

ARTICLE XIX
PLANNED UNIT DEVELOPMENT

§ 420-177. Intent and purpose.

The planned unit development (PUD) concept encourages and permits variation in residential developments. Its intent is to permit greater flexibility in order to allow more creative, innovative, imaginative and environmentally sensitive development than may be possible if the underlying zoning district's regulations are strictly applied. A PUD is intended to provide both for development flexibility of undersized parcels and to allow the use of diversified development techniques for larger parcels. The PUD overlay is intended to expand housing opportunities for persons of all income levels.

§ 420-178. Definitions. The following terms shall have the meanings indicated when used in this article:

NET DEVELOPABLE LAND AREA – The net developable area for a planned unit development is the gross density of a property minus the combined areas of limiting development factors, or physical land units, such as steep slopes, sinkholes, and bodies of water. The maximum number of lots or dwellings permitted on a property shall be established by calculating its net developable land area.

PHYSICAL LAND UNIT - Those areas of a property included in a planned unit development for which less credit will be given when calculating allowable density. Physical land units include slopes in excess of 25 %, flood plains, wetlands, streams, drainage channels and other bodies of water, and above ground high-voltage electric transmission line easements.

SINKHOLE - A natural depression or hole in the surface topography caused by the removal of soil or bedrock, or both, by water. Sinkholes may vary in size from less than a meter to several hundred meters both in diameter and depth. They vary in form from soil-lined bowls to bedrock-edged chasms and appear either circular or irregular in plan.

§ 420-179. Applicable districts.

The PUD overlay may be authorized in all residential districts.

§ 420-180. Permitted uses.

Any use permitted in the particular district in which the PUD is overlaid is allowed. Housing types authorized in any of the city's residential districts may be considered but the

project's density shall be no greater than that specified in the underlying district. Nonresidential uses of public or semipublic, cultural or recreational character shall be permitted uses, provided such nonresidential uses shall be compatible with and secondary to the primary residential use.

§ 420-181. Density

The total number of units permitted in a planned unit development shall be calculated on the basis of net acreage. Net acreage shall be determined by the following formulas:

<u>Physical Land Unit</u>	<u>Percentage of Land Credited Toward Net Developable Land Area</u>
Slopes of up to 25%	100%
Slopes of 26% or more	10%
100-year flood plains	0%
Wetlands	0%
Sinkholes	0%
Existing water features (bodies of water, drainage channels, streams, etc.)	0%
Aboveground high-voltage electric transmission line easements (69kV or greater)	0%

§ 420-182. Development standards.

Relaxation of the following development standards may be considered when to do so is in keeping with the this article's intent and objectives: lot area, lot width, lot coverage, building type, building height, building setback, yard requirements, street frontage, and street width.

§ 420-183. Open space.

For PUDs consisting of two contiguous acres or more, total usable open space shall be at least 20% of the gross acreage of the development. No more than 25% of the required percentage of usable open space shall be in the form of water surfaces or wetlands. Streets, parking areas and land with slopes of greater than 25% shall not count toward open space requirements. Recreation facilities and/or areas may be constructed within the open space.

§ 420-184. Utilities, services and easements.

Structures within the PUD shall be connected to city water and sewer lines. In PUDs of 2 contiguous acres or more, utility cables other than major electrical transmission lines shall be placed underground. PUDs must provide adequate on-site and off-site drainage and easements for maintenance of utilities.

§ 420-185. Access and circulation.

The PUDs vehicular and pedestrian circulation systems must permit safe and convenient access to dwelling units, open space, community facilities and other nonresidential areas. Adequate access and circulation for emergency and service vehicles shall also be provided. A PUD's internal vehicular circulation system may incorporate public and/or private streets. In the case of public streets, all street width, lot frontage and other requirements of this chapter and the city's subdivision specifications shall apply. In the case of private streets, evidence of the developer's responsibility for continuous maintenance shall be required before approval of the PUD.

§ 420-186. Management.

