

**CITY OF GREENVILLE
MONTCALM COUNTY, MICHIGAN**

ORDINANCE NO. 17-06

**ORDINANCE TO AMEND SECTION 46-164 OF THE ZONING ORDINANCE TO
CLARIFY STANDARDS AND PROCEDURES FOR THE APPROVAL OF PLANNED
UNIT DEVELOPMENTS**

The City of Greenville Ordains:

Section 1. Amendment. Section 46-164 of the Code of Ordinances, City of Greenville, Michigan, is hereby amended to read as follows:

Sec. 46-164. - PUD planned unit development district.

(a) *Intent*. A PUD zone is intended to allow substantial flexibility in planning and designing a project. This flexibility often accrues in the form of relief from compliance with conventional zoning ordinance site and design requirements. Ideally, this flexibility results in a development that is better planned, that contains more amenities, and that ultimately creates a development that is more desirable to live in than one produced in accordance with typical zoning ordinance and subdivision controls. Through proper planning and design, each PUD should include features, which further, and are in compliance with, the following objectives:

- (1) To allow on the same site a mix of uses, structures, facilities, housing types, and open space in a manner compatible with each other and with existing and planned uses on nearby properties;
- (2) To allow for the design of a development project to achieve better utilization of land than is possible through strict application of standard zoning and subdivision controls;
- (3) To encourage land development that, to the greatest extent possible, preserves natural vegetation, respects natural topographic conditions, and does not adversely affect wetlands, flood plains, natural drainage patterns, and other natural site features;
- (4) To promote the efficient use of land resulting in networks of utilities, streets, and other infrastructure features that maximize the allocation of fiscal and natural resources;
- (5) To promote further creativity in design and construction techniques;
- (6) To provide for the regulation of legal land uses not otherwise authorized within this chapter;
- (7) To provide for single or mixed use developments that advance and are consistent with the goals and objectives the master plan; and
- (8) To promote the principles of neo-traditional design, which include smaller lots, shorter setbacks, alleys, street trees streetlights, sidewalks, and civic open space and parks to create a sense of community and opportunities for interaction among neighbors.

(b) *Authorization*.

- (1) A PUD zoning district may be approved by the city council, following a recommendation from the planning commission, in any location within the city in accordance with the procedures, regulations, and standards of this chapter.
- (2) The approval of a PUD rezoning application shall require an amendment of the zoning ordinance and zoning map. An approval granted under this chapter shall constitute part of the zoning ordinance.

(c) *Qualifying conditions*.

- (1) The area proposed for rezoning to PUD shall consist of a minimum of three contiguous acres although the city council following a recommendation from the planning commission may approve a PUD with less acreage if the council determines that the intent of the PUD district will nevertheless be achieved.

- (2) The proposed development shall be under unified ownership or control such that there is one person, group of persons, or legal entity having responsibility for the completion and ongoing maintenance of the development in compliance with this chapter. This requirement for unified ownership or control shall not prohibit a transfer of ownership or control, so long as there is still unified ownership or control of and for the development as required by this chapter.
- (3) The PUD shall be served by public water and sanitary sewer facilities.
- (d) *Permitted uses.* Any land use authorized by this chapter may be permitted in a PUD as a principal or accessory use as well as any legal land use not otherwise authorized by this chapter subject to the requirements of this chapter.
- (e) *Development standards for all uses.*
 - (1) *Modification of zoning requirements.* The lot area, lot width, building height, setback and yard requirements, general provisions, signs landscaping and screening requirements, lighting and parking regulations contained in this chapter which would apply for the zoning district in which the uses or uses proposed are normally allowed and which would be the most restrictive for the uses proposed shall be met except that the city council, following a recommendation from the planning commission, may increase, decrease, or otherwise modify these regulations, as may be requested by the applicant, in order to achieve the objectives of this chapter. Other criteria which shall be used in making these determinations shall include the following:
 - (A) Whether the modification requested will result in a project that better satisfies the intent and objectives of this chapter;
 - (B) Whether the modification is compatible with adjacent existing and future land uses and will not significantly adversely affect the use and enjoyment of nearby property;
 - (C) Whether the modification will result in the preservation of existing vegetation or other natural features on site;
 - (D) Whether the modification is necessary due to topography, natural features, or other unusual aspects of the site;
 - (E) Whether the modification will improve or at least not impede emergency vehicle and personnel access;
 - (F) Whether the modification will improve or at least not impede adequate pedestrian circulation; and
 - (G) Whether the modification will result in traffic or other safety hazards, visual blight, distraction, or clutter, or a detriment to the public health, safety, or general welfare.
 - (2) *Dedicated open space requirements.*
 - (A) PUDs shall maintain dedicated open space (“open space”) in compliance with this section.
 - (B) *Areas which do not constitute dedicated open space:*
 - (i) Public or private road rights-of-ways;
 - (ii) Golf courses;
 - (iii) Easements for overhead utility lines;
 - (iv) Areas within platted lots, site condominium units, or metes and bounds parcels occupied or to be occupied by a building or structure not permitted to be located in open space;
 - (v) Off-street parking areas;
 - (vi) Detention and retention ponds created to serve the project;
 - (vii) 50% of the area of wetlands, creeks, streams, existing ponds or lakes, or other bodies of water;

