

ORDINANCE 12-02

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING ARTICLE V OF CHAPTER 118 OF THE WINTER GARDEN CODE OF ORDINANCES ENTITLED “PLANNED UNIT DEVELOPMENTS” CREATING URBAN VILLAGE PLANNED UNIT DEVELOPMENTS; PROVIDING REQUIREMENTS FOR MIXTURE OF USES AND URBAN DEVELOPMENT CRITERIA FOR ALL PROPOSED PLANNED DEVELOPMENT PROJECTS IN THE URBAN VILLAGE PLANNED UNIT DEVELOPMENT ZONING DISTRICT; CLARIFYING, UPDATING, AND REMOVING REDUNDANT LANGUAGE FOR RESIDENTIAL PLANNED UNIT DEVELOPMENTS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the City Commission of the City of Winter Garden has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida and Chapter 166, Florida Statutes;

**WHEREAS**, the Zoning Ordinance as set forth in the Land Development Regulations of the City of Winter Garden Code of Ordinances must be consistent with the provisions of the City of Winter Garden Comprehensive Plan by furthering and moving the City in the direction of accomplishing the objectives, goals and policies of the Comprehensive Plan; and

**WHEREAS**, the provisions of this Ordinance implement the provisions of Policy 1-1.2.18 of the City of Winter Garden Comprehensive Plan, as well as other objectives, goals and policies of the City’s Comprehensive Plan, and provide for the application of sound and generally accepted land use principles in order to promote and protect the quality of life of the citizens of the City while imposing reasonable regulations upon the development of private property; and

**WHEREAS**, after public notice and due consideration of public comment given at advertised public hearings, the City Commission has determined the hereafter described amendments to Chapter 118, Article V of the City of Winter Garden Code of Ordinances are warranted to ensure consistency with the City of Winter Garden Comprehensive Plan.

**NOW THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AS FOLLOWS:**

**SECTION 1:** That Chapter 118, Article V, Planned Unit Developments of the City of Winter Garden Code of Ordinances is hereby amended as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions):

## ARTICLE V. PLANNED UNIT DEVELOPMENTS

### DIVISION 1. GENERALLY

#### **Sec. 118-831. Summary of steps for receiving final approval of a residential or urban village planned unit development.**

Four steps are generally required to obtain final approval for a residential or urban village planned unit development:

- (1) Preliminary conference;
- (2) Preliminary development plan submission and application for planned unit development zoning;
- (3) Preliminary plat submission; and
- (4) Final development plan submission

#### **Sec. 118-832. Preliminary conference.**

The preliminary conference for a residential or urban village planned unit development shall include the following: the city planner, city engineer, building official, fire marshal, city public services director, and the developer.

#### **Sec. 118-833. Preliminary development plan application.**

- (a) For residential and urban village planned unit development rezoning, a preliminary development plan along with a zoning application shall be submitted to the city clerk by the developer requesting approval of the site as a PUD. The preliminary plan and application shall contain the name of the Developer and the architect, surveyor and engineer who prepared the development plan.
- (b) The following shall be included on the preliminary development plan with the zoning application:
  - (1) Proposed name or title of the project; the name of the surveyor, engineer, architect, and developer.
  - (2) North arrow, scale of one inch equals 200 feet or larger, date and legal description of the site.
  - (3) Boundaries of the site shown with bearings, distances, closures and bulkhead lines. All existing easements, section lines and property lines, all existing streets, rights of ways and physical features in and adjoining the project, and the existing zoning.
  - (4) Names and locations of adjoining developments and subdivisions.
  - (5) Proposed parks, school sites, and other public and private open space.
  - (6) Vehicular and pedestrian circulation systems.

- (7) Site data including tabulation of the total number of gross acres in the project, the acreage to be devoted to each of the several types of uses, and the proposed total number of dwelling units and the proposed square footage of nonresidential uses.
- (8) Proposed common open space, including proposed improvements and proposed common open space structures and the tabulation of the percent of the total area of the project to be devoted to common open space. Areas proposed to qualify for common open space shall be specifically designated on the preliminary development plan.
- (9) Delineation of specific areas designated as a proposed stage or phase.
- (10) General statement indicating proposed means of drainage for the site to ensure conformity with natural drainage within the area or with the drainage plan established or to be established within the vicinity.
- (11) General location within the site of each residential and nonresidential use.
- (12) The proposed method of dedication and administration of proposed common open space.
- (13) Vicinity map.

(c) Submittal requirements and procedures are as follows:

- (1) Time limits. The planned unit development zoning application and preliminary development plan shall be submitted to the city clerk at least 30 days prior to any scheduled meetings of the planning and zoning board.
- (2) Prints required. The application shall include the required number of black- or blue-line prints of the preliminary development plan and a reproducible copy.
- (3) Certified survey. Two copies of a certified survey must also accompany the application.
- (4) Application review. The preliminary development plan shall be reviewed by the city engineer and the city planner and any other city division or department as necessary to determine the feasibility and suitability of the plan prior to the submission of the planned unit development zoning application to the planning and zoning board. The planning and zoning board shall then review the preliminary development plan to determine its conformity with the plans and policies of the city and the requirements of this division and the City Code. Upon completion of its review, the planning and zoning board shall recommend to the city commission the approval, approval subject to conditions and modifications, or disapproval of the preliminary development plan application and the planned unit development zoning application.
- (5) Review criteria. The decision of the planning and zoning board on the preliminary development plan and rezoning application shall include findings of fact that serve as a basis for its recommendation. In making its recommendation, the planning and zoning board shall consider the following facts:
  - a. The degree of departure or conformity of the proposed planned unit development with surrounding areas in terms of character and density.
  - b. Compatibility of uses and improvements within the planned unit development and the relationship with surrounding existing or proposed developments.