Common open space, facilities and utilities shall be managed as follows:

- (a) All common open space, properties and facilities shall be preserved for their intended purpose as expressed in the approved PUD application. The developer shall provide for the establishment of an association or nonprofit corporation of all individuals or corporations owning property within the PUD to ensure adequate maintenance of all common open space, properties and facilities.
- (b) All property deeds shall include appropriate restrictions and covenants to ensure that common open space is permanently preserved according to the site plan and that commonly owned facilities are appropriately maintained. Deed restrictions and covenants shall run with the land; shall benefit present, as well as future, property owners; and shall contain a prohibition against partition.
- (c) Membership in the association or nonprofit corporation shall be mandatory for all residents within the PUD; and the association or corporation shall not discriminate against its members or shareholders.
- (d) Documents of incorporation shall set forth the purposes of the organization under which common ownership is to be established, how it shall be governed and administered, the provision made for permanent care and maintenance of common holdings, methods of assessing cost shares and the extent of common interest held by the owner of each individual parcel in the PUD.

§ 420-187. Administration.

Issuances of permits for new PUDs or for use, excavation, addition, alteration, construction; reconstruction or change of use within existing PUDs shall require review by the Lexington Planning Commission and approval by the City Council. The procedure for review by the Planning Commission shall be as provided herein.

- (a) Any person who owns or exercises control over a tract of land may apply for a PUD permit. If the tract is jointly owned, all owners must concur in the application.
- (1) Prior to the formal submission of a proposed plan of development, the applicant or representative should confer with the Planning Director or designee concerning the proposed plan of development.
 - (2) Following this pre-application review, the developer may apply for a PUD permit. The contents of the formal application shall be those required under article XXII Sections 420-220 and 420-221 of this chapter. **In addition, a calculation of the net developable land area shall be provided. This calculation may be based on available resources such as topographic surveys, City topographic and aerial maps or other similar information provided by the applicant. The site plan for a project shall graphically depict the location and area of physical land units on the property. Slopes will be computed by accurate planimetric methods using topographic maps with a maximum contour interval of two (2) feet. Any sinkholes shall be determined by the closed depression contour lines on the City's topographic maps, other documents approved by the City, or by field measurements. Plan exhibits accompanying the site plan shall graphically depict the location of, and calculations for, net developable area to the nearest tenth (0.10) of an acre.**
 - (3) Drafts of legal documents which provide for the maintenance of common open space, streets, utilities or other facilities shall be submitted to staff prior to Planning Commission review. Final documents shall be submitted and recorded prior to the issuance of any permit.
- (b) Public notice.
- (1) Notice of public hearings shall be published once a week for two successive weeks in some newspaper published or having general circulation in the city; provided, that such notice for both the Planning Commission and the City Council may be published concurrently. Such notice shall specify the time and place of a hearing at which persons affected may appear and present their views, not less than six days nor more than twenty-one days after the second advertisement shall appear in such newspaper. The subject matter of the public hearing need not be advertised in full, but may be advertised by reference. Each such advertisement shall contain a reference to the places within the city where copies of the proposed plans, ordinances or amendments may be examined. The term "two successive weeks," as used in this subsection,

shall mean that such notice shall be published at least twice in such newspaper, with not less than six days elapsing between the first and second publications.

