

WEST BOUNTIFUL CITY

ORDINANCE #392-17

**AN ORDINANCE ADOPTING CHANGES TO WBMC 17.68,
PLANNED UNIT DEVELOPMENTS**

WHEREAS, Utah Code Annotated § 10-9a, also known as the “Municipal Land Use, Development, and Management Act,” grants authority to the West Bountiful City Council to make changes to its Zoning and Subdivision Ordinances; and,

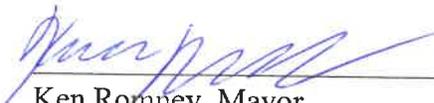
WHEREAS, the City conducted a study of how Planned Unit Developments can better meet the land use purposes set forth in *Utah Code Ann.* § 10-9a-102 focusing on good land use principles, including public safety, health, and welfare; protecting the tax base; securing economy in governmental expenditures; protecting both urban and nonurban development; and conformity with the West Bountiful City General Plan, and

WHEREAS, the West Bountiful Planning Commission held a public hearing on March 14 , 2017, to consider proposed changes to the Planned Unit Development ordinance and received no objection to the proposed changes; and,

WHEREAS, following the public hearing, the West Bountiful Planning Commission unanimously voted to recommend to the City Council adoption of the proposed changes to WBMC 17.68.

NOW, THEREFORE BE IT ORDAINED BY THE WEST BOUNTIFUL CITY COUNCIL THAT SECTIONS 17.68 OF THE WEST BOUNTIFUL MUNICIPAL CODE BE MODIFIED AS SHOWN IN ATTACHED EXHIBIT A:

Adopted this 18th day of April, 2017. This ordinance will become effective upon signing and posting.

By: 

Ken Romney, Mayor

<u>Voting by the City Council:</u>	<u>Aye</u>	<u>Nay</u>
Councilmember Ahlstrom	_____	_____✓
Councilmember Bruhn	_____✓	_____
Councilmember Enquist	_____✓	_____
Councilmember Preece	_____	_____✓
Councilmember Williams	_____✓	_____

Attest: 

Cathy Brightwell, City Recorder

Chapter 17.68 Planned Unit Development Overlay Zone (PUD)

17.68.010 Purpose and Intent

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17.68.010 Purpose and Intent.

The purpose of the Planned Unit Development (“PUD”) Overlay zone is to provide additional flexibility for the development of larger properties as well as those that have significant impediments to traditional development in the underlying zone. A PUD is a residential development planned as a whole, connected project. It incorporates a clear development theme which includes the elements of usable open spaces, diversity of lot sizes and/or housing design, amenities that reflect a rural community, enhanced streetscapes, and attractive entrances as part of the design.

West Bountiful City supports development that is creative and serves a purpose beyond the simple division of land. A PUD should benefit the City overall as well as the residents of the development in terms of such items as: usable open space, higher quality development, diverse housing types, or

enhanced rural character. The purpose of a PUD is not to increase density, but to increase the quality of life in the community. In order to increase the quality of life in West Bountiful City, the City is willing to allow clustering or additional density of dwelling units in exchange for appropriate amenities.

A PUD may be allowed at the discretion of the City Council following a recommendation of the Planning Commission in any agricultural or residential zone. Denial of a PUD shall not result in a takings claim against the City because no applicant shall be denied the right to develop property by satisfying all of the requirements of Title 16 and all other chapters of this Title. The City Council need not provide detailed findings or reasons for denial of a PUD since its decision is legislative.

The owner, or authorized agent, of a proposed PUD shall apply for and secure approval of the proposed PUD Overlay Zone in accordance with this Chapter before a subdivision application for the PUD can be submitted. The requirements of this PUD Overlay Chapter are intended to be in addition to the other requirements of this Title, and rely on, but not necessarily strictly adhere to, the requirements of the underlying zone.

Subsequent to an approved rezone and development agreement, any development that satisfies the requirements of this Chapter may be considered for approval for a PUD subdivision utilizing the requirements of Title 16, Subdivisions, and other requirements of Title 17. In the case of conflicting requirements of this Chapter and Title 16, Subdivisions, and Title 17, Zoning, this Chapter combined with the approved development agreement, shall govern.

