

## **PUD PLANNED UNIT DEVELOPMENT DISTRICT**

### **STATEMENT OF INTENT**

The Planned Unit Development (PUD) District is intended to provide flexibility in exchange for long-term community benefits in the development of planned residential, commercial, office, or industrial complexes or combinations of such uses in which each unit is an integral part of an overall concept and all development occurs in conformance with a site-specific, pre-approved plan. The land shall be reclassified to this district only in exceptional situations, on request of the owner, and in response to a specific development proposal. The process will generally involve simultaneous reclassification and subdivision.

PERMITTED USES, MINIMUM LOT DIMENSIONS, REQUIRED YARDS, HEIGHT RESTRICTIONS, PARKING, SIGNAGE, AND OTHER REGULATIONS WILL BE DETERMINED FOR EACH PLANNED UNIT DISTRICT AS APPLICABLE IN LIGHT OF ITS UNIQUE CHARACTERISTICS, THE JACKSON COUNTY LAND USE POLICY STATEMENT, THE PURPOSE AND INTENT OF THIS ORDINANCE, AND THE RULES APPLYING TO THE OTHER ZONING DISTRICTS.

### **SPECIAL REQUIREMENTS**

1. Preliminary Application. The owners of contiguous property comprising ten (10) acres or more may submit an application to have their land classified as "PUD Planned Unit Development" on the Zoning Map. Smaller districts may be created where extraordinary public benefit is demonstrated. The preliminary application shall be made to the Zoning Administrator and shall include the following:
  - A. The legal description of the property.
  - B. 12 copies of a plan showing existing conditions on the property, including at least the topography, all buildings and other structures, present uses, and recorded lot lines.
  - C. 12 copies of a conceptual plan of the proposed development showing at least all proposed buildings with exterior dimensions, parking areas, points of connection to the public road system, water and wastewater facilities to be provided, and other proposed uses of land.
  - D. A preliminary plat to comply with the Jackson County Subdivision Ordinance if the division of the land is proposed for purposes of sale, lease, or taxation.
  - E. A written statement describing the concept of the proposed development and substantiating that:
    - i. It is in accord with the Land Use Policy Statement;
    - ii. It will be more beneficial to the general public than development that could be accomplished under the provisions of any other zoning district;
    - iii. The design for the area is in accord with sound and generally accepted principles of architecture, landscape architecture, engineering, resource conservation, and related fields.
  - F. A written statement proposing all allowed uses and required yards, height restrictions, parking, lighting, landscaping, and signage for the district if not specified elsewhere in the application.
2. Review of Preliminary Application. Review of the preliminary application shall follow the procedure for review and action on preliminary subdivision plats, whether or not the application calls for division of land, and shall include at least a public hearing on the preliminary application. The Zoning Commission, after holding the hearing, shall state its recommendations for action on the concept presented and for the level of detail required for the final version of the plan. The Board of Supervisors shall likewise approve or disapprove the preliminary application as submitted or amended and, if approved, shall state the level of detail required for the final

application. Approval of a preliminary application shall not constitute a commitment on the part of the county to approve a final application.

3. Final Application. Following the Supervisor's approval of a preliminary application, the applicant shall have 12 months to submit a final application meeting all specifications of the preliminary approval and, when land is being subdivided, all requirements for the subdivision final plat.
4. Review of Final Application. A final application shall be reviewed according to the procedures for final subdivision plans, except that final action by the Board of Supervisors, if approved, must include the passage of an ordinance reclassifying the land, and the County shall have at least 90 days from the date of final application submission to take their final action.
5. Burden of Proof. It is expected that most development will occur in the regular zoning districts. In all requests for reclassification to this district, the burden of proof shall be fully on the applicant to establish that the proposed development will be more beneficial to the general public than development that is permitted within any of the regular zoning districts.
6. Recording. The ordinance creating a specific PUD district shall be recorded concurrently with other relevant documents such as a subdivision plat, covenants, and the approved development plan and/or agreement.
7. Permits. The Zoning Administrator shall issue permits only for buildings and uses shown on the approved and recorded final plan, and only in accordance with all specific provisions in the plan.
8. Amendments. A proposed amendment to the approved and recorded plan for a PUD district will be subject to all regulations and procedures of an original proposal.
9. Modification. The Zoning Commission and Supervisors may choose to review preliminary and final applications in a single procedure for simple applications or minor amendments. However, at a minimum, both the Zoning Commission and the Supervisors must hold a proper public hearing before taking their final action on the matter.
10. Fees. Fees for requests to create or amend a PUD district will be determined by resolution of the Board of Supervisors and may differ from the fees charged for other reclassification requests.

Map Designation. Each such district created shall be designated on the Official Zoning Map as "PUD" and a sequential number.

1.8 Supplementary District Regulations. Subject to Section 1.6, the following provisions, regulations, or exceptions shall apply equally to all districts except as hereinafter provided.

