

**CITY OF CLAWSON  
OAKLAND COUNTY, MICHIGAN  
ORDINANCE NO. 742**

**ORDINANCE NO. 408 AN ORDINANCE TO AMEND THE CITY OF CLAWSON CODE OF  
ORDINANCES CHAPTER 34, ARTICLE X, DIVISION 18, SECTIONS 34-1001 through 34-1005  
TO UPDATE PLANNED UNIT DEVELOPMENT STANDARDS**

**NOW THEREFORE, THE CITY OF CLAWSON ORDAINS:**

**PART 1. Amend Chapter 34, Section 34-1001 to read as follows:**

Sec. 34-1001. - Scope of division; statement of intent.

- (a) It is the intent of this division to authorize the use of planned unit development regulations for the purpose of encouraging the flexibility in the regulation of land development; innovation in land use and variety in design, layout, and type of structures constructed; achieve economy and efficiency in the use of land, natural resources, energy, and public services and utilities; encourage useful open space; provide better housing, employment, shopping opportunities, compatibility of design and use between neighboring properties; and development that is consistent with the city's master land use plan.
- (b) The approval of a planned unit development application shall require an amendment to this article to revise the zoning map and designate the subject property as "PUD, planned unit development." Approval granted under this division, including all aspects of the final plan and conditions imposed on it, shall constitute an inseparable part of the zoning amendment.
- (c) The provisions of this division are not intended as a device for ignoring this article and specific standards set forth therein, or the planning upon which it has been based. Provisions of this division are intended to result in land development substantially consistent with the zoning standards generally applied to the proposed uses, allowing for modifications and departures from generally applicable standards in accordance with guidelines in this division to ensure appropriate, fair, and consistent decision making.
- (d) Eligibility criteria. To be eligible for planned unit development approval, the applicant must demonstrate and the planning commission and city council must find that the proposed development meets the following criteria:
  - (1) Recognizable and substantial benefit. The planned unit development shall achieve a higher quality of development than would otherwise be achieved under conventional standards, and shall result in a recognizable and substantial benefit to the community, and to the ultimate users of the developed site.
  - (2) Availability and capacity of public services. The proposed type and density of use shall not exceed the capacity of existing public services, facilities, and utilities.
  - (3) Consistency with the master plan and zoning ordinance. The proposed development shall be consistent with the goals and objectives of the city's master plan, the purpose of this zoning article, and the intent of these planned unit development regulations.
  - (4) Economic and neighborhood impact. The proposed development shall not impede the continued use or development of surrounding lots for uses permitted by this zoning article or planned in the adopted city master plan.
- (e) Redevelopment. Any development that includes a site designated as a brownfield by state or federal law, redevelopment or reuse of a functionally obsolete building, or removal of a nonconforming use or structure may qualify for consideration as a planned unit development.

(Ord. No. 408, § 16.01, 7-21-1992; Ord. No. 637, pt. I, 7-6-2004)

**PART 2. Amend Section 34-1003 to read as follows:**

Sec. 34-1003. - Regulations.

The following regulations shall apply to all planned unit developments:

- (1) *Unified control.* The proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project in conformity with this article. The applicant shall provide legal documentation of single ownership or control in the form of agreements, contracts, covenants, and deed restrictions which indicate that the development can be completed as shown on the plans, and further, that all portions of the development that are not to be maintained or operated at public expense will continue to be operated and maintained by the developers or their successors. These legal documents shall bind all development successors in title to any commitments made as a part of the documents. This subsection shall not prohibit a transfer of ownership or control, provided that notice of such transfer is given to the city.
- (2) *Pedestrian and vehicular access.* Pedestrian and vehicular access to a planned unit development shall be subject to the following:
  - a. Each lot, main building, and principal use within a planned unit development district shall have vehicular and pedestrian access from a public street right-of-way.
  - b. Adequate provision shall be made for an interconnected network of streets, sidewalks, and essential services to serve the planned unit development area.
  - c. Permitted nonresidential uses shall abut a major thoroughfare, as defined in section 34-481 (Definitions), with primary vehicular access from a major thoroughfare or collector street. Secondary access may be provided from local streets where determined necessary by the planning commission for health and safety purposes.
  - d. Permitted multiple-family residential uses shall abut and have primary vehicular access from a major thoroughfare or collector street, as defined in section 34-481 (Definitions). Secondary access may be provided from local streets where determined necessary by the planning commission for health and safety purposes.
- (3) *Minimum area.* A planned unit development shall include sufficient land area to conform with the intent of this division, to comply with all applicable regulations of this article, to adequately serve the needs of all permitted uses in the development, and to ensure compatibility between uses and the surrounding neighborhood.
- (4) *Usable open space.* The proposed planned unit development shall contain at least as much usable open space as would otherwise be required by the existing underlying zoning.
- (5) *Applicable base regulations.* Unless waived or modified in accordance with the procedures and standards set forth in this division, the yard and bulk, parking, loading, landscaping, lighting, and other standards set forth in the districts listed as follows shall generally be applicable for uses proposed as part of a planned unit development:
  - a. Multiple-family residential uses shall comply with the regulations applicable in the RM-2 multiple-family residential district. Single-family attached residential uses shall comply with the regulations applicable in the RM-1 multiple-family residential district.
  - b. Commercial and office uses shall comply with the regulations applicable in the CC City Center district.
  - c. Mixed uses shall comply with the regulations applicable for each individual use, as outlined in this subsection (5), except that if conflicts exist between provisions, the regulations applicable to the most dominant use shall apply.

To encourage flexibility and creativity in development consistent with the planned unit development concept, departures from compliance with the base regulations may be granted by the city council, upon recommendation of the planning commission, as a part of the approval of the planned unit development. For example, such departures may include modifications of lot dimensional standards; floor area standards; setback requirements; density standards; parking, loading and landscaping requirements; and similar requirements. Such departures may be approved only on the condition that they will result in a higher quality of development than would be possible using conventional zoning standards.

- (6) *Obscuring wall.* An obscuring wall shall be provided on those sides or rear of the property abutting land zoned residential, as per section 34-1033.

- (7) *Parking and loading requirements.* Parking and loading/unloading requirements set forth in division 20 of this article shall apply except that the number of spaces required may be reduced in a planned unit development if approved by the city council, upon recommendation of the planning commission, as part of the site plan. Such reduction shall be justified by the applicant and shall be based upon a finding that sufficient parking will be available through the sharing of spaces by different uses, that the parking requirement is excessive for the type of use proposed, or similar factors.
- (8) *Landscaping and maintenance of common areas.* All yards and common areas shall be landscaped and adequately and permanently maintained by the property owner, tenant, or organization responsible for maintaining common areas. The city council shall review and approve a landscaping plan and maintenance plan.
- (9) *Conveyance.* Through an irrevocable conveyance, such as deed restrictions or covenants that run with the land, the developer shall ensure the city council that all yards and common areas will be developed in accordance to the site plan or never changed to another use. Such conveyance shall:
  - a. Provide for the privately owned open space to be maintained by private property owners with an interest in the open space. Maintenance standards and a maintenance schedule shall be included.
  - b. Provide for assessment of the private property owners by the city, after due notice, for the cost of maintenance of the open space if it is inadequately maintained and becomes a public nuisance.
- (10) *Compliance with article's general provisions.* A planned unit development shall comply with the provisions in division 1 of this article.
- (11) *Additional considerations.* During review of a proposed planned unit development, the planning commission shall take into account the following considerations, which may be relevant to a particular project: perimeter setbacks and berming; thoroughfares, drainage and utility design; underground installation of utilities; insulating the pedestrian circulation system from vehicular thoroughfares and ways; achievement of an integrated development with respect to signage, lighting, landscaping and building materials; and noise reduction and visual screening mechanisms, particularly in cases where nonresidential uses adjoin off-site residentially zoned property.
- (12) *Timetable for construction.* A timetable for construction for a planned unit development and any phase of a planned unit development shall be included as part of the review and approval process. The city may require that a performance bond be posted by the developer to ensure compliance with the construction timetable. Unapproved deviations or delays in the timetable during construction may result in a loss of all or a portion of the performance bond.
- (13) *Development agreement.* A development agreement as required in Section 34-1005.