- c. Prevention of erosion and degrading or enhancement of the surrounding areas.
  - d. Provision for future public education and recreation facilities, transportation, water supply, sewage disposal, surface drainage, flood control and soil conservation as shown in the preliminary development plan.
  - e. The nature, intent and compatibility of common open space, including the proposed method for the maintenance and conservation of the common open space.
  - f. The feasibility and compatibility of the specified stages or phases contained in the preliminary development plan to exist as an independent development.
  - g. The availability and adequacy of primary streets and thoroughfares to support traffic to be generated within the proposed planned unit development and the surrounding area.
  - h. The availability and adequacy of water and sewer service to support the proposed planned unit development.
  - i. The benefits within the proposed development and to the general public to justify the requested departure from standard land use requirements inherent in a planned unit development classification.
  - j. The conformity, compatibility and consistency of the planned unit development with the comprehensive plan of the city.
  - k. The conformity and compatibility of the proposed common open space, residential and nonresidential uses within the proposed planned unit development.
  - l. Architectural characteristics of proposed residential and nonresidential development.
  - m. A listing of the specific types of nonresidential uses to be allowed.
- (6) Review by city commission. Upon receiving the recommendation of the planning and zoning board, the city commission shall, at a regularly scheduled public meeting, review the recommendation and preliminary development plan and either approve, approve subject to conditions and modifications, or disapprove the preliminary development plan application. Approval of the preliminary development plan includes preliminary approval of the PUD zoning. The decision of the city commission shall be based upon a consideration of the facts specified as review criteria for the planning and zoning board.
- (7) Recordation of preliminary application. If the preliminary development plan application is approved by the city commission, a copy of the application and required exhibits shall be certified by the city clerk and signed by the mayor, and the certified copy shall be filed with the city clerk as a permanent record.

**Sec. 118-834. Preliminary plat.**

- (a) Procedures for preliminary plat submission will comply with chapter 110 pertaining to subdivisions.
- (b) Additional information on the preliminary plat should include the following for the

residential or urban village planned unit development or the portion thereof which is the subject of the preliminary plat:

- (1) The proposed residential use other than single-family.
  - (2) The proposed location of the residential use and nonresidential use.
  - (3) Acreage in each of the residential and nonresidential use areas.
  - (4) Phasing or development schedule.
  - (5) Number of units, both total and by type, and square footage of total nonresidential uses and by type.
  - (6) The proposed method of maintenance of the storm drainage system.
- (c) A topographical map shall be submitted with the preliminary development plan. The topographical map shall be drawn at a scale of not less than 100 feet to one inch by a registered professional engineer or registered land surveyor showing the following:
- (1) The location of existing property lines, streets, buildings, watercourses, transmission lines, sewers, bridges, culverts and drain pipes, water mains, city limit lines and all public utility easements and rights of ways.
  - (2) Wooded areas, marshes and any other physical conditions affecting the site.
- (d) Engineering drawings and specifications of the following proposed utility system improvements must be presented to the city engineer no less than 30 days prior to commencement of construction of such improvements. Further, the improvements must be constructed and approved by the city engineer prior to presenting the final development plan to the planning and zoning board, unless an acceptable developer's agreement and bond are provided to the city by the developer in accordance with the requirements of this Code. Engineering drawings must include the following:
- (1) Potable water.
  - (2) Sanitary sewer.
  - (3) Storm sewer.
  - (4) Reclaimed water
  - (5) Sidewalks and bicycle paths.
  - (6) Streets.
  - (7) Lot grading plan.
  - (8) Drainage.
  - (9) Lighting.

**Sec. 118-835. Final development plan.**

(a) Time limits for submission. Unless otherwise specified by the residential or urban village planned unit development zoning ordinance, the developer shall have three years from the adoption date of the PUD zoning ordinance in which to:

- (1) File and obtain approval of a final plat of a residential or urban village planned unit development, or any portion thereof; or
- (2) File and obtain approval of a final development plan of a residential or urban village planned unit development, or a portion thereof and commence construction contemplated by such plan. Site clearing and tree removal activities do not constitute commencement of construction for the purposes of this subsection.

Residential planned unit developments adopted prior to September 30, 2009 are hereby granted an extension to allow three years from September 30, 2009 in order to satisfy the conditions under section (1) or (2) above.

(b) Site plan. A site plan must be presented in accordance with division 2 of article II of this chapter.

(c) Plat. A plat must be presented which complies with chapter 110.

(d) Additional exhibits. Additional exhibits required for the final development plan may include the following:

(1) Development schedule. The development schedule shall contain the following information for the urban village planned unit development or the portion thereof which is the subject of the final development plan:

- a. The order of construction of the proposed stages or phases delineated in the development plan.
- b. The proposed date for the beginning of construction on the stages or phases.
- c. The proposed date for the completion of the stages or phases.
- d. The proposed schedule for the construction and improvement of common open space within the stages or phases, including any complementary buildings.