1. Visibility At Intersection. On a corner lot in any district, no fence, wall, hedge or other planting or structure that will obstruct vision between a height of two and one-half (2 1/2) feet and ten (10) feet above the centerline grades of the intersecting streets shall be erected, placed or maintained within the triangular area formed by connecting the right-of-way lines at points which are twenty-five (25) feet distance from the intersection of the right-of-way lines and measured along the right-of-way lines, or within the triangular area formed by connecting the centerlines of the intersecting streets at points which are one hundred (100) feet from their point of intersection, whichever is greater.
2. Accessory Buildings. No accessory building shall be erected in any required front or side yard and no separate accessory buildings shall be erected within five (5) feet of any lot line.

3. More Than One Principal Structure On A Lot. In any district, more than one (1) principal structure housing a permitted principal use may be erected on a single lot provided that the area, yard, and other requirements of this ordinance shall be met for each structure as though it were on an individual lot.
4. Height Regulation Exceptions. The height limitations contained in the Schedules of District Regulations do not apply to grain storage bins, grain elevators, feed mills or to spires, belfries, cupolas, chimneys, antennas, water tanks, utility poles or towers, ventilators, elevator housing or other structures placed above the roof level and not intended for human occupancy.
5. Use of Public Right-Of-Way. No portion of the public road, street, or alley right-of-way shall be used or occupied by an abutting use of land or structures for storage or display purposes or to provide any parking or loading space required by this ordinance or for any other purpose that would obstruct the use or maintenance of the public right-of-way.
6. Proposed Use Not Covered In Ordinance. Any proposed use not covered in this ordinance as a permitted use or special exception shall be referred to the Zoning Commission for a recommendation as to the proper district in which such use should be permitted and the ordinance amended as provided in Section 3.2 before a permit is issued for such proposed use.
7. Buildings To Have Access. Unless alternate access is specifically approved by official action of the Board of Supervisors, every building hereafter erected shall be on a lot or parcel having access to the public road system as follows:
  - a. Direct access to a public road via an entrance constructed in accordance with a permit issued by the appropriate authority or via a legally established entrance already in use for a residence;
  - b. Direct access to a private road established and approved as part of an approved and recorded subdivision plat; or
  - c. Access as in items "a" or "b" above, but indirectly by means of an individual private access easement, as defined.

For subdivision lots created by plats filed after October 21, 1999, no permit for construction shall be issued without submittal of an inspection report signed by the County Engineer indicating the driveway entrance has been constructed in accordance with applicable plans and specifications or that the inspection requirement was waived for this lot by the Board of Supervisors.

8. Off-Street Parking. No parking space required by this ordinance shall be provided in any required front yard in a residential district and no required parking space, driveway nor any merchandise, display, or exterior storage shall be provided in any required front yard or in the first five (5) feet inside the property line of any required side or rear yard in a commercial or industrial district.
9. Existing Farm Dwellings. Nothing in this ordinance shall require any person or persons occupying a farm dwelling at the date of passage of this ordinance to vacate the dwelling or involuntarily sever it from the remainder of the farm. If the dwelling is voluntarily severed from the farm to be used and maintained as a non-farm residence by the occupant or for sale or lease to others, it shall conform to the lot area and yard requirements of the district in which it is located.
10. Flag Lots. Flag lots as defined shall be permitted in any district. That portion of the lot primarily suitable for access (the flagpole portion) shall have a minimum width of sixty (60) feet or, for lots in the

A-1 Agricultural and R-1 Residential Zoning Districts having an area of less than double the minimum parcel area, thirty (30) feet. The minimum width established above may be reduced if supplemented by a recorded access easement in favor of the flag lot owner over adjacent land, to provide a total width of access right-of-way equal to the applicable minimum as stated above. The flagpole portion shall be excluded from the calculation of lot area for the purposes of this ordinance only.

11. Compliance With Other County Development Requirements. Applications for Construction and/or Occupancy Compliance Certificates shall not be considered complete until the Zoning Administrator has ascertained that the development proposed is in compliance with other county development requirements as noted below.

a. Provisions of Jackson County ordinances relating to floodplain management and tall structures near airports have been fully met.

b. The land parcel cited in the application was created in compliance with the Jackson County Subdivision Ordinance.

c. All permits required by the County Health Department for water wells and wastewater treatment systems have been properly applied for and means of compliance have been identified.

d. Proper application has been made for a rural address, where appropriate.

1.9 Application of District Regulations. Subject to section 1.7 the regulations and restrictions of this ordinance shall apply as follows:

1. Regulations To Be Uniformly Applied. The regulations set by this ordinance shall apply uniformly to each class or kind of structure or land, and particularly within each district, except as hereinafter provided.

