

ORDINANCE NO. 091, 2018  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AMENDING ARTICLES 1, 2, 4, AND 5 OF THE LAND USE CODE  
REGARDING PLANNED UNIT DEVELOPMENT OVERLAY REGULATIONS

WHEREAS, on December 2, 1997, by its adoption of Ordinance No. 190, 1997, the City Council enacted the Fort Collins Land Use Code (the "Land Use Code"); and

WHEREAS, at the time of the adoption of the Land Use Code, it was the understanding of staff and the City Council that the Land Use Code would most likely be subject to future amendments, not only for the purpose of clarification and correction of errors, but also for the purpose of ensuring that the Land Use Code remains a dynamic document capable of responding to issues identified by staff, other land use professionals and citizens of the City; and

WHEREAS, since its adoption, City staff and the Planning and Zoning Board have continued to review the Land Use Code and identify and explore various issues related to the Land Use Code and have now made new recommendations to the Council regarding certain issues that are ripe for updating and improvement; and

WHEREAS, the purpose of the Planned Unit Development Overlay regulations is to provide an avenue for property owners with large and complex development projects to achieve flexibility in site design through customized uses, densities, and Land Use and non-Land Use Code development standards in return for significant public benefits not available through existing development procedures; and

WHEREAS, the Planned Unit Development Overlay regulations are adopted pursuant to the City's home rule powers and Title 24, Article 67, Colorado Revised Statutes; and

WHEREAS, the City Council has determined that the recommended Land Use Code amendments are in the best interests of the City and its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Section 1.4.9(M) of the Land Use Code is hereby deleted in its entirety.

**1.4.9 - Rules of Construction for Text**

Section 3. That Section 2.1.1 of the Land Use Code is hereby amended to read as follows:

### 2.1.1 - Decision Maker and Administrative Bodies

The City Council, Planning and Zoning Board, Zoning Board of Appeals and Community Planning and Environmental Services Director (the "Director") are frequently referenced in this Land Use Code. Reference should be made to Chapter 2 of the City Code for descriptions of these and other decision makers and administrative bodies, and their powers, duties, membership qualifications and related matters.

The Director or the Planning and Zoning Board will consider, review and decide all development applications for permitted uses (overall development plans, PUD Overlays 640 acres or less, basic development review plans, project development plans and final plans) according to the provisions of this Land Use Code. For those development applications subject to basic development review, the Director (or the Director's subordinate) is the designated decision maker. For those development applications subject to administrative review (sometimes referred to as "Type 1 review"), the Director is the designated decision maker (see Section 2.2.7(A)(1)). For those development applications subject to P&Z review (sometimes referred to as "Type 2 review"), the Planning and Zoning Board is the designated decision maker (see Section 2.2.7(A)(2)). For PUD Overlays greater than 640 acres, the City Council is the designated decision maker after receiving a Planning and Zoning Board recommendation. The permitted use list for a particular zone district and the development review procedure "steps" for a particular development application identifies which review, Type 1 or Type 2, will apply. For building permit applications, the Building and Zoning Director is the decision maker (see Section 2.7.3). (See "Overview of Development Review Procedures," Section 2.1.2, below, for a further description of different levels of review.)

Section 4. That Section 2.1.2 of the Land Use Code is hereby amended to read as follows:

### 2.1.2 - Overview of Development Review Procedures

This article establishes the development review procedures for different types of development applications and building permits within the city.

- (A) ***Where is the project located?*** An applicant must first locate the proposed project on the Zoning Map. Once the proposed project has been located, the applicable zone district must be identified from the Zoning Map and legend. Then, by referring to Article 4, District Standards, of this Land Use Code, the applicant will find the district standards which apply to the zone district in which the proposed project is located. The city's staff is available to assist applicants in this regard.
- (B) ***What uses are proposed?*** Next, an applicant must identify which uses will be included in the proposed project. If *all* of the applicant's proposed uses are listed as permitted uses in the applicable zone district for the project, then the applicant is ready to proceed with a development application for a permitted use. If *any* of the applicant's proposed uses are *not* listed as permitted uses in the applicable zone district for the project, then the applicant must either eliminate the nonpermitted uses from his or her proposal, seek the addition of a new permitted use pursuant to Section 1.3.4, seek a text amendment to this Land Use Code or a rezoning

amendment to the Zoning Map pursuant to Division 2.9, or seek approval of a PUD Overlay pursuant to Divisions 2.15 and 4.29. Any use not listed as a permitted use in the applicable zone district is deemed a prohibited use in that zone district, unless it has been permitted pursuant to Section 1.3.4 for a particular development application or permitted as part of an approved PUD Overlay. Again, the city's staff will be available to assist applicants with their understanding of the zone districts and permitted uses.

