

**ARTICLE 19**  
**PLANNED UNIT DEVELOPMENT (PUD) REGULATIONS**

**SECTION 19.1: PURPOSE**

**19.1.1 Purpose:** It is the purpose of this Article to encourage innovation and variety in land use, design, layout, and type of structures constructed; to achieve economy and efficiency in the use of land, natural resources, energy and the provision of public services and utilities; encourage useful open space, and provide better housing opportunities particularly suited to the needs of the residents of the Village of Port Sanilac, provided such opportunities do not unreasonably create any adverse economic, social or environmental impact on surrounding land uses.

The use, area, height, bulk and placement regulations of this Ordinance are primarily applicable to the usual situation of one principal building on a lot. In certain developments, including but not limited to condominium, townhouse, and apartment developments, these requirements might result in design and land use arrangements with multiple buildings on a lot and a design less in the interest of public health, safety and welfare than if a controlled degree of flexibility in the regulation of land development were allowed. The PUD (Planned Unit Development) is intended to permit and control the development of preplanned areas for various compatible uses allowed by the Village Zoning Ordinance and for other uses not so provided. It is a discretionary review and approval procedure that results in an approved development if all standards of this Article are met and denial if they are not. The zoning district does not change if a PUD is approved, but like a special approval land use, an approved PUD has all the rights and privileges of an approved use by right as long as all conditions attached to the approval are complied with.

It is intended that uses in a PUD shall afford each type of land use reasonable protection from encroachment or interference by other incompatible land uses, and that reasonable protection be afforded to uses adjacent to a PUD.

**SECTION 19.2: OBJECTIVES**

**19.2.1 Objectives:** The following objectives shall be met by any application for any PUD in order to realize the inherent advantages of coordinated, flexible, comprehensive, long-range planning and development of such Planned Unit Development:

- A. To provide more desirable living, shopping and working environments by preserving as much of the natural character of the property as possible, including but not limited to: open space, stands of trees, brooks, ponds, riparian areas, floodplains, hills, and similar natural assets;
- B. To encourage the provision of open space and the development of recreational and, where included in the site plan, other support facilities in a generally central location within reasonable distance of all living units;
- C. To encourage developers to use a more creative and imaginative approach in the development of areas;
- D. To encourage underground utilities which can be more efficiently designed when master planning a larger area;
- E. To allow phased construction with the knowledge that subsequent phases will be approved as originally planned and subsequently approved by the Village;

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- F. To promote flexibility in design and permit planned diversification in the location of structures;
- G. To promote the efficient use of land to facilitate a more economic arrangement of buildings, circulation systems, land uses, and utilities;
- H. To combine and coordinate architectural styles, building forms, and building relationships within the Planned Unit Development;
- I. To ensure a quality of construction commensurate with other new developments within the Village of Port Sanilac;
- J. To ensure that there is a recognizable and substantial benefit to the community achieved by the PUD.

**SECTION 19.3: DEFINITIONS**

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

- A. **“Agreement”** means prepared by the landowner, reviewed by the Village Attorney and approved by the Village Council which specifically details the development plans of the PUD, the covenants and restrictions proposed for the PUD, the staging of developments and the improvements to be placed in the development.
- B. **“Common open space”** means a parcel of land, an area of water, or a combination of land and water within the site designated for a PUD, designed and intended for the use and enjoyment of residents of the PUD. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the benefits and enjoyment of residents of the PUD.
- C. **“Developer”** means synonymous with the term "landowner" for the purposes of this article.
- D. **“Homeowners' association”** means an association to which all residents are required to belong as a condition of the deed, and which is set up with its own rules for self-government and assessment of dues for purposes related to maintenance of open space and provisions of other necessary internal services.
- E. **“Landowner”** means the legal or beneficial owner of all the land proposed to be included in a PUD. The holder of an option or contract to purchase, a lessee having a remaining term of not less than 40 years, or other person having an enforceable proprietary interest in such land shall be deemed to be a landowner for the purposes of this chapter. (See “Developer”).
- F. **“Plan”** means any or all of the three (3) possible plan stages of a planned unit residential development, which are defined as follows:
  - 1. Proposal for PUD designation. The proposal of a landowner for the designation of an area for planned unit development.
  - 2. Tentative development plan. Any plan submitted for approval to the Council subsequent to or together with the submission of an application for PUD and prior to submission of a final development plan for approval.
  - 3. Final development plan. That plan for development of a PUD or divisible geographic section thereof, approved subsequent to the approval of the proposal for PUD designation and the tentative development plan by the Council under the provisions of this chapter.
- G. **“Planned Unit Development”** means an area of land controlled by a landowner, to be developed as a single entity containing a minimum of five (5) acres, the development plan for which does not correspond in lot size, bulk or type of dwelling,

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density, lot coverage or required open space to the regulations in any one residential district of this chapter.