17.68.020 Rezone Application Requirements

An application for a rezone to a PUD Overlay will be accompanied by:

- A. A written description of how the subject property and the rezone application meet the intent of this zone, including the design theme proposed, as well as the means in which it furthers the City's goal of continuing the rural theme into the future.
- B. A conceptual development plan. This plan must be drawn to scale and show property boundaries, proposed uses, proposed lots, and proposed roads
- C. Conceptual building elevations, materials, and commitments to architectural features.
- D. Proposed, typical street cross sections addressing the width of street pavement, park strips and sidewalks, type of curb and gutter, park strip landscaping, street lighting and street furniture.
- E. A written description of the recreational amenities.
- F. If applicable, a density bonus justification – address the criteria found in Section 17.68.090
- F. A detailed description of the flexibility being requested over traditional development in the current zone.

- G. A conceptual improvement plan for all amenities and public improvements such as storm drainage.
- H. A draft development agreement to be considered concurrently with the rezone that commits in writing to the concepts described above. See Section 17.68.030.
- I. Project expectations – all PUD requests will include the following at a minimum:
 - 1. Parking. Garages and Parking Lots. Each dwelling unit in a PUD shall include at least a two (2) car garage constructed in accordance with West Bountiful City building standards. In addition, every PUD shall provide for adequate off street parking of vehicles, including recreational vehicle parking, unless specifically excluded in the Development Agreement and CCRs.

All parking spaces, parking areas, and driveways shall be hard surfaced and properly drained. Large expanses of asphalt should be reduced and broken into smaller parking lots. Parking lots should include ample landscaping to buffer cars from neighboring properties.

- 2. Attractive Elevations. Variety and Architecture. Structures in the PUD must include, at a minimum, the following design elements:
 - a. A variety of elevations, roof types (e.g., mansard, hip, gabled, traditional), colors, materials, and other architectural features must be incorporated into the housing units so as to eliminate or greatly reduce the impression of tract housing.
 - b. The appearance of garage doors must be mitigated. Side entry garages that do not face public streets, garage doors that are recessed from the front of the structure, front elevations where the overall width of the building is at least twice the width of the garage or other creative solutions, such as windows, carriage door style, and/or color coordination, are highly encouraged.
 - c. Dwellings with the same or similar elevations, façade, exterior design, or appearance generally should not be placed adjacent to each other or across the street from dwellings with the same or similar characteristics.
- 3. Upgraded Materials. The materials used to construct the structures in a PUD will represent an upgrade from typical construction practices. At a minimum, all residential structures within a PUD will include at least eighty (80) percent hard surface exterior materials defined as brick, stucco, stone, stacked stone, simulated/composite wood concrete siding, or similar materials. The applicant must present samples of proposed materials to the City for review in connection with approval of the PUD Overlay Zone.
- 4. Vehicular and Pedestrian Access. Adequate vehicular and pedestrian access must be provided. A traffic impact study may be required, as part of the preliminary PUD Overlay plan, to project auto and truck traffic generated by the uses proposed. The traffic impact study shall be prepared by a registered traffic engineer, unless otherwise expressly waived by the City. The traffic study shall include, as a minimum, an analysis of on-site circulation,

capacities of existing streets, number of additional trips which will be generated, recommended traffic flow enhancements, origin/destination studies and peak traffic generation movements.

J. Project considerations – all PUD requests will include the following, as applicable:

1. Open spaces. Preservation, maintenance and ownership of all open spaces within the development shall be accomplished by either:
 - a. Dedication of land to the City as a public park or parkway system; or
 - b. Creation of a permanent, open space easement on and over private open spaces to guarantee that the open space remains perpetually as open space or as an agricultural or recreational use, as the case may be, with ownership and maintenance being the responsibility of a corporation or other association established with articles of association and bylaws or similar rules, which are satisfactory to the City.