- (viii) 50% of the area of floodplains and 50% of areas of slopes of more than 20%; or
 - (ix) Open space which is not contiguous to the proposed PUD.
- (C) *Standards for dedicated open space in residential PUDs.* The following standards shall apply to the dedicated open space required in PUDs which devote all or a portion of land to residential uses.
- (i) The PUD shall provide and maintain a minimum of 20% of the gross site acreage as preserved dedicated open space in accordance with the standards of this section. The planning commission may consider a PUD with a lesser amount of open space if it is clear that the proposed PUD substantially provides for the intent of a PUD as stated in this section.
 - (ii) The open space may include a recreational trail, picnic area, children's play area, community building, or any other substantially similar use as determined by the planning commission. These uses, however, shall not utilize more than 50% of the dedicated open space.
 - (iii) Open space areas are encouraged to be linked with any adjacent open spaces, public parks bicycle paths, or pedestrian paths.
 - (iv) The open space shall be available for all residents of the development, if any, subject to reasonable rules and regulations and shall be reasonably accessible to the residents of the open space development. Safe and convenient pedestrian access points to the open space from the interior of the open space shall be provided.
 - (v) If the land contains a lake, stream, or other body of water, the planning commission may require that a portion of the open space abut the body of water.
 - (vi) Open space shall be located to preserve significant natural resources, natural features, scenic or wooded conditions, bodies of water, and wetlands.
 - (vii) Grading in open space areas shall be kept to a minimum.
- (D) *Standards for dedicated open space in non-residential PUDs.* The following standards shall apply to the dedicated open space requirements in PUDs which include only non-residential uses.
- (i) The PUD shall provide and maintain open space in a form which serves as an outdoor visual and functional community amenity, designated to contribute to the attractiveness and social function of the PUD, as approved by the planning commission.
 - (ii) The open space may include outdoor dining areas, benches or other areas for sitting, plazas, fountains, sculptures, pavilions, gazebo's, lawn or landscaped areas which contribute to the attractiveness of the site or which may be used for passive or active use, and similar uses or elements which contribute to social interaction or the aesthetics of the project as determined by the planning commission.
 - (iii) The planning commission shall determine if the dedicated open space proposed by the applicant is appropriate for the type and size of the non-residential use based on the intent of this section. The planning commission shall have the discretion to modify the proposed dedicated space as needed to meet the intent of this section.
 - (iv) The dedicated open space shall be maintained by the owner or operator of the development so that it sustains its original appearance and function, which shall be indicated in the agreement required by section e(2)(E) below.
- (E) *Open space agreement.* The applicant shall provide an open space preservation and maintenance agreement to the city council. Said agreement shall be binding on all successors and future owners in title of the land containing the dedicated open space. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the city and the land use continues as approved in the PUD plan or the PUD

plan is amended to allow the use. The agreement must be acceptable to the city council and may consist of a recorded deed restriction, covenants that run perpetually with the land, or a conservation easement established according to the Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980 as amended. The agreement may be included as part of a PUD agreement provided for in section (n) of this chapter. The agreement must:

- (i) Indicate the proposed permitted use(s) of the open space;
 - (ii) List the parties who have an ownership interest in the open space, including all of the residents of the PUD who, by virtue of an association or other similar entity, shall at all times maintain an ownership interest in the dedicated open space;
 - (iii) Require that the open space be maintained by parties who have an ownership interest in the dedicated open space; and
 - (iv) Provide standards for scheduled maintenance of the open space, including periodic removal of underbrush to reduce fire hazard and the necessary pruning and harvesting of trees and new plantings.
- (3) *Private street connections to adjacent property.* As part of a PUD approval, the city council may require a private street to be extended to the adjacent property line. The decision to do so shall be based on the following:
- (A) Whether the road extension is a logical method to: 1) achieve the safe and efficient movement of vehicles and pedestrians between residential areas, and 2) reduce the amount of vehicle trips otherwise required for access to adjoining residential areas.
 - (B) Whether the natural-site features on the adjacent property preclude or make it very difficult to extend the private road, and whether the adjacent site is already developed so as to prevent the extension of the private road.
 - (C) Whether the road extension would result in future off-site traffic creating unsafe situations for the residents of the project proposed by the applicant. If such a connection is required, the applicant shall construct the road to the adjacent property line at the time that the private road is built or the applicant shall illustrate an easement for the future road on the approved preliminary PUD site plan and record an agreement to construct the road connection within the easement when the adjacent property develops and the planning commission determines the necessity of the road connection. Upon completion of the connection, the applicant shall grant an access easement to the adjoining properties to allow for the uninterrupted movement of people and vehicles.
- (f) *Additional development standards for residential PUDs.* For PUDs which will devote all or a portion of the site to residential use the following requirements shall apply in addition to the requirements of subsection (e) of this section:
- (1) *Determination of number of dwellings.*
 - (A) An area which is requested for rezoning to PUD shall only be developed in accordance with the density recommended by the master plan. The permitted number of dwellings for the proposed PUD area shall be based on the density recommendation of the master plan designation of the property as set forth in the following density table.
 - (B) If the land requested for PUD rezoning contains more than one master plan land use recommendation, the number of dwellings allowed for each master plan area shall be computed separately using the formula below to determine the number of dwellings permitted for the entire site. The type and placement of the dwellings proposed however shall be subject to the approval of the city council following a recommendation from the planning commission during the review of the PUD site plan.
 - (C) The city council, following a recommendation from the planning commission, may choose to allow fewer dwellings than permitted by the density table if, in the opinion of the council, a

reduction in the number of dwellings proposed would better achieve the intent and objectives of the PUD district.

Density Table		
Master Plan Category	Zoning District	Maximum Average Density
LDR, Low Density Residential	R-1	4 dwelling units/acre
MDR, Medium Density Residential	R-2	5 dwelling units/acre
HDR, High Density Residential	R-3	12 dwelling units/acre

- (2) *Formula to determine number of dwellings.* The number of dwellings which may be constructed within a PUD shall be determined as follows:
- (A) Determine gross site area. The gross site area may include road right-of-way if included in legal description.
 - (B) Subtract one-half of unbuildable areas such as wetlands, floodplains, and slopes over 20%. However, in no case shall the amount of the unbuildable area subtracted be more than 25% of the gross site area.
 - (C) Subtract acreage devoted to non-residential uses.
 - (D) The resulting acreage is the net development acreage, which is then multiplied by the maximum average density from the density table to determine the number of dwelling units permitted. For example, the net development acreage for an LDR area would be multiplied by four dwelling units per acre.
 - (E) If the area proposed for PUD zoning is not master planned for a specific residential density, the density and number of dwellings permitted shall be determined by the city council following a recommendation by the planning commission.
 - (F) In making this determination, the city council shall take into consideration the density recommended for the surrounding lands, the nature of the existing land uses nearby, the type and number of dwellings proposed by the applicant and the intent and objectives of this section.
- (3) *Wetland determination.* The determination of the existence of wetlands and floodplain areas on a parcel shall be demonstrated to the satisfaction of the planning commission through a written determination by the Michigan Department of Environmental Quality or by an analysis performed by a professional biologist, ecologist, environmental engineer, or similar professional person deemed acceptable to the planning commission.
- (4) *Additional dwellings.* Additional dwellings above what is allowed by subsection (f) of this section above may be permitted at the discretion of the city council following a recommendation by the planning commission if the development provides additional amenities or preserves additional open space which would result in a significant recognizable benefit to the city and residents of the PUD. Items which could be added to a PUD so it may be eligible for consideration for additional dwelling units shall include one or more of the following items as well as similar items:
- (A) Provision of recreational facilities such as playground areas with play equipment, ball fields, golf course, bike path, man-made lake, and community building or similar recreation facility;
 - (B) Additional landscaping to preserve or enhance the view along the roadway;