- H. **“Single ownership”** means the proprietary interest of a single individual, partnership, or corporation, or other legally recognized entity in the state.
- I. **“Tentative preliminary plat”** means a map showing the salient features of a proposed subdivision of land submitted to the Planning Commission for the purposes of preliminary consideration in accordance with the Village Subdivision Regulations.

**SECTION 19.4: MINIMUM REQUIREMENTS**

**19.4.1 Minimum Requirements:**

- A. A Planned Unit Development shall be considered a unique use of land, which, although comprised of numerous structures of varying types, shall be accorded regulatory treatment under this Ordinance as a single entity. Subject to the limitations and requirements in this Article, the Village Planning Commission may, upon application, approve a Planned Unit Development through issuance of a special approval use permit. Within each Planned Unit Development, the use, area, height, bulk and placement regulations of the zoning district may be modified, provided that such modifications shall comply with the provisions of this Article and the standards established in Article 3 “General Provisions.” While it is the intent of the Article to promote diverse and innovative design, and it is to be anticipated that each Planned Unit Development will possess a unique and distinctive design, all Planned Unit Developments shall promote the spirit and intent of this Ordinance as well as the public health, safety and welfare, and each shall be given equal regulatory consideration, recognizing the principles of due process, in accord with the procedures specified in this Article.
- B. A Planned Unit Development must be designed as an entity and shall be at least fifty percent (50%) completed within two (2) years. The time span for completion of the entire development and commencement date for each section thereof may be modified from time to time by the Village Council upon the showing of good cause by the landowner, provided that in no case shall extension of time exceed twelve (12) months.

**SECTION 19.5: ELIGIBILITY REQUIREMENTS**

**19.5.1 Eligibility Requirements:** No Planned Unit Development shall be approved unless the applicant, through written submittal, and the Village Council, through certification of written findings of the Village Planning Commission, demonstrates that the land use and development meet the following eligibility requirements and the standards set forth in Section 19.8:

- A. Compliance with the dimensional and open space standards in Section 19.6 and the use standards of the district in which it is located, along with such other uses as may be approved through the PUD review and approval process.
- B. The PUD shall result in a recognizable and substantial benefit to the ultimate users of the project and to the Village of Port Sanilac. Such benefit must otherwise be unfeasible or unlikely to be achieved by development under a single zoning district taking into consideration the reasonably foreseeable detriments of the proposed development and use(s); including, without limitation:
  - 1. The long-term protection and/or preservation of natural resources and natural features and/or historical and/or architectural features of a significant quantity

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- and/or quality in need of protection or preservation on a local, state and/or national basis.
2. Reducing to a significant extent the nonconformity of a nonconforming use or structure, i.e., modification of a nonconforming use or structure so that, to a significant extent, it is rendered more conforming, or less offensive, to the zoning district in which it is situated.
  3. The provision of additional amenities which would not otherwise be provided in a conventional development, including but not limited to more usable open space.
- C. All land for which application is made must be owned or under control of the applicant(s) and the parcel must be capable of being planned and developed as one integral land use unit. Noncontiguous parcels may be considered where other benefits to the public are sufficiently great to warrant such consideration in the opinion of the Planning Commission and Village Council.
- D. The PUD shall remain under the control or authority of a single individual, corporate or organizational owner who is authorized to administer the PUD. Elimination of a single authority, such as by sale of part of the PUD shall not occur without approval of a site plan amendment.

**SECTION 19.6: DISTRICT REQUIREMENTS AND CRITERIA**

**19.6.1 District Requirements and Criteria:** All Planned Unit Developments shall be in compliance with the following requirements:

- A. All Planned Unit Developments shall be compatible with the objectives and specific elements of the Village of Port Sanilac Master Plan;
- B. The Planned Unit Development concept may be applied in the following zoning districts: R-2, A-R, and C.
- C. Any land use authorized in this Ordinance may be included in a Planned Unit Development, subject to adequate public health, safety, and welfare protection mechanisms being designed into the development for the purpose of effectively dividing varied land uses which have been joined in and/or are adjacent to the development;
- D. A building devoted primarily to office or commercial use shall be built or established prior to the residential buildings or uses for which it is developed or intended to serve;
- E. The minimum area, dimensions, and setbacks of individual buildings and lots may be reduced, provided the total number and density of dwellings shall be increased by no more than twenty percent (20%) greater than that which would ordinarily result under the district regulations;
- F. The maximum density allowed shall be based on the Sanilac County District Health Department requirements for septic systems and residential water wells;
- G. A minimum of five percent (5%) of the land developed in any Planned Unit Development shall be reserved for common open space and noncommercial recreational facilities, not including parking lots, for the residents and users of the area being developed;
- H. The developer shall establish a homeowners' association to which all residents of the PUD must belong and shall relinquish control of the platted common open space to the homeowner's included in the homeowners' association are sold to the general public or within three (3) years of the commencement of construction, whichever occurs first;
- I. All Planned Unit Developments shall be compatible with existing adjacent developments;