- (C) ***Which type of development application should be submitted?*** To proceed with a development proposal for permitted uses, the applicant must determine what type of development application should be selected and submitted. All development proposals which include only permitted uses must be processed and approved through the following development applications: first through a project development plan (Division 2.4), and then through a final plan (Division 2.5). If the applicant desires to develop in two (2) or more separate project development plan submittals, an overall development plan (Division 2.3) will also be required prior to or concurrently with the project development plan. Overall development plans, PUD Overlays, project development plans and final plans are the four (4) types of development applications for permitted uses. Each successive development application for a development proposal must build upon the previously approved development application by providing additional details (through the development application submittal requirements) and by meeting additional restrictions and standards (contained in the General Development Standards of Article 3 and the District Standards of Article 4). Overall development plans and project development plans may be consolidated into one (1) application for concurrent processing and review when appropriate under the provisions of Section 2.2.3. The purpose, applicability and interrelationship of these types of development applications are discussed further in Section 2.1.3.
- (D) ***Who reviews the development application?*** Once an applicant has determined the type of development application to be submitted, he or she must determine the appropriate level of development review required for the development application. To make this determination, the applicant must refer to the provisions of the applicable zone district in Article 4 and the provisions pertaining to the appropriate development application. These provisions will determine whether the permitted uses and the development application are subject to basic development review, administrative review ("Type 1 review"), Planning and Zoning Board review ("Type 2 review"), or City Council review in the case of PUD Overlays greater than 640 acres. Identification of the required level of development review will, in turn, determine which decision maker, the Director in the case of administrative review ("Type 1 review"), or the Planning and Zoning Board in the case of Planning and Zoning Board review ("Type 2 review"), or the City Council for PUD Overlays greater than 640 acres, will review and make the final decision on the development application. When a development application contains both Type 1 and Type 2 uses, it will be processed as a Type 2 review.
- (E) ***How will the development application be processed?*** The review of overall development plans, PUD Overlays, project development plans and final plans will

each generally follow the same procedural "steps" regardless of the level of review (administrative review or Planning and Zoning Board review). The common development review procedures contained in Division 2.2 establish a twelve-step process equally applicable to all overall development plans, project development plans and final plans.

The twelve (12) steps of the common development review procedures are the same for each type of development application, whether subject to basic development review, administrative review, Planning and Zoning Board review, or City Council review in the case of PUD Overlays greater than 640 acres unless an exception to the common development review procedures is expressly called for in the particular development application requirements of this Land Use Code. In other words, each overall development plan, each project development plan and each final plan will be subject to the twelve-step common procedure. The twelve (12) steps include: (1) conceptual review; (2) neighborhood meeting; (3) development application submittal; (4) determination of sufficiency; (5) staff report; (6) notice; (7) public hearing; (8) standards; (9) conditions of approval; (10) amendments; (11) lapse; and (12) appeals.

However, Step 1, conceptual review, applies only to the initial development application submittal for a development project (i.e., overall development plan or PUD Overlay when required, or project development plan when neither an overall development plan nor a PUD Overlay is required). Subsequent development applications for the same development project are not subject to Step 1, conceptual review.

Moreover, Step 2, neighborhood meeting, applies only to certain development applications subject to Planning and Zoning Board and City Council review. Step 2, neighborhood meeting, does not apply to development applications subject to basic development review or administrative review. Step 3, application submittal requirements, applies to all development applications. Applicants shall submit items and documents in accordance with a master list of submittal requirements as established by the City Manager. Overall development plans must comply with only certain identified items on the master list, while PUD Overlays, project development plans, and final plans must include different items from the master list. This master list is intended to assure consistency among submittals by using a "building block" approach, with each successive development application building upon the previous one for that project. City staff is available to discuss the common procedures with the applicant.

- (F) ***What if the development proposal doesn't fit into one of the types of development applications discussed above?*** In addition to the four (4) development applications for permitted uses, the applicant may seek approval for other types of development applications, including development applications for a modification of standards (Division 2.8), an amendment to the text of the Land Use Code and/or the Zoning Map (Division 2.9), a hardship variance (Division 2.10), an appeal of an administrative decision (Division 2.11) or other requests. These other types of

development applications will be reviewed according to applicable steps in the common development review procedures.

- (G) ***Is a building permit required?*** The next step after approval of a final plan is to apply for a Building Permit. Most construction requires a Building Permit. This is a distinct and separate process from a development application. The twelve (12) steps of the common development review procedures must be followed for the Building Permit process. Procedures and requirements for submitting a Building Permit application are described in Division 2.7.
- (H) ***Is it permissible to talk with decision makers "off the record" about a development plan prior to the decision makers' formal review of the application?*** No. Development plans must be reviewed and approved in accordance with the provisions of this Land Use Code and the City's decision whether to approve or deny an application must be based on the criteria established herein and on the information provided at the hearings held on the application. In order to afford all persons who may be affected by the review and approval of a development plan an opportunity to respond to the information upon which decisions regarding the plan will be made, and in order to preserve the impartiality of the decision makers, decision makers who intend to participate in the decisions should avoid communications with the applicant or other members of the public about the plan prior to the hearings in which they intend to participate.