(Ord. No. 408, § 16.03, 7-21-1992; Ord. No. 637, pt. II, 7-6-2004)

**PART 3. Amend Section 34-1004 to read as follows:**

Sec. 34-1004. - Application procedures.

In addition to a site plan in accordance with division 4 of this article, an application for planned unit development shall contain the following:

- (1) Cover letter signed by the applicant and owner holding an equitable interest in the property.
- (2) Legal description showing the location and acreage of the property.
- (3) General description of proposed development, including a timetable of development.
- (4) A narrative addressing how each of the criteria of Section 34-1001(d) are met by the proposed project.
- (5) Site plan at a scale of one inch to 100 feet or larger, prepared in accordance with division 4 of this article. Additional information on the site plan shall include:
  - a. A proposed schedule of usable floor areas, total land areas by category of use, and building ground coverage.
  - b. Areas preserved for open space, indicating the proposed improvements.

- c. Architectural sketches showing building elevations for all sides and heights, external wall finishes, location of entryways, and loading and unloading facilities.
  - d. Other information deemed pertinent to the proposed development by the planning commission or city council, such as but not limited to a traffic study, market study, or environmental study.
- (6) A fee for the processing of the planned unit development application, as established by the city council.

(Ord. No. 408, § 16.04, 7-21-1992)

**PART 4. Amend Section 34-1005 to read as follows:**

Sec. 34-1005. - Review procedures.

The review and approval process for a planned unit development is as follows:

- (1) *Preapplication conference.* In order to facilitate review of a planned unit development proposal in a timely manner, the applicant shall request a preapplication conference. The purpose of such a conference is to provide information and guidance to the applicant that will assist in preparation of the application and supporting materials. The applicant shall present at such a conference, at a minimum, a sketch plan of the proposed planned unit development (drawn to scale), a legal description of the property in question, the total number of acres in the project, the approximate number of residential units to be constructed, floor area of the office and commercial uses, and areas to be designated as common areas or open space. No formal action shall be taken at a preapplication conference. There shall be no fee for a preapplication conference. Statements made at the preapplication conference shall not be legally binding commitments.
- (2) *Conceptual Review and qualification.* After a formal application has been filed for a planned unit development, it shall be reviewed by the planning and zoning department for completeness and submitted to the planning commission. The planning commission shall review the plan to determine whether it qualifies for planned unit development based on the eligibility criteria of Section 34-1001(d).
- (3) *Public hearing.* If the planning commission finds that the plan meets the eligibility criteria, it shall schedule a public hearing on the proposed planned unit development. The public hearing held pursuant to this subsection shall also serve as the public hearing for the proposed zoning amendment. Notice of the public hearing shall be published in a newspaper of general circulation in the city, and sent by mail or personal delivery to the owners of property for which approval is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet. Such notice shall be given not less than fifteen days before the public hearing scheduled. Such notification shall contain the following information:
  - a. Nature of the planned unit development project requested.
  - b. Boundaries of the property which is the subject of the request.
  - c. Date and time of the public hearing.
  - d. Location and times that written comments will be received concerning the request.
- (4) *Planning commission recommendations.* At the public hearing or within a reasonable time following the public hearing, the planning commission shall make its final consideration of the request, and shall recommend to the city council denial, approval, or approval with conditions, of the request. Sections 34-1003 and 34-1006 set forth standards on which the basis for determination shall be made. The planning commission shall have prepared a report stating its conclusions, the basis for its recommendations, and any conditions relating to an affirmative recommendation. The planning commission shall also make a recommendation on the proposed zoning amendment.

