

CHAPTER 10 LAND USE REGULATIONS

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ORDINANCE 1005 RESIDENTIAL PLANNED UNIT DEVELOPMENT

Section 1005.01: PURPOSE. The purposes of this Section are:

- (1) To encourage a more creative and efficient development of land and its improvements than is possible under the more restrictive application of zoning requirements such as lot sizes and building setbacks, while at the same time meeting the standards and purposes of the Comprehensive Plan for Kimball and preserving the health, safety, and welfare of the citizens of Kimball.
- (2) To allow for a mixture of residential units in an integrated and well-planned area.
- (3) To ensure concentration of open space into more usable areas, and the preservation of the natural resources of the site including wetlands, woodlands, steep slopes, and scenic areas.

Section 1005.02: PERMITTED USES. Dwelling units in detached, clustered, semi-detached, attached, or multi-storied structures or combinations thereof.

Section 1005.03: GENERAL REQUIREMENTS. A conditional use permit shall be required of all planned unit developments. The City may approve the planned unit development only if it finds that the development satisfies all the following standards in addition to meeting the requirements of Section 505 except for the time limit:

- (1) The planned unit development is consistent with the Comprehensive Plan of the City.
- (2) The planned unit development is an effective and unified treatment of the development possibilities in the project site and the development plan provides for the preservation of unique natural amenities such as streams, stream banks, wooded cover, rough terrain, and similar areas.
- (3) The planned unit development can be planned and developed to harmonize with any existing or proposed development in the areas surrounding the project site.
- (4) Financing is available to the applicant on conditions and in an amount which is sufficient to assure completion of the planned development.
- (5) A minimum of two or more principal structures are proposed.
- (6) The tract under consideration is under single control.
- (7) The tract is at least five (5) acres in size.

Section 1005.04: COORDINATION WITH SUBDIVISION REGULATIONS. It is intent of this Ordinance that subdivision review under the subdivision regulations be carried out simultaneously with

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the review of a planned development under this section of the Ordinance. The plans required under this section must be submitted in a form which will satisfy the requirements of the subdivision regulations for the preliminary and final plans required under those regulations.

Section 1005.05: PRE-APPLICATION MEETING. Prior to the submission of any plan to the Planning Commission, the applicant shall meet with the Zoning Administrator, and if necessary, with the Planning Commission to discuss the contemplated project relative to community development objectives for the area in question and to learn the procedural steps and exhibits required, including the procedural steps for a conditional use permit and a preliminary plat. The applicant may submit a simple sketch plan at this stage for informal review and discussion. The applicant is urged to avail herself or himself of the advice and assistance of professional planning staff to facilitate the review of the outline plan and preliminary plat.

Section 1005.06: PRELIMINARY DEVELOPMENT PLAN. The following procedures shall be controlling on all planned unit developments:

- (1) An applicant shall make application for a conditional use permit following the procedural steps as set forth in this Code.
- (2) In addition to the criteria and standards set forth in this Code for the granting of the Conditional Use Permits, the following additional findings shall be made before the approval of the outline development plan.
 - (a) The proposed Planned Unit Development is in conformity with the Comprehensive Plan for Kimball.
 - (b) The uses proposed will not have an undue and adverse impact on the reasonable enjoyment of neighboring property, and will not be detrimental to potential surrounding uses.
 - (c) Each phase of the proposed development, as it is proposed to be completed, is of sufficient size, composition, and arrangement that its construction, marketing, and operation are feasible as a complete unit, and that provision and construction of dwelling units and common open space are balanced and coordinated.
 - (d) The PUD will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which are proposed to serve the district.
 - (e) The proposed total development is designed in such a manner as to form a desirable and unified environment within its own boundaries.
- (3) Preliminary Development Plan Documentation. The following exhibits shall be submitted to the Zoning Administrator by the proposed developer as part of the application for a conditional use permit:
 - (a) An explanation of the character of and need for the planned unit development and the manner in which it has been designed to take advantage of the planned unit development regulations.
 - (b) A statement of proposed financing of the PUD.