Section 5. That Section 2.1.3 of the Land Use Code is hereby amended to read as follows:

### **2.1.3 - Types of Development Applications**

- (A) ***Applicability.*** All development proposals which include only permitted uses must be processed and approved through the following development applications: a basic development review; or through a project development plan (Division 2.4), then through a final plan (Division 2.5), then through a development construction permit (Division 2.6) and then through a building permit review (Division 2.7). If the applicant desires to develop in two (2) or more separate project development plan submittals, an overall development plan (Division 2.3) will also be required prior to or concurrently with the project development plan. A PUD Master Plan associated with a PUD Overlay may be substituted for an overall development plan (Divisions 2.15 and 4.29). Each successive development application for a development proposal must build upon the previously approved development application by providing additional details (through the development application submittal requirements) and by meeting additional restrictions and standards (contained in the General Development Standards of Article 3 and the District Standards of Article 4).

Permitted uses subject to administrative review or permitted uses subject to Planning and Zoning Board review listed in the applicable zone district set forth in Article 4, District Standards, shall be processed through an overall development plan, a project development plan or a final plan. If any use not listed as a permitted

use in the applicable zone district is included in a development application, it may also be processed as an overall development plan, project development plan or final plan, if such proposed use has been approved, or is concurrently submitted for approval, in accordance with the requirements for an amendment to the text of this Land Use Code and/or the Zoning Map, Division 2.9, or in accordance with the requirements for the addition of a permitted use under Section 1.3.4. Development applications for permitted uses which seek to modify any standards contained in the General Development Standards in Article 3, or the District Standards in Article 4, shall be submitted by the applicant and processed as a modification of standards under Division 2.8. Hardship variances to standards contained in Article 3, General Development Standards, or Article 4, District Standards, shall be processed as hardship variances by the Zoning Board of Appeals pursuant to Division 2.10. Appeals of administrative/staff decisions shall be according to Division 2.11. PUD overlays shall be processed pursuant to Divisions 2.15, 4.29.

...

(F) ***PUD Overlay.***

- (1) Purpose and Effect. The purpose of the PUD Overlay is to provide an avenue for property owners with larger and more complex development projects to achieve flexibility in site design by means of customized uses, densities, and Land Use Code and non-Land Use Code development standards. In return for such flexibility, significant public benefits not available through traditional development procedures must be provided by the development. A PUD Master Plan is the written document associated with a PUD Overlay and the PUD Master Plan sets forth the general development plan and the customized uses, densities, and Land Use Code and non-Land Use Code development standards. An approved PUD Overlay overlays the PUD Master Plan entitlements and restrictions upon the underlying zone district requirements.
- (2) Applicability. A PUD Overlay is available to properties or collections of contiguous properties fifty (50) acres or greater in size. Refer to Divisions 2.15 and 4.29 for specific requirements and review of PUD Overlays and PUD Master Plans.

Section 6. That a new Subsection 2.1.6 is hereby added to Division 2.1 of the Land Use Code and reads in its entirety as follows:

**2.1.6 Optional Pre-Application Review**

(A) ***Optional City Council Pre-Application Review of Complex Development Proposals:***

A potential applicant for development other than a PUD Overlay may request that the City Council conduct a hearing for the purpose of receiving preliminary comments from the City Council regarding the overall proposal in order to assist

the proposed applicant in determining whether to file a development application or annexation petition. Only one (1) pre-application hearing pursuant to this Subsection (A) may be requested. The following criteria must be satisfied for such a hearing to be held:

- (a) The proposed development cannot have begun any step of the Common Development Review Procedures for Development Applications set forth in Article 2, Division 2.2.
- (b) The proposed application for approval of a development plan must require City Council approval of an annexation petition, an amendment to the City's Comprehensive Plan, or some other kind of formal action by the City Council, other than a possible appeal under this Land Use Code
- (c) The City Manager must determine in writing that the proposed development will have a community-wide impact.

**(B) *Optional Pre-Application PUD Overlay Proposal Review:***

This optional review is available to potential PUD applicants that have not begun any step of the Common Development Review Procedures for Development Applications set forth in Article 2, Division 2.2. Such review is intended to provide an opportunity for applicants to present conceptual information to the Planning and Zoning Board for PUD Overlays between 50 and 640 acres in size, or to City Council for PUD Overlays greater than 640 acres in size, regarding the proposed development including how site constraints will be addressed and issues of controversy or opportunities related to the development. Applicants participating in such review procedure should present specific plans showing how, if at all, they intend to address any issues raised during the initial comments received from staff and affected property owners. In order for a pre-application hearing to be held, the Director must determine in writing that the proposed PUD will have a community-wide impact. Only one (1) pre-application hearing pursuant to this Subsection (B) may be requested.

**(C) *Notice and Hearing Procedure.***

All preapplication hearings under above Subsections (A) or (B) this provision will be held in accordance with the provisions contained in Steps (6), (7)(B) and (7)(C) of the Common Development Review Procedures, except that the signs required to be posted under Step (6)(B) shall be posted subsequent to the scheduling of the session and not less than fourteen (14) days prior to the date of the hearing. At the time of requesting the hearing, the applicant must advance the City's estimated costs of providing notice of the hearing. Any amounts paid that exceed actual costs will be refunded to the applicant.

**(D) *Input Non-Binding, Record.***

The Planning and Zoning Board or City Council as applicable pursuant to above Subsections (A) or (B) may, but shall not be required to, comment on the proposal. Any comment, suggestion, or recommendation made by any Planning and Zoning Board or City Council member with regard to the proposal does not bind or otherwise obligate any City decision maker to any course of conduct or decision pertaining to the proposal. All information related to an optional review shall be considered part of the record of any subsequent development review related to all or part of the property that was the subject of the optional review.

