

**Butler Township Zoning Ordinance**

**CHAPTER 10**

**PLANNED UNIT DEVELOPMENT**

**SECTION 10.01 PURPOSE AND INTENT**

To permit, through the special use permit procedure, planned unit developments designed to encourage creativity and flexibility in the use and design of structures and land in Butler Township.

The Planned Unit Development (PUD) is intended to accomplish the following:

- A. Result in a more efficient pattern of development, with shorter streets and utility networks.
- B. Preserve existing natural assets, such as stands of trees, flood plains, lake frontage, scenic vistas and other open spaces.
- C. Accomplish a more desirable residential environmental plan than would be possible through the strict application of the minimum requirements of the zoning ordinance.
- D. Encourage the utilization of open space and the development of recreational facilities generally located within a reasonable distance of all units.
- E. Provide for supportive mix of land uses and amenities such as day care, office, neighborhood retail, and similar uses, which in the opinion of the Planning Commission, are in conformance with the goals and objectives of the master plan and will enhance the residential stability and economic base of Butler Township through the application of a special use permit.

**SECTION 10.02 GENERAL REQUIREMENTS:**

- A. Minimum Project Area:

<u>Zoning District</u>	<u>Acreage</u>
A-1 General AG	5
R-1 Rural Residential	2
R-2 Low Density Residential	1
R-3 Medium Density Residential	Subject to conditions and approval of Township Board

- B. The development must have direct access to a publicly maintained road.

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- C. The principal permitted use shall be residential development, consistent with the zoning district of the proposed “PUD”.
- D. Non-residential land uses may be integrated into the proposed “PUD” through approval of the special use permit. Commercial uses may be limited to the development of not more than ten percent (10%) of the total project area. Examples of commercial uses may include retail stores, personal service establishments, bed and breakfast establishments, business or professional offices, golf courses with restaurants and retail components, and day care facilities. However, all proposed commercial uses must meet the intent of the “PUD” Chapter and be subject to reasonable terms established as part of the special use permit process.
- E. Each principal building in the proposed “PUD” must be connected to water and sewer facilities that are approved by the Branch County Health Department.
- F. Each site shall be provided with adequate storm drainage. Open drainage courses and storm retention ponds shall be reviewed and may be permitted by the County Drain Commissioner.
- G. All utilities including telephone, electric, and cable, within the “PUD”, shall be located underground.
- H. Common Open Space
  - 1. Common open space shall not include proposed street right-of-ways, open parking area or commercial areas. Common open space may contain accessory structures, paved bicycle and/or walking paths, agricultural uses, wetlands, improvements necessary or desirable for religious, educational, non-commercial, recreational or cultural uses.
  - 2. The area of common open space within a “PUD” project shall not be less than twenty percent (20%) of the total land area of the project. However, when a water or wetland feature exists on the subject site, water and/or wetlands shall not account for more than fifty percent (50%) of the required open space.
  - 3. Open spaces shall be conveniently located in relation to dwelling units.
  - 4. Open spaces shall have reasonable, minimum dimensions which are usable for the functions intended and which will be maintainable. Open space designs which emphasize perimeter walking paths as the primary open space feature are not permitted.

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5. All public areas and facilities which are to be dedicated to a public agency shall be so dedicated prior to approval of a final development plan, unless a binding agreement is provided in lieu of that dedication.
6. Legal instruments setting forth the manner of permanent maintenance of common open space and facilities shall be submitted to the township attorney for review before the township board approves the final development plan. Such instruments may include dedication to permanent conservation easements or homeowner associations.
7. Where a homeowner association is to be used to maintain common open spaces and facilities, the developer shall file a declaration of covenants and restrictions that will govern the homeowners association. The provisions shall include, but shall not be limited to the following:
  - a. The homeowners association shall be established before any dwelling in the "PUD" is sold;
  - b. Membership in the homeowners association shall be mandatory for each dwelling unit buyer and for any successive buyer and shall be so specified in the covenants;
  - c. Restrictions shall be permanent;
  - d. The homeowners association shall be made responsible for liability; and dwelling owners shall pay their prorated share of the costs and this requirement shall be specified in the covenants.
  - e. The parking requirements set forth in Chapter 15 shall apply, except the number of spaces may be reduced, if approved by the Butler Township Board of Trustees, upon recommendation of the Planning Commission, as part of the final development plan. Such reductions shall be based upon specific findings.