(2) Deed restriction. Deed restriction proposals to preserve the character and purpose of the common open space. The deed restrictions shall include, among other provisions a prohibition against partition by any residential property owner.

(3) Association or nonprofit corporation. If the developer elects this method of administering common open space, the proposed bylaws of the association, articles of incorporation and other controlling documents shall be submitted for approval by the city attorney.

(4) Instruments. Instruments dedicating all rights-of-way, easements and other public lands shown on the final development plan from all persons and entities having any interest in the land and instruments indicating that all necessary off-site easements or dedications have been acquired. In lieu of originals, certified copies of the relevant documents will be accepted if the recording information from the public records of the county is included thereon.

- (5) Bill of sale. A bill of sale, conveying to the city water and sewer utility lines, mains, lift stations, and other improvements required to be installed by this Code.
- (6) Title opinion. A title opinion from an attorney showing the status of the title to the site encompassed by the final development plan and all liens, taxes, encumbrances, easements, agreements, and other documents affecting title.
- (7) Tax receipts. Paid receipts from the city and county indicating taxes and required fees have been paid in full up to and including the current period.

(e) Procedure.

- (1) A fee established by the city commission shall accompany the final development plan application for the purpose of administration.
- (2) The city engineer and the city planner shall recommend the approval, approval subject to conditions and modifications, or disapproval of the final development plan application based upon the conformity of the final development plan with the preliminary development plan, sufficiency and accurateness of the required exhibits, and the requirements and purposes of this division and ordinances and regulations of the city.
- (3) The planning and zoning board and the city commission shall review these recommendations at regular public meetings and shall approve, approve subject to conditions and modifications, or deny the final development plan application.

(f) Recording of final development plan.

- (1) After approval of the city commission of the final development plan application, it shall be recorded in the public records of the county. No final development plan of a planned unit development, or any portion thereof, within the city shall be recorded unless it shall have the approval of the city commission inscribed thereon.
- (2) The transfer of, sale of, agreement to sell, or negotiation to sell land by reference to or exhibition of or other use of a final development plan of a planned unit development or portion thereof that has not been given final approval by the city commission and recorded in the official records of the county is prohibited. The description by metes and bounds in the instrument of transfer or other documents shall not exempt the transaction from such documents.

**Sec. 118-836. Physical review.**

The city shall have the right to evaluate the physical layout, architectural characteristics, and amenities of the planned unit development and to require changes or modifications designed to create compatibility and conformity in the variety of uses within the development to ensure, protect and promote the health, safety and general welfare of the property owners of the planned unit development and the residents of the city.

**Sec. 118-837. Building permit.**

No building permit shall be issued by the city until the final development plan has been approved

and duly recorded as provided in this division.

**Sec. 118-838. Enforcement.**

In addition to any other method of enforcement, the city shall have the power to enforce this division by a suit in equity.

Secs. 118-839—118-855. Reserved

**DIVISION 2. RESIDENTIAL PLANNED UNIT DEVELOPMENTS**

**Subdivision II. Administration\***

\*Cross references: Administration, ch. 2.

**Sec. 118-886. Summary of steps for receiving final approval.**

Four steps are generally required to obtain final approval for a residential planned unit development:

- (1) Preliminary conference;
- (2) Preliminary development plan submission and application for zoning request;
- (3) Preliminary plat submission, which may be omitted if the phase is not platted; and
- (4) Final development plan submission (if platted, the final plat; if not platted, a site plan with engineering drawings listed in subsection 118-889(e)).

(Code 1988, § 24-45(g))

**Sec. 118-887. Preliminary conference.**

The preliminary conference for a residential planned unit development includes the following:

- (1) City planner, city engineer.
- (2) Building official and fire marshal.
- (3) Public works director and utilities director.
- (4) Developer.

(Code 1988, § 24-45(g)(1))

**Sec. 118-888. Preliminary development plan application.**

(a) For a residential planned unit development, a preliminary plan along with a zoning application shall be submitted to the city clerk by the developer requesting approval of the site as a PUD. The preliminary plan and application shall contain the name of the

developer and the architect, surveyor or engineer who prepared the development plan.

(b) ~~The following shall be included with the preliminary application:~~

~~(1) Proposed name or title of the project; the name of the surveyor, engineer, architect, and developer.~~

~~(2) North arrow, scale of one inch equals 200 feet or larger, date and legal description of the proposed site.~~

~~(3) Boundaries of the tract shown with bearings, distances, closures and bulkhead lines. All existing easements, section lines and property lines, all existing streets and physical features in and adjoining the project, and the existing zoning.~~

~~(4) Names and locations of adjoining developments and subdivisions.~~

~~(5) Proposed parks, school sites, and other public and private open space.~~

~~(6) Vehicular and pedestrian circulation systems.~~

~~(7) Site data including tabulation of the total number of gross acres in the project, the acreage to be devoted to each of the several types of primary residential and secondary nonresidential uses, and the total number of dwelling units.~~

~~(8) Proposed common open space, including the proposed improvements and any complementary structures and the tabulation of the percent of the total area devoted to common open space. Areas qualifying for common open space shall be specifically designated on the site plan.~~

~~(9) Delineation of specific areas designated as a proposed stage.~~

~~(10) General statement indicating proposed means of drainage for the site to ensure conformity with natural drainage within the area or with the drainage plan established within the vicinity.~~

~~(11) General location within the site of each primary residential use, secondary nonresidential use, and the proposed amount of land to be devoted to individual ownership.~~