Section 7. That Section 2.2.10 of the Land Use Code is hereby amended to read as follows:

**2.2.10 - Step 10: Amendments and Changes of Use**

- (A) ***Minor Amendments and Changes of Use.*** (1) Minor amendments to any approved development plan, including any Overall Development Plan, Project Development Plan, or PUD Master Plan, any site specific development plan, or the existing condition of a platted property; and (2) Changes of use, either of which meet the applicable criteria of below subsections 2.2.10(A)(1) or 2.2.10(A)(2), may be approved, approved with conditions, or denied administratively by the Director and may be authorized without additional public hearings. With the exception of PUD Master Plans, such minor amendments and changes of use may be authorized by the Director as long as the development plan, as so amended, continues to comply with the standards of this Code to the extent reasonably feasible. PUD Master Plan Minor amendments may be authorized by the Director as long as the PUD Master Plan, as so amended, continues to comply with the standards of this Code, as such standards may have been modified in the existing PUD Master Plan, and so long as the amendments are consistent with the existing PUD Master Plan. Minor amendments and changes of use shall only consist of any or all of the following:
- (2) Any change to any approved development plan or any site specific development plan which was originally subject to review by the Planning and Zoning Board (either as a Type 2 project or as a project reviewed by the Planning and Zoning Board under prior law) or City Council review of a PUD Overlay, or any change of use of any property that was approved by the Planning and Zoning Board; provided that the change or change of use complies with all of the following criteria applicable to the particular request for change or change of use:
- (4) ***Referral.*** In either subsection (1) or (2) above, the Director may refer the amendment or change of use to the decision maker who approved the development plan proposed to be amended. The referral of minor



amendments to development plans or changes of use allowed or approved under the laws of the City for the development of land prior to the adoption of this Code shall be processed as required for the land use or uses proposed for the amendment or change of use as set forth in Article 4 (i.e., Type 1 review or Type 2 review) for the zone district in which the land is located. The referral of minor amendments or changes of use to project development plans or final plans approved under this Code shall be reviewed and processed in the same manner as required for the original development plan for which the amendment or change of use is sought, and, if so referred, the decision maker's decision shall constitute a final decision, subject only to appeal as provided for development plans under Division 2.3, 2.4, 2.5, or 2.15 as applicable, for the minor amendment or change of use. City Council approval of a minor amendment to a PUD Master Plan shall be by resolution.

...

(B) ***Major Amendments and Changes of Use Not Meeting the Criteria of 2.2.10(A).***

- (1) ***Procedure/Criteria.*** Amendments to any approved development plan, including any Overall Development Plan, Project Development Plan, or PUD Master Plan, or any site specific development plan, and changes of use that are not determined by the Director to be minor amendments or qualifying changes of use under the criteria set forth in subsection (A) above, shall be deemed major amendments. Major amendments to approved development plans or site specific development plans approved under the laws of the City for the development of land prior to the adoption of this Code shall be processed as required for the land use or uses proposed for the amendment as set forth in Article 4 (i.e., Type 1 review or Type 2 review) for the zone district in which the land is located, and, to the maximum extent feasible, shall comply with the applicable standards contained in Articles 3 and 4. Major amendments to development plans or site specific development plans approved under this Code shall be reviewed and processed in the same manner as required for the original development plan for which amendment is sought. Any major amendments to an approved project development plan or site specific development plan shall be recorded as amendments in accordance with the procedures established for the filing and recording of such initially approved plan. City Council approval of a major amendment to a PUD Master Plan shall be by resolution. Any partial or total abandonment of a development plan or site specific development plan approved under this Code, or of any plan approved under the laws of the City for the development of land prior to the adoption of this Code, shall be deemed to be a major amendment, and shall be processed as a Type 2 review; provided, however, that if a new land use is proposed for the property subject to the abandonment, then the abandonment and new use shall be processed as required for the land use or uses proposed as set forth in Article 4 (i.e., Type 1 review or Type 2 review) for the zone district in which the land is located.

Section 8. That Section 2.2.11 of the Land Use Code is hereby amended to read as follows:

**2.2.11 - Step 11: Lapse**

- (C) **PUD Master Plan.** A PUD Master Plan shall be eligible for a vested property right solely with respect to uses, densities, development standards, and Engineering Standards for which variances have been granted pursuant to Section 4.29(L), as all are set forth in an approved PUD Master Plan, and an approved PUD Master Plan shall be considered a site specific development plan solely for the purpose of acquiring such vested property right.
- (1) *Specification of Uses, Densities, Development Standards, and Engineering Standards.* The application for a PUD Master Plan shall specify the uses, densities, development standards, and Engineering Standards granted variances pursuant to Section 4.29(L), for which the applicant is requesting a vested property right. Such uses, densities, and development standards may include those granted modifications pursuant to Section 4.29 and uses, densities, and development standards set forth in the Land Use Code which are applicable to the PUD Master Plan.
- (2) *Term of Vested Right.* The term of the vested property right shall not exceed three (3) years unless: (a) an extension is granted pursuant to paragraph (3) of this subsection, or (b) the City and the developer enter into a development agreement which vests the property right for a period exceeding three (3) years. Such agreement may be entered into by the City if the Director determines that it will likely take more than three (3) years to complete all phases of the development and the associated engineering improvements for the development, and only if warranted in light of all relevant circumstances, including, but not limited to, the overall size of the development and economic cycles and market conditions. Council shall adopt any such development agreement as a legislative act subject to referendum.
- (3) *Extensions.* Extensions for two (2) successive periods of one (1) year each may be granted by the Director, upon a finding that (a) the applicant has been diligently pursuing development pursuant to the PUD Master Plan, and (b) granting the extension would not be detrimental to the public good. Any additional one-year extensions shall be approved, if at all, only by the original PUD Master Plan decision maker, upon a finding that (a) the applicant has been diligently pursuing development pursuant to the PUD Master Plan, and (b) granting the extension would not be detrimental to the public good. A request for an extension of the term of vested right under

this Section must be submitted to the Director in writing at least thirty (30) days prior to the date of expiration. Time is of the essence. The granting of extensions by the Director under this Section may, at the discretion of the Director, be referred to the original PUD Master Plan decision maker.

(4) *Publication.* A "notice of approval" describing the PUD Master Plan and stating that a vested property right has been created or extended, shall be published by the City once in a newspaper of general circulation within the City, not later than fourteen (14) days after the approval of a PUD Master Plan, an extension of an existing vested right, or the legislative adoption of a development agreement as described in paragraph (2) of this subsection. The period of time permitted by law for the exercise of any applicable right of referendum or judicial review shall not begin to run until the date of such publication, whether timely made within said fourteen-day period, or thereafter.

(5) *Minor and Major Amendments.* In the event that a minor or major amendment to a PUD Master Plan is approved under the provisions of Section 2.2.10, and such amendment alters or adds uses, densities, development standards, or Engineering Standards for which variances have been granted pursuant to Section 4.29(L), a new vested property right may be created upon the applicant's request and pursuant to paragraph 2 of this subsection. If the applicant wants the term of the new vested property right to exceed three (3) years, such extended term must be approved and legislatively adopted pursuant to paragraph 2 of this subsection.

(D) *Project Development Plan and Plat.* Following the approval of a project development plan and upon the expiration of any right of appeal, or upon the final decision of the City Council following appeal, if applicable, the applicant must submit a final plan for all or part of the project development plan within three (3) years unless the project development plan is for a large base industry to be constructed in phases, in which case the application for approval of a final plan must be submitted within twenty-five (25) years. If such approval is not timely obtained, the project development plan (or any portion thereof which has not received final approval) shall automatically lapse and become null and void. The Director may grant one (1) extension of the foregoing requirement, which extension may not exceed six (6) months in length. No vested rights shall ever attach to a project development plan. The approval of, or completion of work pursuant to, a final plan for portions of a project development plan shall not create vested rights for those portions of the project development plan which have not received such final plan approval and have not been completed.

(E) *Final Plan and Plat and Other Site Specific Development Plans.*

(1) *Approval.* A site specific development plan shall be deemed approved upon the recording by the City with the Larimer County Clerk and Recorder of both the Final Plat and the Development Agreement and upon such

recording, a vested property right shall be created pursuant to the provisions of Article 68 Title 24, C.R.S., and this Section 2.2.11.

Section 9. That Section 2.4.2 of the Land Use Code is hereby amended to read as follows:

#### **2.4.2 - Project Development Plan Review Procedures**

A project development plan shall be processed according to, in compliance with and subject to the provisions contained in Division 2.1 and Steps 1 through 12 of the Common Development Review Procedures (Sections 2.2.1 through 2.2.12, inclusive) as follows:

- (H) **Step 8 (Standards):** Applicable. A project development plan shall comply with all General Development Standards applicable to the development proposal (Article 3) and the applicable District Standards (Article 4); and, when a project development plan is within the boundaries of an approved overall development plan or PUD Overlay, the project development plan shall be consistent with the overall development plan or PUD Master Plan associated with such PUD Overlay. Only one (1) application for a project development plan for any specific parcel or portion thereof may be pending for approval at any given time. Such application shall also be subject to the provisions for delay set out in Section 2.2.11.

Section 10. That Division 2.15 of the Land Use Code is hereby repealed and reenacted to read in its entirety as follows:

#### **Division 2.15 - Planned Unit Development Overlay Review Procedure**

- (A) **Purpose.** To provide an avenue for property owners with larger and more complex development projects to achieve flexibility in site design in return for significant public benefits not available through traditional development procedures.
- (B) **Applicability.** Application for approval of a PUD Overlay is available to properties of 50 acres or greater in size.
- (C) **Process.**
- (1) **Step 1 (Conceptual Review/Preliminary Design Review):** Applicable.
  - (2) **Step 2 (Neighborhood Meeting):** Applicable to any proposed PUD Overlay subject to Planning and Zoning Board or City Council review. If a neighborhood meeting

is required at the conceptual planning stage pursuant to Section 2.2.2, a second neighborhood meeting shall be required after the PUD Overlay application has been submitted and the first round of staff review completed.

