ORDINANCE NO. 425

AN ORDINANCE OF THE HAMILTON CITY COUNCIL AMENDING MULTIPLE SECTIONS OF TITLE 17 OF THE HAMILTON MUNICIPAL CODE. MORE SPECIFICALLY ADDING CHAPTER 17.92 FOR THE PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT AND ADDING A DEFINTION FOR AFFORDABLE HOUSING TO SECTION 17.04.040

WHEREAS, the City of Hamilton, Montana has adopted zoning regulations in Title 17 of the Hamilton Municipal Code to implement the Growth Policy and provide for the orderly development of the City; and

WHEREAS, the City has amended Title 17 from time to time to respond to changes in state law, legal decisions, and community needs; and

WHEREAS, the Hamilton City Zoning Commission held a public hearing on August 2, 2021 to consider the proposed Title 17 amendments. The Hamilton Zoning Commission voted 5-0 to recommend adoption of the proposed amendments included in this Ordinance; and

WHEREAS, the City of Hamilton published notice of the required Zoning Commission and City Council public hearings on the Title 17 amendments as required by Montana Code Annotated 76-2-303 and Hamilton Municipal Code 17.08.020; and

WHEREAS, the Hamilton City Council conducted the required public hearings on the Title 17 amendments on August 17, 2021 and September 7, 2021; and

WHEREAS, the Hamilton City Council held a first reading of this Ordinance No. 425 on August 17, 2021 and the second reading of this Ordinance No. 425 on September 7, 2021; and

WHEREAS, the Hamilton City Council finds that the proposed Title 17 amendments are consistent with the City of Hamilton's Growth Policy and in compliance with the zoning amendment criteria established in Montana Code Annotated 76-2-304.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hamilton, Montana:

Section 1

That Section 17.04.040, Definitions, of the Hamilton Municipal Code be amended as follows:

"Affordable Housing" means housing for individuals or families earning less than 120% of the Area Median Income (AMI) for ownership housing and 80% AMI for rental housing.

Section 2

That Chapter 17.92, Planned Unit Development Overlay District, be added to the Hamilton Municipal Code as follows:

Chapter 17.92 – PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT

17.92.010 - Intent

The intent of the Planned Unit Development (PUD) Overlay District is to:

A. Ensure future development is in accordance with the City of Hamilton Growth Policy and the goals, objectives, and policies therein;

B. Provide flexibility in regulations and standards in exchange for community benefits and innovative, quality design;

C. Promote logical development patterns of residential, commercial, office and industrial uses that will mutually benefit the developer, the neighborhood, and the community;

D. Promote the efficient use of land and provision of City infrastructure and services;

E. Minimize adverse environmental impacts and encourage the preservation and enhancement of natural amenities, cultural resources and open space;

F. Promote the use of walking and biking as viable transportation options;

G. Encourage development of a variety of housing types to accommodate households of all ages, sizes, and incomes;

H. Improve the design, quality and character of new development; and

I. Encourage development of vacant properties in developed areas.

17.92.020 - Overview

A. The PUD Overlay District is a zoning designation that overlays an underlying zoning district.

B. A PUD requires approval of a zone map amendment according to Section 17.08.020 to obtain a PUD designation. A PUD designation is available in the following zoning districts: RM, RH, and B. Approved PUDs shall be identified on the zoning map by appending the map symbol to the underlying zoning district (e.g., "RH/PUD").

C. PUD zone map amendments must be processed concurrently with a PUD application and preliminary development plan and, if applicable, subdivision and annexation.

17.92.030 – Approval Required

A. Approval of PUD preliminary and final development plans must occur before any building permit is issued. Permits may be issued for a development phase if a preliminary development plan has been approved for the entire PUD and a final development plan has been approved for the subject phase.

17.92.040 Requirements

A. No application for a PUD will be approved unless all property included in the application is under

unified ownership, a single entity's control, or the application is filed jointly by the owners of all the property to be included.

B. The approved final development plan must specify a manner of holding title to areas and facilities of joint use and how areas of joint use shall be maintained. Normally such areas and facilities must be retained in title by the developers or deeded to an organization composed of all owners in the development.