~~(12) The proposed method of dedication and administration of proposed common open space.~~

~~(13) Vicinity map.~~

(c) ~~Submittal requirements and procedures are as follows:~~

~~(1) *Time limits.* The PUD zoning application and preliminary development plan shall be submitted to the city clerk at least 30 days prior to any scheduled meetings of the planning and zoning board.~~

~~(2) *Prints required.* The application shall include the required number of black- or blue-line prints of the development plan and a reproducible copy.~~

~~(3) *Certified survey.* Two copies of a certified survey must also accompany the application.~~

~~(4) *Application review.* The preliminary development plan shall be reviewed formally by the city engineer and the city planner and any other city division or department as necessary to determine the feasibility and suitability of the plan prior to the submission of the PUD zoning application to the planning and zoning board. The planning and zoning board shall then review the preliminary development plan to determine its conformity with the official plans and policies of the city and the requirements of this division. Upon completion of its review, the planning and zoning board shall recommend to the city commission the approval, approval subject to conditions, or disapproval of the preliminary development plan application and the PUD zoning.~~

~~(5) *Review criteria.* The decision of the planning and zoning board on the preliminary development plan application shall include the findings of fact that serve as a basis for its recommendation. In making its recommendation, the planning and zoning board shall consider the following facts:~~

~~a. The degree of departure of the proposed planned unit development from surrounding residential areas in terms of character and density.~~

~~b. Compatibility within the planned unit development and the relationship with surrounding neighborhoods.~~

~~c. Prevention of erosion and degrading of the surrounding area.~~

~~d. Provision for future public education and recreation facilities, transportation, water supply, sewage disposal, surface drainage, flood control and soil conservation as shown in the preliminary development plan.~~

~~e. The nature, intent and compatibility of common open space, including the proposed method for the maintenance and conservation of the common open space.~~

~~f. The feasibility and compatibility of the specified stages contained in the preliminary development plan to exist as an independent development.~~

~~g. The availability and adequacy of primary streets and thoroughfares to support traffic to be generated within the proposed planned unit development and the surrounding area.~~

~~h. The availability and adequacy of water and sewer service to support the proposed planned unit development.~~

~~i. The benefits within the proposed development and to the general public to justify the requested departure from standard land use requirements inherent in a planned unit development classification.~~

~~j. The conformity and compatibility of the planned unit development with the comprehensive plan of the city.~~

~~k.—The conformity and compatibility of the proposed common open space, primary residential and secondary nonresidential uses within the proposed planned unit development.~~

~~l.—Architectural characteristics of proposed nonresidential development when available.~~

~~m.—A listing of the specific types of secondary nonresidential or commercial uses to be allowed.~~

~~(6) *Review by city commission.*—Upon receiving the recommendation of the planning and zoning board, the city commission shall, at a regularly scheduled public meeting, review the recommendation and preliminary development plan and either approve, approve subject to conditions, or disapprove the preliminary development plan application. Approval of the preliminary development plan includes the approval of the PUD zoning. The decision of the city commission shall be based upon a consideration of the facts specified as review criteria for the planning and zoning board.~~

~~(7) *Recordation of preliminary application.*—If the preliminary development plan application is approved by the city commission, a copy of the application and required exhibits shall be certified by the city clerk and signed by the mayor, and the certified copy shall be filed with the city clerk as a permanent record.~~

~~(Code 1988, § 24-45(g)(2))~~

**~~Sec. 118-889. Preliminary plat.~~**

~~(a) For a residential planned unit development, or any portion thereof, the preliminary plat may be omitted if the parcel, or applicable portion thereof, is not to be platted.~~

~~(b) The developer may request plat approval of the entire PUD or any portion thereof (a minimum of 20 acres).~~

~~(c) Procedures for preliminary plat submission will comply with chapter 110 pertaining to subdivisions.~~

~~(d) Additional information on the preliminary plat should include the following for the residential planned unit development or the portion thereof which is the subject of the preliminary plat:~~

~~(1) The proposed residential use other than single family.~~

~~(2) The proposed location of the primary residential use and secondary nonresidential use.~~

~~(3) Acreage in each of the primary residential and secondary nonresidential uses.~~

~~(4) Phasing or development schedule.~~

~~(5) Number of units, both total and by type.~~

~~(6) The proposed method of maintenance of the storm drainage system.~~

~~(e) A topographic data map may be submitted with the preliminary development plan if the property is not to be platted. The topographic data map shall be drawn at a scale of not less than 100 feet to one inch by a registered professional engineer or registered land surveyor showing the following:~~

~~(1) The location of existing property lines, streets, buildings, watercourses, transmission lines, sewers, bridges, culverts and drain pipes, water mains, city limit lines and any public utility easements.~~

~~(2) Wooded areas, marshes and any other physical conditions affecting the site.~~

~~(f) Engineering drawings of the following proposed utility system improvements must be presented to the city engineer no less than 30 days prior to commencement of construction of such improvements. Further, the improvements must be constructed and approved by the city engineer prior to presenting the final development plan to the planning and zoning board, unless an acceptable developer's agreement and bond are provided to the city by the developer in accordance with the requirements of this Code. Engineering drawings must include the following:~~