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- J. All Planned Unit Developments shall be of population density which will not overburden existing or immediately projected schools, parks, roadways, public utilities, and other public facilities;
- K. All Planned Unit Developments shall incorporate a transportation pattern consistent and complementary with existing and immediately projected transportation systems in the Village;
- L. All Planned Unit Developments shall be designed in a manner to ensure healthy living conditions and adequate light, air, and accessibility for fire and police protection for the inhabitants and users of the development as well as adjacent Village and/or Township residents;
- M. All portions of the PUD, including one-family lots, multiple-family projects, commercial areas, and public and private open spaces shall be platted in conformance with the requirements of the Land Division Act (Public Act 288 of 1967), as amended, and with the Village Subdivision Regulations.

**SECTION 19.7: APPLICATION, REVIEW AND APPROVAL PROCEDURES**

**19.7.1 Application:** Applications for a Planned Unit Development shall be submitted sixty (60) days prior to the next scheduled Planning Commission meeting through the Zoning Administrator who will review the application for completeness, then transmit to the Planning Commission. Each application shall be accompanied by the payment of a fee in accordance with Section 4.8.

**19.7.2 Required Information:** An application for Planned Unit Development shall be accompanied by the following documents and information:

- A. A Planned Unit Development application form supplied by the Zoning Administrator which has been completed in full by the applicant;
- B. A site plan as specified in Article 16 "Site Plan Requirements;"
- C. The plan shall contain proposed covenants, easements and other provisions relating to the bulk, location and density of such residential units, nonresidential uses and public facilities and provisions for the ownership and maintenance of the common open space as are necessary for the welfare of the PUD and are consistent with the best interests of the entire Village. Such covenants, easements and other provisions, which are a part of the plan as finally approved, shall insure the benefit of the Village for all purposes;
- D. A statement with regard to compliance with the objectives of a PUD stated in Section 19.2 above, the eligibility requirements of Section 19.5, the criteria for approval in Section 19.8, and other criteria imposed by this Ordinance affecting the PUD under consideration.

**19.7.3 Public Hearing:** Upon receipt of an application for a Planned Unit Development approval, the Planning Commission shall hold at least one (1) public hearing, in accordance with the public hearing and public notice requirements set forth in the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended, and the public notification requirements detailed in Section 4.10 of this Ordinance.

**19.7.4 Review and Approval:** Within forty-five (45) days following the public hearing, provided all materials are complete, the Planning Commission shall review the application for a Planned Unit Development, comments received at the public hearing, the site plan, and other materials submitted in relation to the application, and make a recommendation

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to the Village Council to either deny, approve, or approve with conditions, the Planned Unit Development application in accordance with the purpose and objectives of this Article, the eligibility requirements of Section 19.5, the criteria for approval stated in Section 19.8, the open space requirements of Section 19.6, as well as such other standards contained in this Ordinance which relate to the Planned Unit Development under consideration. The Planning Commission shall prepare a written report stating its findings and conclusions on the request for a Planned Unit Development, any conditions relating to an affirmative decision, and submit the same to the Village Council for final action. Upon the approval, or approval with conditions, by the Village Council, the applicant may apply for Preliminary Plat approval, if applicable.

**19.7.5 Continuing Adherence to Approved Site Plan:** Any property owner who fails to develop and maintain an approved PUD according to the approved site plan shall be deemed in violation of the provisions of this Ordinance and shall be subject to the penalties for same.

**19.7.6 Recording of Action:** The applicant shall record an affidavit which has received the approval of the Village Attorney with the Sanilac County Register of Deeds, containing the full legal description of the project site, specifying the date of final Village approval, and declaring that all improvements will be carried out in accordance with the approved PUD site plan unless an amendment is adopted by the Village. In addition, all deed restrictions and easements shall be duly filed with the Sanilac County Register of Deeds and copies of recorded documents presented to the Village Clerk.

**19.7.7 Amendments:** Amendments to an approved site plan for a PUD shall be processed according to the procedure in Article 16 "Site Plan Requirements."

