units, including manufactured homes, shall have a width of at least 20 feet for at least 50 percent of their depth.
 - j. All dwellings shall have a permanent foundation in conformance with the state building code.
 - k. Accessory structures shall conform to the setbacks established for principal structures, except as follows:
 - 1. All accessory structures located more than ten feet from a principal structure may be located a minimum of ten feet from a rear or side lot line when that line does not abut a street right-of-way.
 - 2. No accessory structure shall be located closer to the front lot line than the principal structure, regardless of the principal structure setback.
 - l. No accessory structure shall occupy more than 30 percent of the side or rear yard in which it is located, nor exceed 1,000 square feet in area, nor exceed 12 feet in height.
 - m. Off-street parking shall be provided for at least two vehicles for each single-family dwelling. A suitable location for a garage measuring at least 20 feet by 24 feet without a variance shall be provided and indicated as such on a site plan or certified site plan to be submitted when applying for a building permit to construct a new dwelling or alter an existing garage.
- (9) *More than one building allowed.* More than one building may be placed on one platted or recorded lot in a RPUD site.
- (10) *Single housing type permitted.* Any RPUD development which involves a single housing type shall be permitted, provided that it is otherwise consistent with the objectives of this division and the comprehensive plan.
- (11) *Private recreational area.* Each RPUD development shall provide a minimum of ten percent of the gross project area in private recreational uses for project residents. Such area shall be for active or passive recreational uses suited to the needs of the residents of the project, including

swimming pools, trails, nature areas, picnic areas, tot lots and saunas. Private recreational area requirements are in addition to the standard park dedication requirements.

(12) *Ownership.* All property to be included within a RPUD development shall be under unified ownership or control, or subject to such legal restrictions or covenants as may be necessary to ensure compliance with the approved master development plan and final site and building plan.

(13) *Signage.* Signs shall be restricted to those which are permitted in a sign plan approved by the city and shall be regulated by permanent covenants.

(14) *Landscaping, screening and buffering.*

a. *Landscape plan requirements.* Landscape plans shall be prepared by a landscape architect or other qualified person acceptable to the city, drawn to the scale of not less than one inch equals 50 feet and shall show the following:

1. Boundary lines of the property with accurate dimensions;
2. Locations of existing and proposed buildings, parking lots, roads, trails and other improvements;
3. Proposed grading plan with two-foot contour intervals;
4. Location, approximate size and common name of existing trees and shrubs;
5. A planting schedule containing symbols, quantities, common and botanical names, size of plant materials, root condition and special planting instructions;
6. Planting details illustrating proposed locations of all new plant material;
7. Locations and details of other landscape features, including berms, fences and planter boxes;
8. Details of restoration of disturbed areas, including areas to be sodded and seeded;
9. Location and details of irrigation systems; and
10. Details and cross sections of all required screening.

b. *Minimum landscaping requirements.*

1. All open areas of a lot which are not used or improved for required parking areas, drives, trails or storage shall be landscaped with a combination of deciduous and coniferous species, including overstory trees, understory trees, shrubs, flowers and groundcover materials. The plan for landscaping shall include ground cover, bushes, shrubbery, trees, sculpture, foundations, decorative walks or other similar site design features or materials in a quantity having a minimum value in conformance with the following table:

Minimum Tree and Shrub Requirements		
<i>Vegetation Type</i>	<i>Size</i>	<i>Quantity</i>
Overstory deciduous trees	2.5-inch bb (Caliper)	One tree per 1,000 gross square feet of building footprint area or one tree per 40 lineal feet of site perimeter, whichever is greater.
Coniferous trees	6-foot height bb	Minimum of 30 percent of required overstory trees must be coniferous

Understory shrubs	3-gal. potted or 18-inch	One shrub per 300 gross square feet of building footprint area or one shrub per 30 lineal feet of site perimeter, whichever is greater.
Ornamental deciduous trees	1.5-inch bb (Caliper)	Not required; but two ornamental deciduous trees may be substituted for one required overstory deciduous tree (maximum substitution equals 25 percent of required overstory deciduous trees)
Credits for existing trees: The city council shall have sole discretion whether credit shall be granted for existing healthy trees		

In instances where healthy plant materials of acceptable species exist on a site prior to its development, the application of the standards in subsection (14)b of this section may be adjusted by the city to allow credit for such material, provided that such adjustment is consistent with the intent of this division.