~~(1) Water.~~

~~(2) Sanitary sewer.~~

~~(3) Storm sewer.~~

~~(4) Sidewalks and bicycle paths.~~

~~(5) Streets.~~

~~(6) Lot grading plan.~~

~~(7) Drainage.~~

~~(Code 1988, § 24-45(g)(3); Ord. No. 09-19, § 7, 10-8-09)~~

#### **~~Sec. 118-890. Final development plan.~~**

~~(a) Time limits for submission. Unless otherwise specified by the PUD zoning ordinance, the developer shall have three years from the adoption date of the PUD zoning ordinance in which to:~~

~~i. File and obtain approval of a final plat of a residential planned unit development, or any portion thereof; or~~

~~ii. File and obtain approval of a final development plan of a residential planned unit development, or a portion thereof and commence construction contemplated by such plan. Site clearing and tree removal activities do not constitute commencement of construction for the purposes of this subsection.~~

~~Residential planned unit developments adopted prior to September 30, 2009 are hereby granted an extension to allow three years from September 30, 2009 in order to satisfy the conditions under subsection i. or ii. above.~~

~~(b) *Site plan.* If not platted, a site plan must be presented in accordance with division 2 of article II of this chapter.~~

~~(c) *Plat.* If platted a plat must be presented which complies with chapter 110.~~

~~(d) *Additional exhibits.* Additional exhibits required for the final development plan may include the following:~~

~~(1) *Development schedule.* The development schedule shall contain the following information for the residential planned unit development or the portion thereof which is the subject of the final development plan:~~

~~a. The order of construction of the proposed stages delineated in the development plan.~~

~~b. The proposed date for the beginning of construction on the stages.~~

~~c. The proposed date for the completion of the stages.~~

~~d. The proposed schedule for the construction and improvement of common open space within the stages, including any complementary buildings.~~

~~(2) *Deed restriction.* Deed restriction proposals to preserve the character of the common open space. The deed restrictions shall include a prohibition against partition by any residential property owner.~~

~~(3) *Association or nonprofit corporation.* If the developer elects this method of administering common open space, the proposed bylaws of the association or the certificate of incorporation and the corporate bylaws of the nonprofit corporation shall be submitted for approval by the city attorney.~~

~~(4) *Instruments.* Instruments dedicating all rights of way, easements and other public lands shown on the final development plan from all persons having any interest in the land and instruments indicating that all necessary off site easements or dedications have been acquired. In lieu of originals, certified true copies will be accepted if the recording information from the public records of the county is included thereon.~~

~~(5) *Bill of sale.* A bill of sale, conveying to the city water and sewer utility lines, mains, lift stations, and other personal property required to be installed by this Code.~~

~~(6) *Title opinion.* A title opinion from an attorney showing the status of the title to the site encompassed by the final development plan and all liens, encumbrances and defects, if any.~~

~~(7) *Tax receipts.* Paid receipts from the city and county indicating taxes have been paid in full up to and including the current period.~~

~~(e) *Procedure.*~~

~~(1) A fee established by the city commission shall accompany the final~~

development plan application for the purpose of administration.

~~(2) The city engineer and the city planner shall recommend the approval, approval subject to conditions, or disapproval of the final development plan application based upon the conformity of the final development plan with the preliminary development plan, sufficiency and accurateness of the required exhibits, and the requirements and purposes of this division and ordinances and regulations of the city.~~

~~(3) The planning and zoning board and the city commission shall review these recommendations at regular public meetings and shall approve, approve subject to conditions, or deny the final development plan application.~~

~~(f) *Recording of final development plan.*~~

~~(1) After approval of the city commission of the final development plan application, it shall be recorded in the public records of the county. No final development plan of a planned unit development, or any portion thereof, within the city shall be recorded unless it shall have the approval of the city commission inscribed thereon.~~

~~(2) The transfer of, sale of, agreement to sell, or negotiation to sell land by reference to or exhibition of or other use of a final development plan of a planned unit development or portion thereof that has not been given final approval by the city commission and recorded in the official records of the county is prohibited. The description by metes and bounds in the instrument of transfer or other documents shall not exempt the transaction from such documents.~~

(Code 1988, § 24-45(g)(4); Ord. No. 09-19, § 2, 10-8-09)

#### **~~Sec. 118-891. Physical review.~~**

~~The city shall have the right to evaluate the physical layout, architectural characteristics, and amenities of the residential planned unit development and to require changes or modifications designed to create compatibility and conformity in the variety of uses within the development to ensure, protect and promote the health, safety and general welfare of the property owners of the planned unit development and the residents of the city.~~

(Code 1988, § 24-45(h))

#### **~~Sec. 118-892. Building permit.~~**

~~No building permit shall be issued by the city until the final development plan has been approved and duly recorded as provided in this division.~~

(Code 1988, § 24-45(i))

#### **~~Sec. 118-893. Reserved.~~**

~~**Editor's note:** Ord. No. 09-19, § 3, adopted October 8, 2009, repealed § 118-893, which pertained to termination of PUD zone and derived from § 24-45(j) of the 1988 Code.~~

~~**Sec. 118-894. Enforcement.**~~

~~In addition to any other method of enforcement, the city shall have the power to enforce this division by an appropriate suit in equity.~~

~~(Code 1988, § 24-45(k))~~

~~Secs. 118-895—118-920. Reserved~~

~~Secs. 118-886--118-920. Reserved.~~

~~**Subdivision III. Land Use Regulations**~~

~~**Subdivision II. Land Use Regulations**~~

**DIVISION 4. URBAN VILLAGE PLANNED UNIT DEVELOPMENT (UVPUD)**

**Subdivision I. In General**

**Sec. 118-1063. Intent/description/design features.**

(a) Development within the urban village planned unit development shall be designed based on an urban development pattern which encourages the formation of a suburban village. All development within the boundaries of the urban village planned unit development shall follow the design principles of:

- (1) creating a series of walkable residential neighborhoods;
- (2) developing an integrated park and trail system to facilitate pedestrian travel and recreation;
- (3) developing a comprehensive network of roads and traffic calming solutions to complement and support the existing Marsh Road infrastructure;
- (4) establishing connectivity to natural systems while preserving wetlands and other natural resources and protecting water quality and quantity;
- (5) creating a mixed-use character through the integration of a diversity of uses; and
- (6) creating a focus center within the urban village.