- (2) The city shall give written notice to those persons who own property any portion of which abuts the subject property and all property which is across the street from any portion of the subject property as determined by the city's real property tax records. This notice shall give the date, time and place of the hearing, identify the property which is the subject of the application and give a brief description of the proposed action. The notice shall be mailed a minimum of ten days prior to the date of the Planning Commission public hearing. The list of property owners and the content of the notice shall be approved by the zoning administrator prior to mailing.
 - (3) The city shall also post a sign on the subject property which indicates that this action is pending. This sign shall be located to be clearly visible from the street.
- (c) Following a duly advertised public hearing and the adoption of a recommendation by the Planning Commission, the application shall be submitted to the City Council. A report accompanying its submission shall state the reasons for recommending denial or approval (with conditions as appropriate), and if relevant define the stages which constitute minimum acceptable increments for development. The City Council shall hold a second public hearing on the PUD application. Notice of the time and place of the public hearing shall be published as provided by law for other amendments to this chapter.
- (d) Objectives and Application Review. In reviewing the application for a planned unit development (PUD) or an application seeking amendment of an approved PUD, the City Council and Planning Commission shall consider whether the application meets the intent of this chapter and Lexington's Comprehensive Plan. The proposed project must also not be inconsistent with the objectives of the PUD district, which are:
- (1) To encourage design and amenities greater than those resulting from the strict application of the underlying zoning district and the City's subdivision regulations;
 - (2) To encourage innovative arrangements of buildings and open spaces to provide efficient, attractive, flexible and environmentally sensitive design;
 - (3) To encourage the development of a variety of housing types;
 - (4) To encourage the clustering of single-family dwellings for more efficient

use of land and the preservation of open space and significant natural features;

- (5) To enable developments designed to function as cohesive, unified projects;
 - (6) To ensure that a development harmonizes with existing adjacent properties, uses, and development patterns;
 - (7) To ensure preservation of cultural features, scenic assets and natural features such as flood plains, streams, natural drainage ways, wooded areas, steep slopes, or other areas of sensitive or valuable environmental character;
 - (8) To provide for coordination (but not uniformity) of architectural styles within the development and in relation to adjacent properties around the development;
 - (9) To provide adequate utilities, access roads, parking, and drainage facilities;
 - (10) To ensure that streets, sidewalks, pedestrian and bicycle ways are appropriate for the PUD and the neighborhood; that they are adequate to ensure safe and efficient circulation, provide ingress and egress sufficient to minimize traffic congestion in the area, and maintain the safety and capacity of adjacent streets;
 - (11) To assure that the establishment, maintenance or operation of the PUD as proposed is not detrimental to the public health, safety or general welfare, is not injurious to the use and enjoyment of other properties in its vicinity, does not seriously impair property values or environmental quality in the neighborhood, and does not impede the orderly development of surrounding property;
 - (12) To assure that the proposed project furthers the goals and objectives of the City's Comprehensive Plan.
- (e) The City Council, subsequent to the public hearing, shall take one of the following actions:
- (1) Approve the application;
 - (2) Approve the application with appropriate modifications to the plan or imposed conditions;
 - (3) Deny the application;

- (f) Should City Council's approval of the PUD be conditional, the developer shall resubmit a final, modified PUD plan for review and approval by the Zoning Administrator.
- (g) Building permits shall be issued only after the final PUD plan is approved. Connections to city utilities, other than temporary service for construction, shall not be provided until the developer has furnished a surety bond for the appropriate stage in an amount equal to the city's estimate of the costs of installation of the improvements for that stage, which are ultimately to be dedicated for public use and accepted by the city for perpetual maintenance. The various methods of bonding as set forth in subdivision regulations will be acceptable.
- (h) If the developer is not following the approved plan, the zoning administrator shall issue a stop-order which will remain effective until the developer comes into compliance.
- (i) The following kinds of changes shall be considered in the same manner as a new request: changes which would increase the density of any proposed use, which change the exterior boundary of the PUD, which materially change the location of any proposed uses or the height of buildings or which change the amount of land devoted to the various proposed uses within the PUD. Lesser changes may be made subject to approval by the Planning Commission.
- (j) Any PUD permit shall expire twelve months after issuance if development has not proceeded according to plan and the Planning Commission, on request of the developer, has not granted an extension. Extensions may be granted for a period of twelve months by the Planning Commission.
- (k) If the present or future owner of the PUD designated area does not follow the approved site plan, the remaining undeveloped property shall automatically revert back to the original zoning.

Predevelopment topography - The determination of the physical land units existing on a property shall be based on its predevelopment topography - the topography existing on the date of adoption of this article. If significant regrading has been done since that date, the topography shall be based upon the preconstruction topographic contours contained with the land disturbance permit issued by the City for that grading.