2. A reasonable attempt shall be made to preserve as many existing trees as is practicable and to incorporate them into the site plan.
3. All new overstory trees shall be balled and burlapped or moved from the growing site by tree spade. Deciduous trees shall have a minimum caliper of 2½ inches. Coniferous trees shall be a minimum of six feet in height. Ornamental trees shall have a minimum caliper of 1½ inches.
4. All site areas not covered by buildings, sidewalks, parking lots, driveways, trails, patios, or similar hardcover shall be covered with sod or an equivalent ground cover approved by the city. This requirement shall not apply to site areas retained in a natural state.
5. In order to provide for adequate maintenance of landscaped areas, an underground sprinkler system shall be provided as part of each new development, except one- and two-family dwellings and additions to existing structures which do not at least equal the floor area of the existing structure. A sprinkler system shall be provided for all landscaped areas, except areas to be preserved in a natural state.
6. Not more than 50 percent of the required number of trees shall be composed of one species. The city shall maintain a list of prohibited species, which shall not be used for landscaping.

c. *Interior parking lot landscaping.*

1. All parking lots containing over 100 stalls shall be designed to incorporate unpaved, landscaped islands in number and dimension as required by the city. All landscape islands shall contain a minimum of 180 square feet. Islands which are necessary to promote the safe and efficient flow of traffic shall not be subject to the 100-stall standard and shall be required by the city when warranted.
2. Parking lot landscape areas, including landscape islands, shall be reasonably distributed throughout the parking lot area so as to break up expanses of paved areas. Parking lot landscape areas shall be provided with deciduous shade trees, ornamental or evergreen trees, plus ground cover, mulch and/or shrubbery as determined appropriate by the planning commission. Parking lot landscape trees shall be provided at the rate of one tree for each 15 surface parking spaces provided, or major fraction

thereof. Parking lot landscaping shall be contained in planting beds bordered by a raised concrete curb or equivalent approved by the planning commission.

- d. *Maintenance of landscaping.* The owner, tenant and their respective agents shall be jointly and severally responsible for the maintenance of all landscaping in a condition presenting a healthy, neat and orderly appearance and free from refuse and debris. Plants and ground cover which are required by an approved site or landscape plan, and which have died, shall be replaced within three months of notification by the city. However, the time for compliance may be extended up to nine months by the city in order to allow for seasonal or weather conditions.
- e. *Retaining walls.* Retaining walls exceeding four feet in height, and staged walls which cumulatively exceed 16 feet in height or involve more than four tiers, must be constructed in accordance with plans prepared by a registered engineer or landscape architect.
- f. *Landscaping performance security required.* When screening, landscaping or other similar improvements to property are required by this division, a letter of credit shall be supplied by the owner in an amount equal to at least 1½ times the value of such screening, landscaping or other improvements. The letter of credit shall be conditioned upon reimbursement of all expenses incurred by the city for engineering, legal, contracting or other fees in connection with making or completing such improvements. The letter of credit shall be provided prior to the issuance of any building permit and shall be valid for a period of time equal to two full growing seasons after the date of installation of the landscaping. The city may accept some other form of security in lieu of a letter of credit in an amount and under such conditions that the city may determine to be appropriate. If construction of the project is not completed within the time prescribed by building permits and other approvals, the city may, at its option, complete the work required at the expense of the owner and the surety. The city may allow an extended period of time for completion of all landscaping, if the delay is due to conditions which are reasonably beyond the control of the developer. Extensions, which may not exceed nine months, may be granted due to seasonal or weather conditions. When an extension is granted, the city shall require such additional security as it deems appropriate.
- g. *Screening and buffering.*
 - 1. The following uses shall be screened or buffered in accordance with the requirements of this section:
 - i. Principal buildings and structures and any building or structure accessory thereto used for residential uses at a density of greater than four units per acre shall be buffered from residential lots located in any R district.
 - ii. Off-street parking facilities containing six or more spaces shall be buffered from streets located within 50 feet. Parking facilities shall be buffered with landscape zones.
 - iii. Loading docks shall be screened from all lot lines and public roads.
 - iv. Trash storage facilities shall be screened from all lot lines and public roads.
 - v. Access roads serving multifamily buildings shall be screened as necessary to eliminate the impact of vehicle headlights shining toward adjacent residential neighborhoods.
 - 2. Required screening or buffering may be achieved with fences, walls, earth berms, hedges, or other landscape materials. All walls and fences shall be architecturally harmonious with the principal building. Earth berms shall not exceed a slope of 3:1. The screen shall be designed to employ materials which provide an effective visual barrier during all seasons.
 - 3. All required screening or buffering shall be located on the lot occupied by the use, building, facility or structure to be screened. No screening or buffering shall be located