- (b) The urban village planned unit development shall provide a compact integrated development pattern with a park or central feature located within a ¼ mile walking distance of the majority of residences in each neighborhood.
- (c) To ensure adequate housing diversity, each urban village planned unit development shall contain a variety of housing types which may include both attached and detached housing product with ownership and rental opportunities.
- (d) The street network shall be designed to create a hierarchy of interconnected streets and traffic calming solutions to allow travel through and between neighborhoods and beyond the urban village planned unit development. Roadway cross sections shall be designed to accommodate multiple modes of transportation.
- (e) Emphasis shall be placed on pedestrian and bike paths and shall be incorporated in street cross sections and open spaces.
- (f) The standards and procedures of the urban village planned unit development are intended to promote flexibility of design and to permit planned diversification and integration of uses and structures, while retaining in the city commission the absolute authority to establish such limitations and regulations as it deems necessary to protect and promote the public health, safety and general welfare.

**Sec. 118-1064. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Common open space:* a parcel of land or a combination of land and water within the site designated as a planned unit development, and designed and intended for the use or enjoyment of residents of the planned unit development. All common open space shall be improved to the extent necessary to complement the residential uses and may contain compatible and complementary structures for the benefit and enjoyment of the residents of the planned unit development.

*Developer:* a person, firm, association, syndicate, partnership or corporation who owns land which is developed or proposed to be developed into a planned unit development and who is actually involved in the construction and creation of a planned unit development.

*Development plan:* the total site plan of a planned unit development drawn in conformity with the requirements of this division. The development plan shall specify and clearly illustrate the location, relationship, design, nature and character of all primary and secondary uses, public and private easements, structures, parking areas, public and private roads, and common open space.

*Development schedule:* a comprehensive statement showing the type and extent of development to be completed within the various practicable time limits and the order in which development is to be undertaken. A development schedule shall contain an exact description of the specific buildings, facilities, common open space, and other improvements to be developed at the end of each time period.

*Final development plan:* the development plan approved by the city commission and recorded

with the clerk of the circuit court of the county according to this division.

Final development plan application: the application for approval of the final development plan and for approval of the required exhibits as specified in this division.

Planned unit development or PUD: an area of land developed as a single entity, or in approved stages or phases in conformity with a final development plan by a developer or group of developers acting jointly, which is totally planned to provide for a variety of residential and compatible uses and common open space.

Preliminary development plan: means the development plan approved by the city commission and filed with approval of the city for a planned unit development zone.

Preliminary development plan application: the application for approval of the use of a site as a planned unit development and for approval of the required exhibits as specified in this division.

Residential clustering: the grouping of residential structures on a portion of the available land, reserving a significant amount of the site as protected open space.

Site: means the actual physical area to be developed as a planned unit development, including the natural and created characteristics of the area.

Stage or phase: means a specified portion of the planned unit development that may be developed as an independent entity. It must be delineated in the preliminary development plan, defined in the final development plan, and specified within the development schedule.

Village center: that portion of the urban village which allows retail and commercial uses. Residential uses may also be located here.

Zero lot line: means a residential development of single-family detached dwelling units in which each dwelling unit abuts one side lot line with no two dwelling units abutting a common side lot line, and the maximum height of units in the development is 30 feet.

**Sec.118.1065. General requirements.**

- (a) The urban village planned unit development shall be located in the urban village future land use designation as defined in the city's comprehensive plan, or in such other areas as determined by City Commission.
- (b) All development proposals within an urban village planned unit development will be evaluated for consistency with the requirements and/or guidelines of the Sixth Amendment to the Restated Interlocal Agreement for Joint Planning Area between Orange county and the City of Winter Garden (Dated January 24, 2007) as approved by the City Commission.
- (c) All development within the urban village planned unit development shall comply with the Wekiva Parkway and Protection Act, and shall meet or exceed the standards of the Resource Protection Overlay as established by the City's Comprehensive Plan. In the event of a conflict or conflicts between the Urban Village Planned Unit Development zoning district and the Resource Protection Overlay, the Resource Protection Overlay shall control to the extent such conflict exists.
- (d) Maximum density in the urban village planned unit development for any neighborhood shall be four dwelling units per gross acre except in the village center where the density may be up

to 12 dwelling units per gross acre. However, certain neighborhoods may use residential clustering while maintaining the overall maximum density for the neighborhood. Maximum intensity for non residential development is 0.3 floor area ratio.