- (3) **Step 3** (Development Application Submittal): All items or documents as described in the development application submittal master list for a PUD Overlay shall be submitted. Notwithstanding, the Director may waive or modify the foregoing submittal requirements if, given the facts and circumstances of the specific application, a particular requirement would either be irrelevant, immaterial, redundant or otherwise unnecessary for the full and complete review of the application.
- (4) **Step 4** (Review of Application): Applicable.
- (5) **Step 5** (Staff Report): Applicable.
- (6) **Step 6** (Notice): Applicable.
- (7) **Step 7(A)** (Decision Maker): Applicable as follows:
  - a. Planning and Zoning Board review (Type 2 review) applies to PUD Overlay applications between 50 and 640 acres;
  - b. City Council is the decision maker for PUD Overlay applications greater than 640 acres after receiving a Planning and Zoning Board recommendation. City Council approval of a PUD Overlay shall be by ordinance.
- Step 7(B) through (G)** (Conduct of a Public Hearing, Order of Proceedings at Public Hearing, Decision and Findings, Notification to Applicant, Record of Proceeding, Recording of Decision): Applicable.
- (8) **Step 8 (Standards)**: Applicable. Except as modified pursuant to Sections 4.29 (E) and (G), a PUD Master Plan shall be consistent with all applicable General Development Standards (Article 3) and District Standards (Article 4) including Division 4.29.
- (9) **Step 9** (Conditions of Approval): Applicable.
- (10) **Step 10** (Amendments): Applicable.
- (11) **Step 11** (Lapse): Applicable.
- (12) **Step 12 (Appeals)**: Applicable. A Planning and Zoning Board decision on a PUD Overlay between 50 and 640 acres is appealable to City Council pursuant to Section

2.2.12(A). Appeals of Project Development Plans within PUD Overlays are subject to the limitations of Section 4.29(J).

Section 11. That Section 4.29 of the Land Use Code is hereby repealed and reenacted to read in its entirety as follows:

**Division 4.29 - Planned Unit Development (PUD) Overlay**

(A) ***Purpose.***

- (1) Directs and guides subsequent Project Development Plans and Final Plans for large or complex developments governed by an approved PUD Master Plan.
- (2) Substitutes a PUD Master Plan for an Overall Development Plan for real property within an approved PUD Overlay.
- (3) Positions large areas of property for phased development.
- (4) Encourages innovative community planning and site design to integrate natural systems, energy efficiency, aesthetics, higher design, engineering and construction standards and other community goals by enabling greater flexibility than permitted under the strict application of the Land Use Code, all in furtherance of adopted and applicable City plans, policies, and standards.
- (5) Allows greater flexibility in the mix and distribution of land uses, densities, and applicable development and zone district standards.

(B) ***Objectives.***

- (1) Encourage conceptual level review of development for large areas.
- (2) In return for flexibility in site design, development under a PUD Overlay must provide public benefits significantly greater than those typically achieved through the application of a standard zone district, including one or more of the following as may be applicable to a particular PUD Master Plan:
  - (a) Diversification in the use of land;
  - (b) Innovation in development;
  - (c) More efficient use of land and energy;
  - (d) Public amenities commensurate with the scope of the development;
  - (e) Furtherance of the City's adopted plans and policies; and

- (f) Development patterns consistent with the principles and policies of the City's Comprehensive Plan and adopted plans and policies.
- (3) Ensure high-quality urban design and environmentally-sensitive development that takes advantage of site characteristics.
- (4) Promote cooperative planning and development among real property owners within a large area.
- (5) Protect land uses and neighborhoods adjacent to a PUD Overlay from negative impacts.

(C) ***Applicability.***

- (1) Any property or collection of contiguous properties of a minimum 50 acres in size is eligible for a PUD Overlay provided all owners authorize their respective property to be included.
- (2) An approved PUD Overlay will be shown upon the Zoning Map and will overlay existing zoning, which will continue to apply, except to the extent modified by or inconsistent with the PUD Master Plan.
- (3) An approved PUD Master Plan will substitute for the requirement for an Overall Development Plan. Development within the boundaries of an approved PUD Overlay may proceed directly to application for Project Development Plan(s) and Final Plan(s).

(D) ***PUD Master Plan Review Procedure.***

- (1) PUD Master Plans are approved as an overlay to the underlying zone district and are processed by the decision maker pursuant to Section 2.15 of the common review procedures.
- (2) In order to approve a proposed PUD Master Plan, the decision maker must find that the PUD Master Plan satisfies the following criteria:
  - (a) The PUD Master Plan achieves the purpose and objectives of Sections 4.29 (A) and (B);
  - (b) The PUD Master Plan provides high quality urban design within the subject property or properties;
  - (c) The PUD Master Plan will result in development generally in compliance with the principles and policies of the City's Comprehensive Plan and adopted plans and policies;

- (d) The PUD Master Plan will, within the PUD Overlay, result in compatible design and use as well as public infrastructure and services, including public streets, sidewalks, drainage, trails, and utilities; and
- (e) The PUD Master Plan is consistent with all applicable Land Use Code General Development Standards (Article 3) except to the extent such development standards have been modified pursuant to below Subsection (G) or are inconsistent with the PUD Master Plan.