C. PUDs must contain at least two acres.

17.92.050 Guidelines.

PUDs are encouraged to contain a mixture of the following components:

A. Building and Site Design Guidelines
   1. A connected internal street network that also connects with the existing transportation network in the City;
   2. Pedestrian and bicycle facilities throughout and connecting to adjacent non-motorized transportation facilities;
   3. Lots and blocks with alleys;
   4. A coordinated landscape plan;
   5. Storm water management that utilizes natural features, including the use of low impact design such as bioswales;
   6. Blocks no larger than 350 feet in length;
   7. Limited curb cuts;
   8. The use of slow flow or yield streets;
   9. Prevalent on-street parking;
   10. Boulevard sidewalks;
   11. Building entrances oriented towards the street;
   12. Landscaping screening off-street parking;
   13. Lighting that minimizes light pollution and trespass; and
   14. Street trees;

B. Land Use Guidelines
   1. A mixture of single and multi-family housing;
   1. Affordable housing units;
   2. A mix of residential and neighborhood commercial land uses;
   3. Off-street parking located on the rear portion of the lot or behind the main building; and
   4. Public spaces such as playgrounds, plazas, parks, or trails designed for active and passive users.

17.92.060 Regulations and Standards Eligible for Deviation.

A. In order to encourage flexibility and creativity, quality designs, and community benefits, deviations from the following regulations may be granted by the City Council during PUD designation:

1. Uses allowed;
2. Minimum lot area;
3. Minimum lot frontage;
4. Minimum yards (setbacks);
5. Maximum height;
6. Maximum lot coverage;
7. Off-street parking and loading requirements; and
8. Streets
    a. Alternatives to the City of Hamilton Public Works Standards street cross-sections and designs may be approved when the City Council determines that such alternative designs would better meet the purpose of the PUD Overlay, while still providing a safe and efficient transportation system. The city public works director and fire chief must review and make recommendations on requests for alternative street standards.

B. All requested deviations and other relaxations of regulatory requirements must be identified in writing at the time of preliminary development plan submittal. Failure to identify such items may result in the delay of application processing. Regulations and standards proposed to be modified do not require review or approval of variances, but may be approved through the PUD designation and review process. In granting deviations, the City Council shall have the right to establish and provide conditions and limitations.

17.92.070 Preliminary Development Plan Review.

A. A preapplication meeting between the applicant (or applicant's agent) and the City planning and public works departments is required before submitting a PUD application and preliminary development plan. At the time of request for a preapplication meeting, the applicant shall provide a sketch showing the layout and features of the proposed PUD. The zoning administrator shall review the preapplication request and submitted information and meet with the applicant within thirty (30) calendar days of submittal. At the preapplication meeting the zoning administrator will provide the applicant with written comments regarding the submittal, review process, and recommendations to inform and assist the applicant prior to preparing the PUD applicant and preliminary development plan. For a PUD project reviewed as a subdivision, the subdivision preapplication review will serve to meet this requirement.

B. At the option of the applicant, the preliminary development plan may also serve as the preliminary subdivision plat if such intention is declared before the Planning Board and Zoning Commission public hearing and if the application(s) include all information required for preliminary plats and preliminary development plans.

C. In addition to the requirements for zone map amendments and subdivisions (if applicable), each PUD application must include the following items:
    1. A preliminary site plan showing the location and area of lots and blocks, buildings, motorized and non-motorized transportation facilities, public spaces, parking, landscaping, utilities, and other pertinent features.
    2. A list of the specific requirements and standards that are requested to be modified;
    3. A list of land uses that are proposed;
    4. The total number of residential dwelling units by type of dwelling unit and total net and gross residential density;

5. Total number of commercial buildings by type of building and total net and gross building density;
6. Information about buildings including type, size, and locations
7. Landscape plan including plans for irrigation;
8. Description of public spaces, parks, and recreation amenities.
9. A written description of the community benefits of the proposed development, how the proposed PUD provides greater benefits to the City than would development in line with existing regulations and standards, and how the proposed development incorporates the guidelines from section 17.92.050;
10. A written narrative regarding how the proposed PUD conforms to the City's Growth Policy;
11. A description and draft documents indicating how common areas and facilities will be managed.