- (e) Stormwater facilities within the urban village residential planned unit development shall generally be designed as amenities and low impact design (LID) techniques will be used where practical.
- (f) New development shall connect to City utilities, potable water, sanitary sewer, and reclaimed water when available.
- (g) Residential and nonresidential uses are allowed in the village center and may occupy the same building where nonresidential occupies the first floor with residential on the upper floors.
- (h) Accessory dwelling units, not to exceed 850 square feet, above garages shall be allowed for a maximum of 75% of the residential units for the urban village planned unit development. These additional accessory units shall not be counted towards the density.
- (i) If needed and in coordination with the school board, adequate school capacity will be satisfied for all urban village planned unit developments through school concurrency.

**Sec. 118-1066. Permitted uses.**

Uses permitted in the urban village residential planned unit development may include and shall be limited to the following:

- (1) *Primary residential uses.* Primary residential uses permitted are single-family detached and multifamily residential dwelling units, including apartments, in semidetached, attached, and multistoried structures.
- (2) *Nonresidential uses.* Nonresidential uses include religious, public or semipublic uses, cultural, recreational, retail, schools, personal service, offices and professional centers providing services to residents of the urban village planned unit development and to residents of surrounding properties. The nonresidential uses shall be compatible the primary residential use. No building devoted primarily to a commercial use shall be built or established prior to the primary residential buildings or uses it is designed or intended to serve. These uses shall be located in the village center.

**Sec. 118-1067. Unified ownership or control.**

For an urban village planned unit development, unified ownership or control is not required. An urban village planned unit development can be made up of numerous property owners. However, parcels that do not contain non-residential uses must have direct pedestrian and vehicular access to the village center and other commercial and institutional areas.

**Sec. 118-1068. Common open space.**

- (a) All common open spaces in urban village planned unit developments shall be preserved for

their intended purpose as expressed in the final development plan. The developer shall choose one of the following methods of administering common open space:

- (1) Public dedication to the city of the common open space. This method is subject to formal acceptance by the city and in its sole discretion.
- (2) Establishment of an association or nonprofit corporation or entity which must include all individuals, corporations and entities owning property within the planned unit development to ensure the maintenance of all common open space.
- (b) All privately owned common open space shall continue to conform to its intended purpose and remain as expressed in the final development plan through its inclusion in all deeds with appropriate restrictions to ensure that the common open space is permanently preserved. The deed restrictions shall run with the land and shall be for the benefit of present as well as future property owners and shall contain a prohibition against partition.
- (c) All common open space and recreational facilities shall be specifically included in the development schedule and shall be constructed and fully improved by the developer at an equivalent or greater rate than the construction of residential structures.
- (d) If the developer elects to administer common open space through an association or nonprofit corporation or other entity, the organization shall conform to the following requirements:
  - (1) The developer must establish the association or nonprofit corporation prior to the sale or transfer of any lots.
  - (2) Membership in the association or nonprofit corporation or other entity shall be mandatory for all property owners within the planned unit development.
  - (3) The association or nonprofit corporation or other entity shall manage all common open space and recreational and cultural facilities that are not dedicated to the City or public; shall provide for the maintenance, administration and operation of the land and improvements and any other land and improvements within the planned unit development not publicly or privately owned; and shall secure adequate liability insurance on the land and improvements.
  - (4) If the developer elects an association or nonprofit corporation or other entity as a method of administering common open space, the title to all property owners in the planned unit development shall include undivided rights and obligations in all common open space.
  - (5) Association documents shall be reviewed and approved by the city.

Secs. 118-1069—118-1079. Reserved

## **Subdivision II. Land Use Regulations**

### **Sec. 118-1080. Minimum size; dwelling units.**

- (a) There are no minimum acreage requirements for the urban village planned unit development zoning.

**Sec. 118-1081. Maximum development.**

The average density permitted in each planned unit development shall be established by the city commission upon recommendation of the planning and zoning board. Maximum density in the urban village planned unit development shall be four dwelling units per gross acre except in the village center where the density may be up to 12 dwelling units per acre. Maximum intensity for non residential development is 0.3 floor area ratio.

**Sec. 118-1082. Minimum common recreation and open space.**

(a) For the urban village planned unit development, all new development and redevelopment shall be subject to the Resource Protection Overlay and Wekiva Study Area Open Space standards and requirements as follows:

(1) Minimum open space shall be 25% for both residential and non residential development, all open space shall consist of Wekiva Study Area Open Space. Wekiva Study Area Open space shall be preserved through the use of conservation easements, deed restriction, plats and/or dedication to the appropriate governmental agency, environmental association or homeowners association as required by the City. Open space shall be connected to the greatest extent possible on-site and to natural areas and open space within adjacent property or corridors.

(2) Wekiva Study Area Open space shall be defined as land area within the Resource Protection Overlay that remains undisturbed or minimally disturbed such as trails and boardwalks, as part of a natural resource preserve or passive recreation area and shall include land preserved for Conservation purposes. Wekiva Study Area Open Space may include dry retention, passive recreation, school playgrounds and buffers. Up to fifty percent (50%) of the Wekiva Study Area Open Space requirement may be met with dry stormwater retention areas. None of the 25% WSA Open Space may be chemically treated with pesticides or fertilizers; provided, however, a development that creates sensitive natural habitat may be allowed limited use of pesticides and fertilizers to establish sensitive natural habitat. Wekiva Study Area Open Space shall not include setback areas, private yards, street right of way, parking lots, impervious surfaces or active recreation areas.