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- (c) A statement of the present ownership of all the land included within the planned unit development and a list of property owners within 350 feet of the outer boundaries of the property.
- (d) A general indication of the expected schedule of the development including sequential phasing and time schedules.
- (e) A map giving the legal description of the property, including approximate total acreage and also indicating existing property lines and dimensions, ownership of all parcels, platting, easement, street rights-of-way, utilities, and buildings for the property, and for the area three hundred and fifty (350) feet beyond.
- (f) Natural features map or maps of the property and area three hundred and fifty (350) feet beyond showing contour lines at no more than two (2) foot intervals, drainage patterns, wetlands, vegetation, soil and subsoil condition.
- (g) A map indicating proposed land uses, including housing units and types, vehicular and pedestrian circulation, and open space uses.
- (h) Full description as to how all necessary governmental services will be provided to the development, including sanitary sewers, storm sewers, water system, streets and other public utilities.

Section 1005.07: ENFORCING DEVELOPMENT SCHEDULE. The construction and provision of all of the common open space and public and recreational facilities, which are shown on the final development plan, must proceed at the same rate as the construction of dwelling units. At least once every six months following the approval of the final development plan, the Zoning Administrator shall review all of the building permits issued for the planned unit development and shall also personally examine the construction which has taken place on the site. If the Zoning Administrator shall find that the rate of construction of dwelling units is faster than the rate at which common open spaces and public and recreational facilities have been constructed and provided, this information shall be immediately forwarded to the City Council, which may thereupon immediately revoke the conditional use permit. If the developer or landowners shall fail to complete the open spaces and recreation areas within sixty (60) days after the completion of the remainder of the project, the City may finish these areas and assess the cost to the developer or landowner.

Section 1005.08: CONVEYANCE AND MAINTENANCE OF COMMON OPEN SPACE. All land shown on the final development plan as common open space shall be conveyed under one of the following methods, at the City's option:

- (1) It may be conveyed to a public agency which shall agree to maintain the common open space and any buildings, structures, or improvements which have been placed on it; or,
- (2) It may be conveyed to trustees provided in an indenture establishing an association or similar organization for the maintenance of the planned unit development. The common open space shall be conveyed to the trustees subject to covenants approved by the City Council which restrict the common open space to the uses specified on the final development plan, and which provide for the maintenance of the common open space in a manner which assures its continuing use for its intended purpose.
- (3) If the common open space is conveyed to a homeowner's association, and the common

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open space is not maintained properly to standards established by the City, the City shall have the authority to maintain the property and assess the costs to the homeowner's association and to the landowners, jointly and severally.

Section 1005.09: STANDARDS FOR COMMON OR PUBLIC OPEN SPACE. The following standards shall apply to all planned unit developments:

- (1) No open area may be accepted as common open space under the provision of this Ordinance unless it meets all of the following standards:
 - (a) The location, shape, size and character of the common open space shall be suitable for the planned unit development.
 - (b) Common open space shall be used for amenity or recreational purposes. The uses authorized for the common open space shall be appropriate to the scale and character of the planned development, considering its size, density, expected population, topography, and the number and type of dwellings to be provided.
 - (c) Common open space shall be suitably improved for its intended use, but common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvements which are permitted in the common open space shall be appropriate to the uses which are authorized for the common open space and shall conserve and enhance the amenities of the common open space having regard to its topography and unimproved condition.

Section 1005.10: REVIEW AND AMENDMENTS. The following procedures shall control review and amendments to planned unit developments:

- (1) Annual Review. The Zoning Administrator and Planning Commission shall review all PUD's within the City at least once each year and shall report to the City Council on the status of the development in each of the PUD Districts. If the City Council finds that development has not occurred within a reasonable time after the original approval of the conditional use permit for the PUD, the City Planning Commission may recommend that the City revoke the conditional use permit as set forth in Section 505 of this Ordinance.
- (2) Revisions to the PUD. Minor changes in the location, placement, and heights of buildings or structures may be approved by the Zoning Administrator if required by engineering or other circumstances which could not reasonably have been foreseen at the time the Final Plan was approved. Approval of the Planning Commission and City Council shall be required for any other changes, which approval shall only be given if these changes are found to be consistent with the purpose and intent of the approved Final Development Plan.
- (3) Amendments to the PUD. Any amendment to the PUD shall require the same procedures for the application of a conditional use permit as set forth in this Code.

Section 1005.11: ZONING COORDINATION. Any zoning district change on land adjacent to or across a public right-of-way from an adjoining community shall be referred to the Planning Commission and the adjacent community or county for review and comment prior to action by the City Council

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granting or denying the zoning district classification change. A period of at least ten (10) days shall be provided for receipt of comments, which comments shall be considered as merely advisory.

Section 1005.12: ZONING AND COMPREHENSIVE PLAN. Any change in zoning granted by the governing body shall automatically amend the Comprehensive Plan in accordance with said zoning change.