### **SECTION 10.03 INFORMAL PRELIMINARY CONFERENCES**

#### **A. Informal preliminary conferences:**

Prior to a formal application, the applicant is required to have two (2) informal preliminary conferences; one with the Township Zoning Administrator and the Township Supervisor, the other with the Township Planning Commission. The purpose of the conferences is to discuss the proposed development, review procedures, requirements and standards of the Township. The applicant is

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encouraged to present concept plans, site data and other information that will explain the proposed developments. Statements made in these conferences shall not be legally binding.

### **B. Application:**

Following the preliminary conferences, the applicant shall make an application for a "PUD" special use permit along with ten (10) sets of the preliminary development plans and the application fee (as set by resolution of the Township Board of Trustees) to the Township Zoning Administrator. The applicant shall, at a minimum, contain the following:

1. The applicant's name, address, and phone number.
2. Proof that the applicant is the owner of the property or has a legal or financial interest in the property (such as a sales agreement).
3. The name and address of all persons, firms or corporations having a legal or equitable interest in the property.
4. The address of the property.
5. The legal description and parcel identification number of the property.
6. Project descriptions.
7. Size of the property in acres.
8. The signature of the applicant and the property owner.

Upon receipt of the completed application, application fee and preliminary development plan, the Township Zoning Administrator shall forward copies of the plan and the application form to the township engineer, planner and any other persons or agencies deemed appropriate. The balance of the plans and the original application form shall be distributed to the Planning Commission to allow for their review of the proposed "PUD".

### **C. Preliminary Development Plan:**

The preliminary development plan shall contain the following:

1. The date, north arrow, and scale, which shall not be smaller than 1 inch equals 50 feet.
2. The location sketch of the site in relation to the surrounding area. This sketch shall label the land uses on all adjacent property.
3. The legal description of the property.
4. The parcel size in acres or square feet.
5. All lot and property lines, with dimensions.
6. The location of all existing and proposed structures on the site.

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7. The location of all existing and proposed streets, driveways, alleys, parking areas and easements, including the total number of parking spaces, parking calculations and typical dimensions.
8. The size, location and proposed use of all areas devoted to open space.
9. The general landscape concept, showing tree masses to be preserved, added buffer areas, screening, and similar features.
10. All wetland areas, flood plain boundaries and bodies of water.
11. Existing topographical contours at a minimum of two foot intervals.
12. General layout of all proposed utilities including: water, sewer, telephone, gas and electrical services.

The applicant shall also provide a written statement describing each of the following:

1. The general character of the “PUD”.
2. The gross residential densities and percent of the proposed “PUD” area to be covered by buildings and parking areas.
3. The acres allocated to each use.
4. The method and responsibility for maintenance of open areas, private streets, recreational amenities and parking areas.
5. All environmental sensitive areas.

**D. Parallel Plan**

The applicant shall also prepare a parallel design plan for the project consistent with the requirements and design criteria of the Butler Township subdivision regulations, preliminary tentative plat stage. The parallel plan shall meet all of the following minimum lot area and width standards. These minimum lot area and width requirements already incorporate a density bonus for a “PUD” project.

<b>District</b>	<b>Lot Area (Sq. Ft.)</b>	<b>Lot Width in. (Lineal Ft.)</b>
R-2 Low Density Residential	1 Acre	150
R-3 Medium Density Residential	(1/2 Acre or 22,000 sq. ft.)	100

1. Lots in the parallel plan shall provide sufficient building envelop size without impacting wetlands regulated by the Michigan Department of Environmental Quality (MDEQ).

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2. The Planning Commission shall review the design to determine the number of lots that could feasibly be constructed following the parallel design. This number shall set the maximum density number of dwelling units for the site allowable under the “PUD” provisions of this Ordinance.
3. However, riparian lots shall not be reduced in size from the dimensions listed unless granted a variance by the Township Zoning Board of Appeals.

The Planning Commission may allow an exemplary open space community to include one or more of the following optional provisions. In order to qualify for an optional provision, the applicant must demonstrate to the Planning Commission and to the Township Board of Trustees, that the proposed project exceeds the minimum standards for a “PUD”.

4. In order to qualify for development under optional provisions of this section, all structures within the development, including single family dwellings, shall be subject to architectural review by the Planning Commission and the Township Board of Trustees. Buildings shall provide harmony with adjacent uses in terms of texture, materials, peaked roof lines and massing, but there shall be a variation of front facade depth and roof lines to avoid monotony. Building elevations are required for all structures.
5. A variable density bonus of ten percent (10%) shall be allowed as an incentive for the use of the PUD process. An additional density bonus of ten percent (10%) may be approved at the discretion of the Planning Commission and the Township Board of Trustees based upon a demonstration by the applicant of design excellence in the “PUD” project. In order to be eligible for the density bonus the “PUD” must meet all of the following criteria:
  - a. Provide perimeter transition areas around all sides of the development that are at least one hundred and fifty (150) feet in depth.
  - b. Cleanup of on-site contamination, if necessary.
  - c. Providing a minimum of thirty percent (30%) open space in the development.
6. After reviewing the preliminary, the Planning Commission shall transmit its recommendation to the applicant, along with any suggested changes or modifications.