- (C) Enhancement of existing wetlands, subject to applicable regulations;
 - (D) Provision of additional unique open space or mature stands of trees, which would be of recognizable benefit to city residents.
 - (E) Provision of additional open space off the PUD site but within the city which would be of benefit to the city by adding land for recreational opportunities, adding land to existing city owned land or allowing for the preservation of land along the Flat River or other natural area.
 - (F) If additional dwelling units are to be permitted, the maximum number of dwelling units shall be determined by multiplying the maximum average density permitted in the density table by the gross site acreage of the site instead of the net development acreage excluding only the acreage devoted to any nonresidential uses. In no case shall the number of dwelling units exceed what is permitted by this subsection.
- (g) *Pre-application conference (Step 1)*. Before submitting a PUD application, the applicant shall meet with the zoning administrator who may also request the attendance of the city's planner or engineer. The applicant may provide a conceptual drawing or other information about the development or property. The purpose of this meeting is for the zoning administrator to explain the PUD site plan design, development requirements, and review process to the applicant in order to assist the applicant in preparing a site plan for review by the planning commission. No formal action will be taken at a pre-application conference nor will any statements made at the pre-application conference be considered legally binding commitments from the city.
- (h) *PUD Application (Step 2)*.
- (1) Following the pre-application conference, the applicant shall submit an application for rezoning to the zoning administrator. Such application shall include the following:
 - (A) A completed application form;
 - (B) Payment of a fee, including an escrow amount, as established by the city council; and
 - (C) A narrative statement describing:
 - (i) The objectives of the PUD and how it relates to the intent of the PUD district, as described in section (a) of this chapter;
 - (ii) The relationship of the PUD to the master plan;
 - (iii) Any phases of development and approximate time frame for each phase;
 - (iv) Proposed deed restrictions, covenants, or similar legal instruments to be used within the PUD;
 - (v) Anticipated start and completion of construction;
 - (vi) Location, type, and size of areas to be dedicated open space; and
 - (vii) All modifications from the zoning regulations which would otherwise be applicable to the uses and structures proposed ~~in the~~ without this PUD.
 - (2) The applicant has the option of submitting either a Preliminary or Final PUD site plan with the PUD application.
 - a. A Preliminary PUD site plan shall contain the information required by Section 46.41(c)(2)a herein and the applicant shall follow Steps 3, 4, 5 & 6.
 - b. A Final PUD site plan shall contain the information required by Section 46.41(c)(2)b herein and the applicant shall follow Steps 3, 5 & 6.
 - c. The Final PUD site plan shall contain all of the information required for a Preliminary PUD site plan plus any other information reasonably required by the planning commission to ensure proper review of the PUD application. The Planning Commission may require an

environmental impact assessment or other information to be submitted as part of the Preliminary or Final PUD site plan review.