on any public right-of-way or within eight feet of the traveled portion of any street or highway.

4. Screening or buffering required by subsection (14) of this section shall be of a height needed to accomplish the goals of subsection (14) of this section. Screening methods incorporating roofs over storage, trash or mechanical facilities to screen from higher adjacent properties or buildings may be required. Height of plantings required under subsection (14) of this section shall be measured at the time of installation.

(15) *Architectural standards.*

- a. It is not the intent of the city to restrict design freedom unduly when reviewing project architecture in connection with a site and building plan. However, it is in the best interest of the city to promote high standards of architectural design and compatibility with surrounding structures and neighborhoods. Architectural plans shall be prepared by an architect or other qualified persons acceptable to the city and shall show the following for all structures other than single-family detached dwellings:
 1. Elevations of all sides of the building.
 2. Type and color of exterior building materials.
 3. A typical floor plan.
 4. Dimensions of all structures.
 5. The location of trash and recycling containers and of heating, ventilation and air conditioning equipment.
- b. Unadorned prestressed concrete panels, concrete block and unfinished metal shall not be permitted as exterior materials for residential principal and accessory buildings. This restriction shall apply to all principal structures and to all accessory buildings. The city may, at its discretion, allow architecturally enhanced block or concrete panels.
- c. Accessory buildings shall be architecturally compatible with principal structures.
- d. All rooftop or ground-mounted mechanical equipment and exterior trash and recycling storage areas shall be fully enclosed or screened so as to be not visible with materials compatible with the principal structure.
- e. Underground utilities shall be provided for all new and substantially renovated structures (the term "substantially renovated" shall mean when the renovations exceed 30 percent of the prerenovation value of the structure).

(16) *Flexibility.* The uniqueness of each RPUD requires that specifications and standards for streets, utilities, public facilities and subdivisions may be subject to modification from the city ordinances ordinarily governing them. The city council may therefore approve streets, utilities, public facilities and land subdivisions which are not in compliance with usual specifications or ordinance requirements, if it finds that strict adherence to such standards or requirements is not required to meet the intent of this section or to protect the health, safety or welfare of the residents of the RPUD, the surrounding area or the city as a whole.

(17) *Traffic studies.* The city may require a traffic analysis to be prepared by a registered traffic engineer approved by the city to assess potential traffic impacts on local streets. If impacts on service levels of roadways and intersections are anticipated, the project will be approved only contingent upon a traffic management plan that adequately mitigates those impacts. The plan may include travel demand management strategies, use of transit facilities or other appropriate measures to reduce traffic generation, and necessary improvements to road systems. The developer shall have the responsibility to install all necessary road system improvements.

(18) *Building permits.* No building or other permit shall be issued for any work on property included within a proposed or approved RPUD development, nor shall any work occur unless such work is in compliance with the proposed or approved RPUD development.