**19.7.8 Scheduled Phasing:** When proposed construction is to be phased, the project shall be designed in a manner that allows each phase to fully function on its own regarding services, utilities, circulation, facilities, and open space. Each phase shall contain the necessary components to insure protection of natural resources and the health, safety and welfare of the users of the open space development and the residents of the surrounding area.

**19.7.9 Timing of Phases:** Each phase of the project shall be commenced within twelve (12) months of the schedule set forth on the approved site plan. If construction of any phase is not commenced within the approved time period, an extension may be granted, following review of a formal request for extension by the developer and approval of same by the Village Council. Such approval may be withheld only where harm to adjacent lands or uses would occur, there have been significant changes to conditions in the area, or in the case of fraud or violation of the terms of the original approval.

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**SECTION 19.8: BASIS OF DETERMINATION**

**19.8.1 Basis of Determination:** Prior to approval of a Planned Unit Development application, the Planning Commission shall insure that the standards specified in this Section, as well as the applicable standards established elsewhere in this Ordinance, shall be satisfied by the completion of the Planned Unit Development under consideration.

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- A. General Standards: The Planning Commission shall review the particular circumstances of the Planned Unit Development application under consideration in terms of the following standards and shall approve a Planned Unit Development only upon finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance:
1. The Planned Unit Development shall be consistent with the Village of Port Sanilac Master Plan;
  2. The Planned Unit Development shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area. Landscaping shall ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property and will create a pleasant pedestrian scale outdoor environment;
  3. The Planned Unit Development shall not change the essential character of the surrounding area;
  4. The Planned Unit Development shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, ground vibration, water runoff, odors, light, glare or other nuisance;
  5. The Planned Unit Development shall not place demands on public services and facilities in excess of current capacity, unless planned improvements have already been scheduled for completion;
  6. The Planned Unit Development shall be designed to preserve public vistas and existing important natural, historical, and architectural features of significance within the development;
  7. The Planned Unit Development shall be designed so that its pedestrian, non-motorized and automobile circulation systems are safely and conveniently integrated with those of abutting property and any linear trail or park systems;
  8. The Planned Unit Development shall insure that vehicular and pedestrian traffic within the site be safe and convenient and that the parking layout will not adversely affect the flow of traffic within the site or to and from the adjacent streets. Safe and adequate access for emergency vehicles and adequate space for turning around shall be provided;
  9. The Planned Unit Development shall not result in any greater storm water runoff to adjacent property after development than before. The open space shall be provided with ground cover suitable to control erosion and all vegetation shall be maintained continuously in a healthy living condition;
  10. The design of the Planned Unit Development shall exhibit a reasonable harmonious relationship between the locations of buildings on the site relative to buildings on lands in the surrounding area, and there shall be a reasonable architectural and functional compatibility between all structures on the site and structures within the surrounding area. It is not intended that contrasts in architectural design and use or façade materials is to be discouraged, but care shall be taken so that any such contrasts will not be so out of character with existing building designs and façade materials so as to create an adverse effect on the stability and value of the surrounding area;
  11. The design of the Planned Unit Development shall ensure that outdoor storage of garbage and refuse is contained, screened from view, and located so as not to be a nuisance to the subject property or neighboring properties;

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12. The Planned Unit Development shall be designed such that phases of development are in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility services, and drainage or erosion control;
  13. The Planned Unit Development shall meet the standards of other governmental agencies, where applicable.
- B. Conditions: The Planning Commission may impose conditions with the approval of a Planned Unit Development which are necessary to ensure compliance with the standards for approval stated in this Section and any other applicable standards contained in this Ordinance. Such conditions shall be considered an integral part of the Planned Unit Development approval and shall be enforced by the Zoning Administrator and Building Inspector.
- C. Special Exception of Planned Unit Development Standards: The Village Council, following the recommendation of the Planning Commission, may grant a special exception to any of the standards for a Planned Unit Development contained in this Article where all of the following findings are documented, along with the rationale for the decision:
1. No good public purpose will be achieved by requiring conformance with the standards sought by the applicant to be waived;
  2. The spirit and intent of the Planned Unit Development provisions will still be achieved;
  3. No nuisance will be created.
- D. Fees: Fees for the review of PUD shall be established by resolution of the Village Council. Review fees shall apply to PUD plans undergoing administrative review and approval as well as those which require the approval of the Planning Commission or Village Council.
- E. Appeal to Circuit Court: An appeal on a decision by the Village Council to approve, deny or approve with conditions a Planned Unit Development may be taken to Circuit Court, and may not be appealed to the Zoning Board of Appeals.