(b) Common recreation space shall be provided to the extent necessary to complement the residential uses and may contain compatible and complementary structures for the benefit and enjoyment of the residents of the PUD. Drainage ditches, if allowed by the city commission, parking areas, road rights-of-way and minimum yards and spacing between dwelling units may not be included in determining usable recreation space. Water areas including wet bottom retention, dry retention, and wetland areas which are aesthetically and functionally designed for active or passive recreational use may be considered to partially fulfill recreation requirements. In no case, however, shall there be less than five percent of the total developable land area set aside for active, dry-land recreational use.

**Sec. 118-1083. Minimum lot area, frontage and setbacks.**

- (a) No minimum lot size shall be required within the urban village planned unit development district, however residential areas within an urban village planned unit development must provide a mixture of lot sizes.
- (b) Each dwelling unit or other permitted use shall have access to a public street either directly or indirectly via a private road or other area dedicated to public or private use guaranteeing access. Permitted uses are not required to front on a publicly dedicated road. The city shall be allowed access on privately owned roads, easements and common open space.
- (c) The minimum distance between structures and side yards shall be as follows:
  - (1) For single-family platted lots, side yard requirements shall be as follows:
    - a. For lot width less than 70 feet: five feet.
    - b. For lot width 70 feet to 84 feet: 7 1/2 feet.
    - c. For lot width greater than 84 feet: ten feet.
    - d. For zero lot line single-family detached development: ten feet.
  - (2) For townhouses, unplatted residential development, commercial development, and all development other than single-family platted lots, the distance between structures shall be as follows:
    - a. Between structures of 20 feet in height or less: 15 feet.
    - b. Between structures of 20 and 30 feet in height: 20 feet.
    - c. Between structures of 30 feet and 40 feet in height: 25 feet.
    - d. Between structures over 40 feet in height: 40 feet, plus five feet for each additional ten feet of height or fraction thereof over 40 feet.
    - e. Between structures of varying heights, the larger distance separation shall be required.
- (d) A minimum 25-foot yard shall be required from the nearest part of any building wall to the edge of any public right-of-way or private street, and all structures shall have a minimum 20-foot rear yard. A minimum 25-foot yard shall be maintained between the walls of all structures and the perimeter of the PUD. Additional perimeter yard requirements for multistory buildings shall be figured at five additional feet for each ten feet of height over the first story.
- (e) Maximum height shall be 50 feet unless approved by special exception by the city commission in addition to a finding by the city commission that height in excess of 50 feet will be compatible with adjacent uses and will substantially further the health, safety or general welfare of the citizens of the city.
- (f) Accessory buildings or structures may only be placed in the rear yard according to the requirements of this chapter.
- (g) Building setbacks from water areas and lakes shall be 30 feet from the normal high water line.

**Sec. 118-1084. Maximum length of structure.**

The maximum length of a structure in the urban village planned unit development is 200 feet. Units constructed under the zero lot line concept with common walls shall be considered as one structure and shall not exceed 200 feet.

**Sec. 118-1085. Minimum floor area per unit.**

In a residential planned unit development, the minimum floor area per unit shall be as follows:

- (1) Single family dwellings, 1,000 square feet.
- (2) Multifamily dwellings including townhouses:
  - a. Efficiency, 450 square feet.
  - b. One bedroom, 550 square feet.
  - c. Two bedrooms, 650 square feet.
  - d. Three bedrooms, 800 square feet.

**Sec. 118-1086. Off-street parking.**

All uses in the urban village planned unit development shall meet the city's parking and landscaping requirements.

**Sec. 118-1087. Underground utilities.**

Within the residential planned unit development, all utilities including telephone, television cable and electrical systems shall be installed underground unless physical and technical conditions require aboveground installation. Primary facilities providing service to the site of the PUD may be exempted from this section. Large transformers shall be placed on the ground, and such transformers and all utilities not installed underground shall be contained within landscaped enclosures or vaults. Any required substations shall be screened by walls resembling a structure which is compatible with the design of the PUD.

**Sec. 118-1088. Development standards.**

For the urban village planned unit development, the minimum construction requirements for streets or roads, sidewalks, sewer and water facilities, drainage and all utilities shall be in compliance with the requirements of chapter 78, chapter 110 and the manual in appendix A to this Code.

Secs. 118- 1089--118-1100. Reserved.

**SECTION 4. CONTROL.** In the event of a conflict or conflicts between this Ordinance and other Ordinances, this Ordinance shall control to the extent such conflict exists.

**SECTION 5. SEVERABILITY.** If any portion of this Ordinance is determined to be void, unconstitutional, or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

**SECTION 6. CODIFICATION.** This Ordinance shall be codified and made a part of the City of Winter Garden Code of Ordinances; the Sections of this Ordinance may be renumbered or relettered to accomplish such intention; and the word “*Ordinance*” may be changed to “*Section*”, “*Article*”, or other appropriate word.

**SECTION 7. EFFECTIVE DATE.** This Ordinance shall become effective upon approval of the City Commission at its second reading.

READ FIRST TIME AND PUBLIC HEARING HELD: December 8 , 2011.

READ SECOND TIME AND PUBLIC HEARING HELD: January 26 , 2012.

**ADOPTED** this 26th day of, January ,2012, by the City Commission of the City of Winter Garden, Florida.

APPROVED:

/S/ \_\_\_\_\_  
JOHN REES, Mayor/Commissioner

ATTEST:

/S/ \_\_\_\_\_  
KATHY GOLDEN, City Clerk