(E) ***Permitted Uses.***

- (1) Any uses permitted in the underlying zone district are permitted within an approved PUD Overlay.
- (2) Additional uses not permitted in the underlying zone district may be requested for inclusion in a PUD Master Plan along with the type of review for such use, whether Type I, Type II, or Basic Development Review. The application must enumerate the additional use being requested, the proposed type of review, and how the use satisfies below criteria (a) through (d). The decision maker shall approve an additional use if it satisfies criteria (a) through (d). For each approved additional use, the decision maker shall determine the applicable type of review and may grant a requested type of review if it would not be contrary to the public good.
  - (a) The use advances the purpose and objectives of the applicable PUD Overlay provisions set forth in Sections 4.29 (A) and (B) and the principles and policies of the City's Comprehensive Plan and adopted plans and policies; and
  - (b) The use complies with applicable Land Use Code provisions regarding the natural environment, including but not limited to water, air, noise, storm water management, wildlife, vegetation, wetlands and the natural functioning of the environment.
  - (c) The use is compatible with the other proposed uses within the requested PUD Overlay and with the uses permitted in the zone district or districts adjacent to the proposed PUD Overlay.
  - (d) The use is appropriate for the property or properties within the PUD Overlay.

(F) ***Prohibited Uses.*** All uses that are not expressly allowed in an approved PUD Master Plan, in the underlying zone district, or determined to be permitted pursuant to Land Use Code Section 1.3.4 shall be prohibited.

(G) ***Modification of Densities and Development Standards.***



- (1) Certain densities and development standards set forth in the Land Use Code and described in below Subsection (G)(2) may be modified as part of a PUD Master Plan. The modification procedure described in this Section (G) substitutes for the modification procedure set forth in Division 2.8.
  - (2) The application must enumerate the densities and development standards proposed to be modified.
    - (a) The application shall describe the minimum and maximum densities for permitted residential uses.
    - (b) The application shall enumerate the specific Land Use Code Article, 3 development standards and Article 4 land use and development standards that are proposed to be modified and the nature of each modification in terms sufficiently specific to enable application of the modified standards to Project Development Plans and Final Plans submitted subsequent to, in conformance with and intended to implement, the approved PUD Master Plan. Modifications under this Section may not be granted for Engineering Design Standards referenced in Section 3.3.5 and variances to such standards are addressed in below Subsection (L).
  - (3) In order to approve requested density or development standard modifications, the decision maker must find that the density or development standard as modified satisfies the following criteria:
    - (a) The modified density or development standard is consistent with the applicable purposes, and advance the applicable objectives of, the PUD Overlay as described in Sections 4.29 (A) and (B);
    - (b) The modified density or development standard significantly advances the development objectives of the PUD Master Plan;
    - (c) The modified density or development standard is necessary to achieve the development objectives of the PUD Master Plan; and
    - (d) The modified density or development standard is consistent with the principles and policies of the City's Comprehensive Plan and adopted plans and policies.
- (H) ***PUD Master Plan Non-Expiration.*** PUD Master Plans do not expire but are subject to the amendment and termination provisions of Sections 4.29 (I) and (J).
- (I) ***PUD Master Plan Termination and Amendment.***
- (1) ***Termination.*** An approved PUD Master Plan may be terminated in accordance with the following provisions:

- (a) Termination may be initiated by any of the following:
    - 1. The written request of all of the real property owners within a PUD Overlay; or
    - 2. The City, provided no vested property right approved in connection with the PUD Master Plan would be in effect upon termination.
  - (b) Upon receiving a valid request to terminate, the original decision maker of the PUD Master Plan shall terminate unless termination is determined to be detrimental to the public good after holding a public hearing to address the issue.
  - (c) If the PUD Master Plan is terminated, the City may remove the overlay designation on the zoning map and the underlying zone district regulations in effect at the time of such removal shall control.
  - (d) Any nonconforming uses resulting from expiration or termination of a PUD Master Plan are subject to Article 1, Division 1.6.
- (2) PUD Master Plan Amendment. An approved PUD Master Plan may be amended pursuant to the procedures set forth in Land Use Code Section 2.2.10 in accordance with the following provisions:
- (a) Amendments may be initiated by any of the following:
    - 1. The written request of all real property owners within the PUD Overlay; or
    - 2. The written request of the original applicant for the approved PUD Master Plan provided the following conditions are met:
      - a. The applicant continues to own or otherwise have legal control of real property within the PUD Overlay; and
      - b. The right of the applicant to amend the PUD Master Plan without the consent of other owners of real property within the PUD Overlay has been recorded as a binding covenant or deed restriction recorded on the respective real property; or
    - 3. The City, provided the amendment does not amend, modify, or terminate any existing vested right approved in connection with the PUD Master Plan without the permission of the beneficiary or beneficiaries of such vested right.

(b) Except as to real property within the PUD Overlay owned or otherwise under the control of the applicant, any approved amendment requested by the applicant shall not apply to any real property within the PUD Overlay which:

1. Is already developed pursuant to the applicable PUD Master Plan;
2. Has a valid and approved Project Development Plan or Final Plan; or
3. Is the subject of ongoing development review at the time the applicant's request for amendment is submitted to the City.