D. The zoning administrator shall review the PUD application and preliminary development plan in light of the provisions of this Chapter and the review criteria in 17.92.080. The zoning administrator shall prepare a report and recommendation for the Planning Board and Zoning Commission based on the zoning administrator's review.

E. The Planning Board and Zoning Commission shall hold a joint public hearing on the PUD application and preliminary development plan. Following the close of the hearing the collective Planning Board and Zoning Commission must act by simple majority vote to recommend to City Council that the PUD and preliminary development plan be approved, approved with conditions, or denied.

F. After action by the Planning Board and Zoning Commission, the City Council must convene its own public hearing on the PUD application and preliminary development plan. Following the close of the public hearing, the City Council may act to approve, approve with conditions, or deny the PUD application and preliminary development plan. The City Council may also return the application to the Planning Board and Zoning Commission for further consideration, together with a written explanation of the reasons for doing so.

G. All public hearings of the Planning Board, Zoning Commission, and City Council on PUD applications and preliminary development plans shall be noticed according to Section 17.08.020. Such notices may be consolidated with other notices related to the project as long as the various aspects of the project (e.g., PUD review, zone map amendment, annexation, subdivision, etc.) are properly noticed in compliance with City and state requirements.

17.92.080 Review Criteria.

A. In reviewing and making decisions on a PUD application and preliminary development plan, advisory and decision-making bodies must consider the following criteria:

1. The zone map amendment criteria in Montana Code Annotated 76-2-304
2. The PUD application's and preliminary development plan's consistency with section 17.92.010 (Intent);
3. The PUD application's and preliminary development plan's consistency with section 17.92.050 (Guidelines);
4. The extent to which the PUD application and preliminary development plan would result in a greater benefit to the City than would development under conventional zoning regulations;
5. Subdivision review criteria as established by Hamilton Municipal Code (if applicable); and
6. Annexation review criteria as established by City policy (if applicable).

1792.090 Final Development Plan Review.

A. Final development plan applications must be filed with City planning department after approval of and before the lapse of a preliminary development plan.

B. A final development plan will not be considered complete and ready for processing if all approved conditions of approval have not been met or if the final development plan constitutes a major change from the approved preliminary development plan, per section 17.92.130 (Changes to Approved Plans) of this chapter.

C. If a final development plan is submitted that constitutes a major change to an approved PUD application and preliminary development plan, no further processing of the final development plan may occur. The zoning administrator shall notify the applicant that major changes may be made only in accordance with section 17.92.130 (Changes to Approved Plans) of this chapter.

D. If the final development plan complies with the approved preliminary development plan, all conditions of the preliminary development plan approval, and all applicable standards of this zoning ordinance, the City Council must approve the final development plan.

E. If the submitted final development plan does not comply with the approved preliminary development plan, any conditions imposed on that plan, or any applicable standards of this zoning ordinance, the City Council must deny the final development plan and advise the applicant in writing of the specific reason for denial. In the event that the City Council does not approve the final development plan, the applicant may resubmit the final development plan to correct the plan's inconsistencies and deficiencies.

17.92.100 Effect of Approval.

A. An approved final development plan shall be filed with the County Clerk and Recorder's office immediately upon compliance with all conditions of approval. If the applicant chooses to abandon a final development plan or portion thereof after it has been given final approval, they must notify the zoning administrator.

B. The filing of a final development plan with the County Clerk and Recorder's office does not constitute the effective dedication of easements, rights-of-way, or access control, nor will the filed plan be the equivalent of or an acceptable alternative for the final platting of land.

C. A PUD project must be developed in accordance with the approved final development plan.

17.92.110 Duration of Approval.

A. If the applicant fails to file an application for final development plan approval within two years of the date of preliminary development plan approval, the approval will be deemed to have lapsed and the preliminary development plan will lapse and be of no further effect.

B. For projects to be developed in phases, phase limits must be shown on the preliminary development plan. The City Council may impose conditions upon the phasing plan as deemed necessary to ensure orderly development, including requirements for financial guarantees ensuring construction of all required improvements.