2. All Uses And Structures to Conform. No building, structure, or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.

3. Height, Density, Or Yards Shall Not Be Violated. No building or other structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, or to have narrower or smaller rear yards, front yards, side yards, or other open spaces, than herein required or in any other manner contrary to the provisions of this ordinance.

4. Separate Yards, Open Space And Off-Street Parking Required. No part of a yard or other open space or off-street parking or loading space required about or in connection with any building for the purpose of complying with this ordinance shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

5. Minimum Yard And Lot Areas May Not Be Reduced. No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

6. New Areas. All territory which may hereafter become a part of the unincorporated area of the County shall be classified in the A-1 Agricultural District until otherwise classified, provided, however, that the Zoning Commission may recommend the appropriate district classification prior to such territory becoming a part of the County, and upon the holding of a public hearing and approval by the Board of Supervisors, the territory, upon becoming a part of the county, may be immediately so classified.

1.10 Nonconformities. Within the districts established by this ordinance or amendments that may later be adopted, there exist lots, structures, and uses of land which were lawful before this ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendment.

Subject to Section 1.7, it is the intent of this ordinance to permit these non-conformities to continue and to be renewed and replaced, but not to allow their expansion. However, nothing in this ordinance shall prohibit the Zoning Board of Adjustment from granting a special exception to permit the addition of accessory structures to serve principal structures devoted to nonconforming uses as allowed in this ordinance.

A non-conforming use of a structure, a nonconforming use of land or water, or a nonconforming use of a structure and land in combination shall not be extended or enlarged after the passage of this ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in a permanent position and fastened in a permanent manner, except that where demolition or removal of an existing building, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

1.11 Nonconforming Lots Of Record. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance provided, however, that the sewage disposal system and water supply shall first be approved by the county Health Department. Such a lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width or both, that are generally applicable in the district, provided that the yard dimensions and other requirements, not involving area or width or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance for yard requirements shall be obtained only through action of the Board of Adjustment.

If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance, and if all or part of the lots does not meet the requirements for lot width and area as established by this ordinance, the land involved shall be considered to be an undivided parcel for the purposes of this ordinance and no portion of the said parcel shall be used or sold which does not meet lot width and area requirements established by this ordinance, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this ordinance.

1.12 Nonconforming Uses Of Land. Where, at the effective date of adoption or amendment of this ordinance, lawful use of land exists that is made no longer permissible under the regulations imposed by this ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions and exceptions:

1. No such nonconforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance;
2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance;

3. If any such nonconforming use of land ceases for any reason for a period of more than six (6) months, any subsequent use of land shall conform to the regulations specified by this ordinance for the district in which such land is located.

Nonconforming junk yards as herein defined shall be discontinued, removed, or relocated to an M-2 General Industrial District within five (5) years after the passage of this ordinance.

1.13 Nonconforming Structures. Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lots, such structure may be continued so long as it remains otherwise lawful and is not enlarged or altered in a way which increases its nonconformity. No reconstruction or replacement of nonconforming structures is permitted which would deviate further from provisions of this ordinance than did the original structure.

1.14 Nonconforming Uses of Structures. If a lawful use of a structure or of structure and premises in combination exists at the effective date of adoption or amendment of this ordinance that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged or extended.

2. Any nonconforming use may be extended throughout any parts of a building that were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building.

3. If no structural alterations are made, any nonconforming use of a structure, or structure and premises in combination may be changed to another nonconforming use provided that the Board of Adjustment, either by general rule or by making findings in the specific cases, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this ordinance.

4. Any structure or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed.

5. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for twelve (12) consecutive months, the structure thereafter shall not be used except in conformity with the regulations of the district in which it is located.

Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

1.15 Repairs and Maintenance. Nothing in this ordinance shall be deemed to prevent the strengthening of or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety upon order of such official.

1.16 Uses Under Exception Provision. Any use permitted as a special exception in its district that was in existence on the effective date of this ordinance shall be deemed a conforming special exception use.

Such use may be continued but shall not be expanded or enlarged to increase the building area or area of land occupied or used, nor shall any such use or structure be altered, expanded, or enlarged to increase its capacity, height, number of units, number of animals, volume of traffic, volume of waste created or intensity of use, nor shall such use be resumed after having lapsed for a period of twelve (12) months or more until a special exception has been granted by the Board of Adjustment. For the purposes of this paragraph, further removal of materials from a lot or parcel owned or leased for the purpose of extraction of raw materials on the effective date of this ordinance shall not constitute expansion or enlargement provided that the extraction site meets the setbacks specified as special requirements for that use or, if such setbacks are already exceeded, that setback distances do not decrease; further, periods of up to four (4) years without extraction or processing activity shall not be considered a lapse of use.

Structures devoted to such uses may be converted to nonconforming uses by the action of the Zoning Board of Adjustment in the same manner as provided for nonconforming uses in Section 1.14(3) provided also that the Board finds that the proposed use is more compatible with neighboring uses than is the existing use.