(J) ***Appeals.***

- (1) A Planning and Zoning Board final decision on a PUD Master Plan is appealable to Council pursuant to Section 2.2.12(A).
- (2) Any Project Development Plan wholly located within a PUD Overlay may be appealed pursuant to Section 2.2.12(A). However, the validity of the uses, densities, and development standards approved in a PUD Master Plan shall not be the subject of any such Project Development Plan appeal.

(K) ***Vesting of PUD Master Plan.*** Subject to the provisions of Section 2.2.11(C), the only aspects of an approved PUD Master Plan eligible for vested property rights are the enumerated uses, densities, development standards, and variances from Engineering Design Standards granted pursuant to Section 4.29(L). Such uses, densities, and development standards may be those for which modifications have been granted or uses, densities, and development standards set forth in the Land Use Code. The applicant shall specify in the PUD Master Plan if it is requesting vested property rights for uses, densities, development standards, and variances from Engineering Design Standards in excess of the three (3) year period specified in Section 2.2.11(C)(2) and the justification therefor.

(L) ***Variances.*** Variances from the Engineering Design Standards listed in Section 3.3.5, including variances from the Larimer County Area Urban Street Standards, may be requested in connection with a PUD Master Plan. A request for such variances shall be processed in accordance with and subject to the standards applicable to the variance. Variances so requested and approved prior to the approval of a PUD Master Plan may be incorporated into and approved as a part of the PUD Master Plan, and if so incorporated and approved, shall be applicable to Project Development Plans and Final Plans submitted subsequent to, in conformance with and intended to implement, the approved PUD Master Plan. The decision maker on the PUD Master Plan shall not have the authority to alter or condition any approved variance as part of the PUD Master Plan review. Variances may also be processed in connection with a Project Development Plan or Final Plan submitted subsequent to an approved PUD Master Plan.

Section 12. That the definition “*Development application*” contained in Section 5.1.2 of the Land Use Code is hereby amended to read as follows:

*Development application* shall mean any application or request submitted in the form required by the Land Use Code and shall include only applications for an overall development plan, a PUD Overlay, a project development plan, a final plan, a Building Permit, a modification of standards, amendments to the text of this Code or the Zoning Map, a hardship variance or an appeal from administrative decisions prescribed in Article 2.

Section 13. That the definition “*Development application for permitted use*” contained in Section 5.1.2 of the Land Use Code is hereby amended to read as follows:

*Development application for permitted use* shall mean a development application submitted in the form required by this Code to the City for an overall development plan, a project development plan, a final plan or a Building Permit, including only uses described as permitted uses in the applicable zone district. A PUD Overlay is also considered to be a *development application for a permitted use* even though the PUD Overlay may request uses that are not permitted in the applicable underlying zone district.

Section 14. That the definition “*Development plan*” contained in Section 5.1.2 of the Land Use Code is hereby amended to read as follows:

*Development plan* shall mean an application submitted to the City for approval of a permitted use which depicts the details of a proposed development. *Development plan* includes an overall development plan, a project development plan, a final plan, and/or an amendment of any such plan. A PUD Overlay is also considered to be a *development plan* even though the PUD Overlay may request uses that are not permitted in the applicable underlying zone district.

Section 15. That Section 5.1.2 of the Land Use Code is hereby amended by the addition of two new definitions, “*Planned Unit Development (PUD) Overlay*” and “*Planned Unit Development (PUD) Master Plan*” which read in their entirety as follows:

*Planned Unit Development (PUD) Overlay* shall mean an area of land approved for development pursuant to a PUD Master Plan under Division 4.29 and Division 2.15. An approved PUD Overlay overlays the PUD Master Plan entitlements and restrictions upon the underlying zone district requirements.


*Planned Unit Development (PUD) Master Plan* shall mean an approved plan for development of an area within an approved PUD Overlay, which identifies the general intent of the development and establishes vested uses, densities and certain modification of development standards. An approved PUD Master Plan substitutes for the requirement for an Overall Development Plan. A PUD Master Plan is considered a site specific development plan solely with respect to vested property rights regarding specific uses,

densities, Land Use Code development standards, and variances from Engineering Design Standards granted pursuant to Section 4.29(L).

Introduced, considered favorably on first reading, and ordered published this 3rd day of July, A.D. 2018, and to be presented for final passage on the 17th day of July, A.D. 2018.

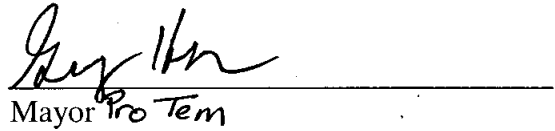
  
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ATTEST:

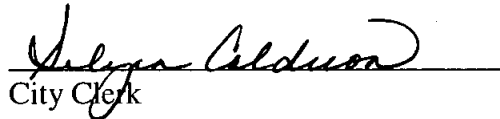
  
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Passed and adopted on final reading on the 17th day of July, A.D. 2018.

  
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Mayor Pro Tem

ATTEST:

  
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City Clerk