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### **E. Impact Assessment**

1. The Planning Commission may require the applicant to prepare and submit an impact assessment. When required, preparation of the impact assessment shall be the responsibility of the applicant. The applicant shall use qualified professional personnel to complete the impact assessment. The impact assessment shall describe in detail the effect and impact that the proposed "PUD" will have, or may have, upon or with respect to any of the following:
  - a. Streams, rivers, wetlands, and the quality of surface and ground waters.
  - b. Public utilities.
  - c. Displacement of people and other land uses by the proposed use.
  - d. Character of the area.
  - e. Traffic.
  - f. Wildlife.
  
2. The impact assessment shall, if required by the Planning Commission, include statements and comments from the following public agencies or officials concerning any aspects of the proposed "PUD" within their respective responsibilities and jurisdictions:
  - a. Township Fire Department.
  - b. School districts represented within the Township.
  - c. The Department of Natural Resources.
  - d. Branch County:
    - Sheriff's Department
    - Health Department
    - Road Commission
    - Drain Commissioner
  - e. Such other agencies as determined appropriate by the Planning Commission.
  
3. The Planning Commission and Township Board of Trustees shall consider the criteria listed below in their evaluation of the impact assessment. Failure to comply with any of the criteria shall be sufficient justification to deny approval.

### **SECTION 10.04 PUBLIC HEARING AND PRELIMINARY APPROVAL PROCEDURES**

1. Within forty-five (45) days after receipt of the completed application and fee the Planning Commission shall schedule a public hearing on the request. A

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notice of the public hearing shall be published in a newspaper of general circulation in the Village not less than fifteen (15) days before the date of the hearing. A notice shall also be sent by mail or personal delivery to the owners of property that is the subject of the request, to all persons to whom real property is assessed within three-hundred (300) feet of the property that is the subject of the request, and to the occupants of all structures within three-hundred (300) feet of the subject property regardless of whether the property or structure is located in the zoning jurisdiction. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different persons, one (1) occupant of each unit or spatial area shall be given notice. If a single structure contains more than four (4) dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure. The notice is considered to be given when personally delivered or when deposited during normal business hours for delivery by the United States Postal Service or other public or private delivery service. The notice shall be given not less than fifteen (15) days before the date the request will be considered. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice.

The notice shall do all of the following:

- a. Describe the nature of the planned unit development request.
  - b. Indicate the property which is the subject of the planned unit development request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently existing within the property. If there are no street addresses, other means of identification may be used.
  - c. State when and where the planned unit development request will be considered.
  - d. Indicate when and where written comments will be received concerning the planned unit development request.
2. Within sixty (60) days of the public hearing the Planning Commission shall recommend to the Township Board of Trustees, one of the following:
- a. Approval of the preliminary plan, or



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- b. Approval of the preliminary plan subject to certain specified conditions, or
- c. Denial of the preliminary plan.

In making a recommendation to approve the "PUD" the Planning Commission must find that the purposed "PUD" meets the following standards:

1. Granting the "PUD" special use permit will result in a recognizable and substantial benefit to the ultimate users of the project and to the community, and the benefit would otherwise be unfeasible or unlikely to be achieved.
2. The "PUD" will not result in a significant increase in the need for public services and facilities and will not place a significant burden upon surrounding lands or the natural environment, unless the resulting adverse effects are adequately provided for or mitigated by features of the "PUD" as approved.
3. The "PUD" will be compatible with the master plan of the township and consistent with the intent and purpose of this Chapter.
4. The "PUD" will not result in significant adverse effects upon nearby or adjacent lands, and will not change the essential character of the surrounding area.
5. The "PUD" is designed and laid out to preserve natural resources and natural features, to the fullest extent possible.
6. Within sixty (60) days after receipt of the Planning Commissions recommendation the Township Board of Trustees shall either:
  - a. Approve the preliminary plan
  - b. Deny approval of the preliminary plan
  - c. Refer the preliminary plan back to the Township Planning Commission for further review.

### **SECTION 10.05 FINAL APPROVAL PROCEDURES**

- A. After the preliminary plan has been approved by the Township Board of Trustees the developer shall prepare the final development plan. The applicant shall submit fifteen (15) sets of the final development plans to the Township Zoning Administrator. The Zoning Administrator shall forward copies of the final plan to the township fire chief, engineer, planner and others deemed appropriate. The balance

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of the plans shall be turned over to the zoning administrator for distribution to the Planning Commission for their review.