- (19) *General regulations applicability.* The requirements contained in this division pertaining to general regulations for residential districts and performance standards shall apply to a RPUD development as deemed appropriate by the city.
- (20) *Lighting standards.* All RPUD developments shall be subject to the general performance standards for lighting in this chapter.
- (21) *Trails.* When any portion of the project is within 1,000 feet of a public trail system, pedestrian access shall be provided to the trail system by means of a public trail constructed at the developer's expense. Where public rights-of-way are available, at the city's discretion the trail may utilize the public right-of-way. Trails shall be of bituminous construction, or such other material as may be approved by the city and shall be not less than eight feet in width.

(Ord. No. 202 2nd series, § 1(5), 2-26-2001; Ord. No. 94 3rd series, § 2, 9-24-2012; Ord. No. 189 3rd series, § 6, 4-10-2017)

Sec. 78-627. - Review of application; procedures.

- (a) *Concept plan review.* In order to receive guidance in the design of a RPUD prior to submission of a formal application, an applicant may submit a concept plan for review and comment by the planning commission and city council. Submission of a concept plan is optional but is highly recommended for large RPUDs. In order for the review to be of most help to the applicant, the concept plan should contain such specific information as is suggested by the city. Generally, this information should include the following:
 - (1) Approximate building, road and trail locations;
 - (2) Height, bulk and square footage of buildings;
 - (3) Type and square footage of specific land uses;
 - (4) Number of dwelling units;
 - (5) Generalized grading plan showing areas to be cut, filled and preserved; and
 - (6) Staging and timing of the development.

The comments of the planning commission and city council shall address the consistency of the concept plan with this section. The comments of the planning commission and city council shall be for guidance only and, if positive, shall not be considered binding upon the planning commission or city council regarding approval of the formal RPUD application when submitted.

- (b) *Master development plan and rezoning.* Approval of a rezoning to RPUD and approval of a master development plan shall be subject to the procedures outlined in this chapter for a zoning map amendment. The master development plan shall contain the following:
 - (1) Building location, height, bulk and square footage;
 - (2) Type and square footage of specific land uses;
 - (3) Number of dwelling units;
 - (4) Detailed street and utility locations and sizes;
 - (5) Parking layout;
 - (6) Drainage plan, including location and size of pipes and water storage areas;
 - (7) Grading plan and drainage plan, including two-foot contours;
 - (8) Generalized landscape plan;
 - (9) Generalized plan for uniform signs and lighting;

- (10) Plan for timing and phasing of the development;
- (11) Covenants or other restrictions proposed for the regulation of the development;
- (12) Renderings or elevations of all sides of buildings to be constructed in the first phase of the development;
- (13) Trail plan; and
- (14) Lighting plan.

Approval of the master development plan shall indicate approval of the listed items in subsections (b)(1)—(b)(14) of this section and shall occur in conjunction with rezoning of the property to RPUD. After rezoning the property to RPUD, nothing shall be constructed on the RPUD site except in conformance with the approved plans and this section. The procedure for notification of and public hearing on the master development plan shall be the same as required for a zoning map amendment by this chapter.

- (c) *Development agreement/financial guarantee.* Following the approval of the master development plan but prior to final plan approval, the applicant shall enter into an agreement with the city relating to the terms of the RPUD development, and shall also provide such financial guarantees as the city requires or deems necessary. Such agreement may take the form of:
 - (1) A development contract;
 - (2) A site improvement performance agreement; and/or
 - (3) Another form of binding instrument as may be required by the city.
- (d) *Final site and building plan.* Approval of a final site and building plan for the entire RPUD or for specific parts of the RPUD shall be subject to the procedures outlined in this division. The final site and building plan shall contain information as required by the city, including the following:
 - (1) Detailed utility, street, grading and drainage plans;
 - (2) Detailed building elevations and floor plans;
 - (3) Detailed landscaping, sign and lighting plans; and
 - (4) Detailed trail plan.
- (e) *Substantial compliance.* The final site and building plan shall be in substantial compliance with the approved master development plan. Substantial compliance shall mean:
 - (1) Buildings, parking areas, roads and trails are in substantially the same location as previously approved;
 - (2) The number of residential living units has not increased or decreased from that approved in the master development plan;
 - (3) The gross floor area of any individual building has not been increased from that approved in the master development plan;
 - (4) There has been no increase in the number of stories in any building;
 - (5) Open space has not been decreased or altered to change its original design or intended use; and
 - (6) All special conditions required on the master development plan by the city have been incorporated into the final site and building plan.