- (i) *Initial review at the planning commission work session (Step 3).*
 - (1) The planning commission shall review the application for rezoning and preliminary or final site plan at a work session and make recommendations to the applicant regarding the PUD.
 - (2) The applicant shall revise the Preliminary or Final PUD site plan as recommended by the planning commission and resubmit it to the zoning administrator in advance of the public hearing so as to allow sufficient time for review of the plan.
- (j) *Planning commission review of Preliminary PUD site plan and Rezoning (Step 4)*
 - (1) If the applicant elects to submit a Preliminary PUD site plan, the planning commission shall schedule a public hearing on the application and the Preliminary PUD site plan. The notice of the public hearing shall follow the procedures of Section 46.43 of the zoning ordinance.
 - (2) At the public hearing, the planning commission shall review the revised Preliminary PUD site plan and application for rezoning and shall make recommendations to the applicant to assist in preparing a final site plan.
 - (3) The applicant may choose to skip submission of a Preliminary PUD site plan and proceed to submit a Final PUD site plan instead.
- (k) *Planning commission review of Final PUD site plan and Rezoning (Step 5).*
 - (1) The planning commission shall schedule a public hearing on the application for rezoning and Final PUD site plan. The notice of the public hearing shall follow the procedures of Section 46.43 of the zoning ordinance. Following the hearing, the planning commission shall then make a recommendation to the city council regarding the application for rezoning and Final PUD site plan. The planning commission shall base its recommendation on compliance with the standards of section 46.164(m) herein.
 - (2) The applicant shall make any revisions to the Final PUD site plan as required by the planning commission and submit the revised Final PUD site plan to the city council no later than 12 months after the planning commission's hearing on the Final PUD site plan.
- (l) *City council review (Step 6).*
 - (1) After receiving the recommendation of the planning commission, the city council shall conduct a public hearing on the rezoning application and final site plan. The notice of the public hearing shall follow the procedures of section 46.43 of the zoning ordinance.
 - (2) The city council shall then make its findings based on the PUD standards for approval in section (m) of this chapter. Upon a determination that a proposed PUD meets such standards, the city council may approve the PUD rezoning and Final PUD site plan.
 - (3) The city council may impose reasonable conditions upon its approval of the PUD. Such conditions may include conditions necessary to ensure that public services and facilities affected by the PUD will be capable of accommodating increased service and facility loads caused by the property use or activity, protect the natural environment and conserve natural resources and energy, ensure compatibility with adjacent uses of land, and promote the use of property in a socially and economically desirable manner. Conditions imposed shall meet all of plan the following requirements:
 - (A) They shall be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the proposed project under consideration, residents, and landowners immediately adjacent to the proposed PUD and the community as a whole;
 - (B) They shall be related to the valid exercise of the police power and the purposes, which are affected by the proposed PUD;

- (C) They shall be necessary to meet the intent and purpose of this chapter, related to the standards established in the ordinance for the proposed PUD under consideration, and necessary to insure compliance with those standards; and
 - (D) Those which are imposed with respect to the approval of a PUD shall be recorded in the record of the approval action, and shall remain unchanged except upon the mutual consent of the city council and the property owner.
- (4) The decision of the city council may not be appealed to the zoning board of appeals.
- (m) *Standards for approval for both preliminary and final review.* A PUD shall be approved only if it complies with each of the following standards:
- (1) The proposed PUD complies with all qualifying conditions of section (c) of this chapter;
 - (2) The uses to be conducted within the proposed PUD are substantially consistent with the master plan, are based on the design of the PUD and the conditions imposed, or are appropriate for the proposed location, and they are not likely to lead to significant changes contained in the master plan for the area where the PUD is to be located;
 - (3) The proposed PUD is compatible with surrounding uses of land, the natural environment, and the capacities of public services and facilities affected by the development;
 - (4) The proposed uses within the PUD will not possess conditions or effects that would be injurious to the public health, safety, or welfare of the community;
 - (5) The proposed PUD is consistent with the spirit and intent of the PUD district, as described in section (a) of this chapter and represents an opportunity for improved or innovative development for the community that could not be achieved through conventional zoning; and
 - (6) The proposed PUD meets all the review standards of subsection 46-41(c)(3) of the zoning ordinance.
- (n) *PUD agreement.*
- (1) Prior to issuance of any building permits or commencement of construction on any portion of the PUD, the city council may require the applicant to enter into an agreement with the city in recordable form, setting forth the applicant's obligations with respect to the PUD.
 - (2) The agreement shall describe all improvements to be constructed as part of the PUD and shall incorporate, by reference, the final development plan with all required revisions, other documents which comprise the PUD, and all conditions attached to the approval by the city council.
 - (3) A phasing plan shall also be submitted describing the intended schedule for start and completion of each phase and the improvements to be undertaken in each phase.
 - (4) The agreement shall also establish the remedies of the city in the event of default by the applicant in carrying out the PUD, and shall be binding on all successors in interest to the applicant.
 - (5) All documents shall be executed and recorded in the office of the Montcalm County Register of Deeds.
- (o) *Time limit for an approved PUD district.*
- (1) Each development shall be under construction within 12 months after the date of approval of the PUD final development plan, except as noted in this section.
 - (2) The city council may grant one extension of up to an additional 12-month period if the applicant applies for such extension prior to the date of the expiration of the PUD or PUD phase and provided that:

- (A) The applicant presents reasonable evidence that said development has encountered unforeseen difficulties beyond the control of the applicant; and
 - (B) The PUD requirements and standards, including those of the zoning ordinance and master plan that are reasonably related to said development, have not changed.
- (3) Should the time limits provided in section (o) of this chapter expire, the Preliminary PUD site plan approval(s) shall be null and void. This does not include any phases that may have received final PUD approval.
 - (4) Should the PUD district become null and void, the city council shall have the right to rezone the property back to the prior zoning classification(s) or to rezone it to any other zoning classification(s) in accordance with the requirements for rezoning of this chapter.
 - (5) If the property is not rezoned, the subject property shall remain zoned as a PUD, but the Preliminary or Final PUD plans previously approved shall still become null and void. In order to utilize the property as a PUD, an applicant shall submit plans for Preliminary and Final PUD site plan approval as stated in this chapter, but PUD rezoning by the city council shall not be required.
- (p) *Changes to an approved PUD.* Changes to an approved PUD shall be permitted only under the following circumstances:
- (1) The holder of an approved PUD final development plan shall notify the zoning administrator of any desired change to the approved PUD.
 - (2) The zoning administrator may administratively approve minor changes, which are those which will not alter the basic design and character of the PUD or any conditions which were imposed as part of the original approval. Minor changes shall include but not be limited to the following:
 - (A) Reduction of the size of any building or sign;
 - (B) Movement of buildings or signs by no more than ten feet;
 - (C) Landscaping approved in the final development plan that is replaced by similar landscaping to an equal or greater extent;
 - (D) Internal rearrangement of a parking lot, which does not affect the number of parking spaces or alter access locations or design; and
 - (E) Changes required or requested by the city, Montcalm County, or other state or federal regulatory agency in order to conform to other laws or regulations or for reasons of public safety.
 - (3) A proposed change, other than a minor change as determined by the zoning administrator, shall be submitted as a major amendment to the PUD and shall be processed in the same manner as an original PUD application as set forth in this chapter except that the PUD zoning shall remain in place.
 - (4) The zoning administrator may refer any decision regarding any proposed change to an approved final site plan to the planning commission for review and approval (regardless of whether the change may qualify as a minor change). In making a determination whether a change is a minor change, or whether to refer a change to the planning commission for approval, the zoning administrator may consult with the chairperson of the planning commission.
- (q) *Approved PUDs.*
- (1) PUD projects that received site plan approval by the City Council before the effective date of this chapter or any amendment thereto shall be considered to be conforming uses and shall continue to be regulated by the conditions and the approved site plan that was approved for each of these existing PUDs.

(2) A major or minor change to these existing PUDs shall be subject to the procedures and requirements for such changes as set forth in this chapter except that for a major change, the number of dwelling units and amount of open space shall remain as were previously approved in the Final PUD site plan. All other requirements and procedures for this chapter, as amended, shall apply to the major change.

(3) If an existing PUD is proposed to be expanded beyond the boundaries of the existing PUD then such enlargement shall be subject to all the requirements and procedures of this chapter.

Section 2. Publication and Effective Date. This Ordinance shall become effective upon the expiration of seven days after publication of a notice of ordinance adoption in a newspaper of general circulation in the City of Greenville.

YEAS: 7

NAYS: 0

ABSTAIN: 0

ABSENT: 0

ORDINANCE DECLARED ADOPTED.

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