- B. The final development plan shall include all of the information required on the preliminary development plan and all additional information requested by the Planning Commission.
  
- C. The final plan shall incorporate all recommendations of the Planning Commission pursuant to the Commission's review of the preliminary plan, or shall indicate how the final plan fails to incorporate the Commission's recommendations. The plan shall be certified by a licensed architect, register surveyor or professional engineer. In addition, final plan shall include the following:
  - 1. Architectural renderings or specific statements as to the type and style of construction to be used in the proposed buildings along with the height and area of each building.
  - 2. Projected time for completion of the entire project.
  - 3. Proposed phasing, if any, and the projected time for completion of each phase.
  - 4. Landscaping plans.
  - 5. Deed restrictions, protective covenants and other legal statements or devices to be used to control the use, development and maintenance of the land and the improvements thereon.
  - 6. Engineering plans showing, as necessary, water, waste disposal, drainage, exterior and street lighting, electricity, telephone and natural gas installations, and the nature and extent of earthwork required for site preparation and development.
  - 7. Any other information required by the Planning Commission to assist in the evaluation of the proposed "PUD".
  
- D. Within forty-five days of the receipt of the complete set of the final plans the Planning Commission shall review the plans for their completeness, act upon the plans and send their recommendation to the Township Board of Trustees.
  
- E. Within sixty days of the Township Board of Trustees receipt of the Planning Commission's recommendation, the Township Board shall review the final development plans and recommendation submitted by the Planning Commission. In making its decisions, the Township Board shall determine:
  - 1. Whether the final development plan complies with the standards, conditions, and requirements of this Chapter.
  - 2. Whether the "PUD" promotes the intent and purposes of this Chapter.

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3. Whether the “PUD” will be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the proposed project.
4. Whether the “PUD” will be consistent with the public health, safety, and welfare needs of the township.

Reasonable conditions may be imposed upon the Township Board of Trustees approval of a “PUD” special use permit subject to the standards listed in Section 19.01.

### **SECTION 10.06 APPLICATION FEE**

The Township Board of Trustees shall by resolution, establish a fee schedule for special use permit applications under this ordinance.

### **SECTION 10.07 PERFORMANCE GUARANTEE**

Performance bonds may be required by the Township Board of Trustees in accordance with Section 19.02.

### **SECTION 10.08 CONSTRUCTION COMPLIANCE**

Any permit issued for construction pursuant to the “PUD” special use permit shall be valid only so long as there is compliance with the final development plan as accepted by the Township Board of Trustees.

### **SECTION 10.09 AMENDMENTS AND REVISIONS**

- A. A developer may request a change in an approved final development plan. Except for those changes determined to be minor, as provided below, changes to an approved final development plan or any conditions imposed on a “PUD” special use permit shall be reviewed and approved, approved with conditions, or denied by the Planning Commission and the Township Board of Trustees pursuant to the procedures provided by this Chapter for an original request.
- B. Minor changes to a final development plan may be approved by the Planning Commission without review and approval of the Township Board of Trustees. “Minor changes” are limited to the following:
  1. Changes in residential floor area of not more than five percent (5%) provided that there is no increase in the number of units.
  2. The relocation of building footprints by not more than three (3) feet, unless a specific setback or separation distance is imposed as a condition of the “PUD” approval.

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3. An increase in area portions of the site designated as “not to be disturbed”.
4. The substitution of plan materials by similar types of landscaping on a 1-to-1 ratio, as determined by the zoning administrator.
5. Other similar changes of a minor nature proposed to be made to the configuration, design, layout, or topography of the “PUD” which are not significant in relation to the “PUD” and would not have any significant adverse effect on adjacent or nearby lands or the public health, safety, or welfare.

#### **SECTION 10.10 EXPIRATION AND EXTENSION OF APPROVAL PERIOD**

The approval of the final development plan for a planned unit development shall be for a period not to exceed two (2) years, from the date of the Township Board of Trustees final approval date, to allow for preparation and recording of the required subdivision plat and development of the project. If no construction has begun within two (2) years after the approval is granted, the approved final development plan shall be void. The Township Board of Trustees may require a new final development plan to be submitted and reviewed in accordance with the requirements for the original application. An extension of the time limit may be approved if the Township Board of Trustees finds that such extension or modification is not in conflict with the public interest.

No zoning amendment passed during the time period granted for the approval of the final development plan shall in any way affect the terms under which approval of the planned unit development was granted.