Approval of a final site and building plan shall signify approval of all plans necessary prior to application for a building permit, subject to conformance with any conditions on the approval and subject to other necessary approvals by the city.

- (f) *Simultaneous review.* Applicants may combine the final site and building plan review with the master development plan review by submitting all information required for both stages simultaneously.

(g) *Basis for approval; conditions.* In evaluating a site and building plan, the planning commission and city council shall base their recommendations and actions regarding approval of a RPUD on a consideration of the following:

- (1) Compatibility of the proposed plan with this section and consistency with the goals, policies, and objectives of the comprehensive plan and surface water management plan;
- (2) Preservation of the site in its natural state to the greatest extent practicable by minimizing tree and soil removal and designing grade changes to be in keeping with the general character and appearance of neighboring properties;
- (3) Creation of compatible relationships between buildings and open spaces both on the site and adjacent to it, incorporating natural site features and with existing and future buildings having a visual relationship to the development, giving special attention to:
 - a. An internal sense of order for the buildings and uses on the site and provision of a desirable environment for occupants, visitors and the general community.
 - b. The amount and location of open space and landscaping.
 - c. Materials, textures, colors and details of construction as an expression of the design concept and the compatibility of the same with the adjacent and neighboring structures and uses; and vehicular and pedestrian circulation, including walkways, interior drives and parking in terms of location and number access points to the public streets, width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic and arrangement and amount of parking.
- (4) Promotion of energy conservation through design, location, orientation and elevation of structures, the use and location of glass in structures and the use of landscape materials and site grading;
- (5) Protection of adjacent and neighboring properties through reasonable provisions for surface water drainage, sound and sight buffers, preservation of views, light and air and those aspects of design not adequately covered by other regulations which may have substantial effects on neighboring land uses; and
- (6) Such other factors as the planning commission or city council deem relevant.

The planning commission and city council may attach such conditions to their actions as they shall determine necessary or convenient to better accomplish the purposes of this section.

(Ord. No. 202 2nd series, § 1(6), 2-26-2001)

Sec. 78-628. - Term of approval.

- (a) If application has not been made for a final site and building plan approval pursuant to the approved master development plan for all or a part of the property within a RPUD by December 31 of the year following the date on which the RPUD zoning map amendment became effective or, if within that period no extension of time has been granted, the city council may rezone the property to the original zoning classification at the time of the RPUD application or to a zoning classification consistent with the comprehensive plan designation for the property. In the absence of a rezoning, the approved master development plan shall remain the legal control governing development of the property included within the RPUD.
- (b) If construction on the property included within an approved final site and building plan has not started by December 31 of the year following the date on which such final site and building plan was approved or, if building construction in a phase of a RPUD approved to be built in phases has not started within this period, or, if within that period no extension of the time has been granted, the city council may rezone the property to the original zoning classification at the time of the RPUD application or to a zoning classification consistent with the comprehensive plan designation for the property. In the

absence of rezoning, the approved master development plan and final site and building plan shall remain the legal control governing development of the property included within the RPUD.

(Ord. No. 202 2nd series, § 1(7), 2-26-2001)

Sec. 78-629. - Amendments.

Major amendments to an approved master development plan may be approved by the city council after review by the planning commission. The notification and public hearing procedure for such amendment shall be the same as for approval of the original RPUD. A major amendment is any amendment which:

- (1) Substantially alters the location of buildings, parking areas or roads;
- (2) Increases or decreases the number of residential dwelling units;
- (3) Increases the gross floor area of any individual building;
- (4) Increases the number of stories of any building;
- (5) Decreases the amount of open space or alters it in such a way as to change its original design or intended use; or
- (6) Creates noncompliance with any special condition attached to the approval of the master development plan.

Any other amendment may be made through review and approval by a simple majority vote of the council.

(Ord. No. 202 2nd series, § 1(8), 2-26-2001)

Secs. 78-630—78-640. - Reserved.