C. In the event the applicant fails to commence development shown on the final development plan within two years after final approval, then such final approval will lapse and be of no further effect unless the time period is extended by the City Council upon written application by the applicant.

D. Requests for extensions must be submitted to the zoning administrator before the final development plan approval expires and must be processed in accordance with the procedures for approval of a PUD application and preliminary development plan.

E. In the event of lapse of final approval, approved PUD plans have no further effect.

17.92.120 Phasing.

A. The City Council may approve phased PUDs that extend beyond the maximum two-year preliminary approval period set forth 17.92.110, in accordance with a phasing schedule proposed by the applicant.

B. Phased PUDs and corresponding phasing plans shall follow the application and review procedures outlined in 17.92.070 (Preliminary Development Plan Review) and 17.92.080 (Review Criteria

C. Phasing Plans

1. Applicants applying for a phased PUD must submit a phasing plan that includes phased development boundaries, schedules, conceptual development plan map, and other details pertaining to the phasing of the project.

2. Phasing plans must be submitted along with materials required in 17.92.070 (Preliminary Development Plan Review) for the phase(s) to be developed within the initial two-year time frame established in 17.92.110.

3. Conceptual development plan maps shall include the following elements:

   a. Motorized and non-motorized transportation infrastructure;

   b. Locations of public spaces and open space corridors;

   c. Proposed land uses and housing types for each phase; and

   d. Estimated residential densities for each phase.

4. All phases of a PUD must conform to the phasing plan.

D. Within 10 years of the date the phased plan is approved by City Council, all individual phases must be submitted for review and approved, conditionally approved, or denied in accordance with the preliminary development plan review and approval procedures outlined in this chapter. Any phase not approved, conditionally approved, or denied within this 10-year timeframe shall be null and void.

E. The applicant may change the phasing schedule upon approval of City Council following a public hearing. The City Council may approve a proposed change to the phasing schedule only if the change does not negate a condition of approval or otherwise adversely affect public health, safety, or welfare.

F. Completion assurance

a. The applicant shall provide agreements, contracts, covenants, deed restrictions, and sureties acceptable to the Hamilton City Attorney for the completion of the development according to the approved conceptual development plan and any other documents of record, and for the maintenance of such areas, functions, and facilities as are not to be provided, operated, or maintained by the City, and shall place covenants on the property to bind any successors in title to any commitments made under this section.

17.92.130 Changes to Approved Plans

A. Changes to an approved development or phasing plan shall be processed using the procedures outlined in this section for minor and major changes.

B. Minor Changes

1. Minor changes may be approved administratively by the zoning administrator in writing without

additional public notice.

2. Minor changes are defined as follows:
   a. Changes that do not alter the character of development;
   b. A less than 5% change in the number of residential dwelling units;
   c. A less than 5% increase in gross non-residential floor space;
   d. A less than 5% reduction in the amount of land set aside for public space;
   e. Changes that do not create substantial adverse impact on surrounding property owners.

C. Major Changes

1. Major changes may be made only after rehearing the PUD application and preliminary development plan in accordance with review procedures outlined in 17.92.070 (Preliminary Development Plan Review), including payment of fees, all notices, and hearings.
2. Major changes are defined as follows:
   a. Changes that alter the character of development
   b. A 5% or greater change in the number of residential dwelling units;
   c. A 5% or greater increase in gross non-residential floor space;
   d. A 5% or greater reduction in land set aside for public space;
   e. A reduction in the number of affordable dwelling units;
   f. A change in the location or placement of buildings;
   g. An increase in the number of lots;
   h. Changes that create substantial adverse impact on surrounding property owners.

BE IT FURTHER ORDAINED, by the City Council of the City of Hamilton, Montana, that this Ordinance No. 425 is passed, approved and adopted effective thirty (30) days following the second reading on September 7, 2021.

(SEAL)

By: _____
Dominic Farrenkopf, Mayor

Attest: _____
Rose M. Allen, City Clerk

CITY OF HAMILTON
CORPORATE
SEAL
STATE OF MONTANA