- (5) State and county approval. All planned unit development projects shall require the review and approval of the following agencies prior to final site plan approval:
  - a. The county road commission or, if any part of the project includes or abuts a state highway or includes streets or roads that connect with or lie within the right-of-way of a state highway, the state department of transportation.
  - b. The county drain commission.
  - c. The county health department, if deemed necessary by the planning commission.
- (6) City council action. The city council shall be provided with a copy of the planning commission's report, a summary of comments received at the public hearing, minutes of all proceedings, and all documents related to the planned unit development. Within a reasonable time of the action of the planning commission, and after all approvals under subsection 4 of this section are obtained, the city council shall deny, approve, or approve with conditions, the request. The city council shall require that a performance guarantee be deposited with the city to ensure faithful completion of improvements, in accordance with section 34-519.
- (7) Signed development agreement. If the application and site plan are approved by the city council, the applicant and all owners of record or the legal representative of the owners of record of all property included within the planned unit development shall then sign a development agreement that describes the terms and conditions of the approval and the rights and obligations of each party. The agreement shall incorporate the approved application and site plan, and the conditions of approval, and shall be binding upon the applicant and owners of record and upon their heirs, successors, and assigns. The application and site plan shall not be officially approved nor may the building permit be issued, until such agreement has been signed as required and has been received by the city clerk. The approved Development Agreement shall be recorded with the Oakland County Register of Deeds.
- (8) Designation on zoning map. Within ten business days of the official approval of the application and the site plan by the city council, the city clerk shall attest the planned unit development designation for the lot in question on the zoning map.
- (9) Recorded with register of deeds. The approved site plan and signed agreement shall be recorded by the petitioner with the county register of deeds within ten days of the date of approval of the application. The petitioner shall immediately provide a certified copy of the recorded documents to the city clerk.

(Ord. No. 408, § 16.05, 7-21-1992)

**PART 5. Amend Section 34-1007 to read as follows:**

Sec. 34-1007. - Revision of approved plans.

- (a) General revisions. Approved final plans for a planned unit development may be revised in accordance with the procedures set forth in section 34-1005. In the event that any element of the development agreement requires a major amendment, the development agreement shall be amended to reflect the approved changes and recorded as provided in Section 34-1006. Action to amend a development agreement requires approval by the City Council.
- (b) Minor changes. Notwithstanding subsection (a) of this section, minor changes may be permitted by the planning commission following normal site plan review procedures outlined in division 4 of this article, subject to its finding that:
  - (1) The Planning Commission shall make a finding that the change is minor and does not require the full PUD approval process.
  - (2) Such changes will not adversely affect the initial basis for granting approval.
  - (3) Such minor changes will not adversely affect the overall planned unit development in light of the intent and purpose of such development as set forth in section 34-1001.

**PART 6. Amend Section 34-1008 to read as follows:**

Sec. 34-1008. - Enforcement.

- (a) The city council may enforce any or all provisions of the approved site plan and agreement, and conditions of approval, against the petitioners, owners, successors, assigns or agents.

- (b) Each phase of the project shall be commenced within 24 months of the schedule set forth on the approved plan for the planned unit development. If construction is not commenced within the required time period, approval of the plan shall become null and void. Revisions to the construction schedule may be approved by the city council.

(Ord. No. 408, § 16.08, 7-21-1992)

**PART 7. SAVINGS CLAUSE.**

The amendments referenced herein do not affect or impair any act done, offense committed, or right accruing or acquired, or liability, penalty or forfeiture or punishment pending or incurred prior to the effective date of this amendment.

**PART 8. SEVERABILITY.**

This Ordinance and its various parts, sentences, paragraph, sections, clauses and rules promulgated hereunder are hereby declared to be severable. If any part, sentence, paragraph, section, clause, or rule promulgated hereunder is adjudged to be unconstitutional or invalid for any reason, such holdings shall not affect the remaining portions of this Ordinance.

**PART 9. REPEALER.**

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

**PART 10. EFFECTIVE DATE; PUBLICATION.**

This Ordinance shall become effective after publication of a brief notice in the newspaper circulated in the City, stating the date of the enactment and the effective date of the Ordinance, and that a copy of the Ordinance is available for public use and inspection at the office of the City Clerk, and such other facts as the City Clerk shall deem pertinent.

STATE OF MICHIGAN    )  
  )  
COUNTY OF OAKLAND    )

I, the undersigned, the duly qualified and active City Clerk of the City of Clawson, Oakland County, Michigan, do hereby certify that the foregoing is a true and complete copy of an ordinance made, passed, and adopted by the Council of said City at a regular meeting via video and phone conference on August 5, 2020 at 7:30 p.m., further this Ordinance was duly published in the Daily Tribune, August 19, 2020 edition of the Daily Tribune, a newspaper of general circulation in the City of Clawson.



Reese Scripture, Mayor  
Dated: August 29, 2020



G. Machele Kukuk, Interim City Clerk  
Dated: August 29, 2020