As part of the subdivision process for a PUD, the applicant shall submit a detailed improvement plan indicating the landscaping, trails, facilities, and other amenities proposed in the development. Upon approval of the amenities package by the City Council, the applicant will be required to complete all improvements in accordance with the development approval. Furthermore, if any open space area is anticipated to be dedicated to West Bountiful City, the landscaping materials, irrigation system and other improvements shall be completed in accordance with any design or improvement standards adopted by West Bountiful City.

2. Connection with Trails. Any PUD that is traversed by or connected to a City or regional trail will be required to install the trail connection or extension, consistent with all applicable ordinances and improvement standards of West Bountiful City.
3. Non-residential structures. Any proposed nonresidential structures, such as recreational amenities, should be complementary to the surrounding and historic architecture in terms of scale, massing, roof shape, exterior materials, etc. Such structures should not create masses out of proportion to the residential structures in the development and surrounding neighborhoods, but should be scaled down into groupings of smaller attached structures, that imitate single family home design or incorporate features that are consistent with the historical or rural characteristics of the City.
4. Signage. Entry feature signage should help unify the project and provide a positive image. Signage for any nonresidential community buildings within the PUD should be part of a coordinated signage system for the entire PUD project. Natural materials such as wood, stone, rock, and metal with external illumination are encouraged for all development-specific signs. The size, location, design and nature of signs, if any, and the intensity and direction of area or floodlighting (down lighting only) shall be detailed in the application. The size and location of signage shall conform to the requirements and guidelines for

monument signage from Chapter 17.48 of this Title unless modifications are approved as part of the PUD Overlay.

K. General Contributions. The City, as part of the approval of a PUD Overlay, shall review any contributions, as specified in the Development Agreement.

1. Contributions may include, but are not limited to any combination of the following:

- a) Dedication of land for public park purposes.
- b) Dedication of land for public school purposes.
- c) Dedication of land for public road right-of-way purposes.
- d) Construction of, or addition to, roads servicing the proposed project when such construction or addition is reasonably related to the traffic to be generated.
- e) Installation of required traffic safety devices.
- f) Reservation of areas containing significant natural, environmental, historic, archeological or similar resources.

2. Payment in lieu of any of the above requirements cannot be accepted and will disqualify the application.

17.68.030 Development Agreement

"Development Agreement" means an agreement negotiated and entered into by the City with a property owner and/or developer, pursuant to a proposed development within the City. The Agreement must (1) specify the existing subdivision and land use standards that will be changed in the PUD Overlay Zone and (2) detail the amenities and other benefits being provided to the City and its residents.

The Development Agreement shall run with the land and be binding on all successors and assigns of the property owner or developer; however, each Development Agreement must include a clause that allows the City to re-zone the property and withdraw from the Development Agreement if a subdivision plat consistent with the Development Agreement is not recorded within one (1) year of execution of the Agreement.

17.68.040 Base Density

The base density for each PUD Overlay Zone is the density that would be permitted in the zone in which the proposed development is located if the development were completed as a regular subdivision under Title 16 with each lot containing a minimum buildable area of thirty feet by fifty feet (30' X 50') while meeting the size and width requirements of the underlying zone.

A density bonus may be considered as described in Section 17.68.090.

17.68.050 Lots

Because the lot sizes in a PUD are flexible, a building footprint shall be indicated on each lot, identifying the buildable area of the lot and the required setback area for the lot. The City Council may require the

buildable area of the lots to be increased if it is determined to be important that an average size dwelling, in comparison with other dwellings in the general vicinity, cannot be constructed on the proposed lots.

Although flexibility in lot arrangement is a feature of a PUD, the lots in the development will be reviewed to ensure that the lots can be used for their intended purpose. Each lot should accommodate a dwelling compatible with other dwellings in the development and access should be provided in a reasonable manner. Lots in a PUD should not be designed in a manner that creates odd-shaped lots to simply obtain additional lots.

17.68.060 Area.

No application for a Planned Unit Development Overlay Zone shall have an area less than:

1. Twenty (20) acres of land in the B-U/A-1 zone,
2. Fifteen (15) acres of land in the R-1-22 zone,
2. Ten (10) acres of land in the R-1-10 zone.

17.68.070 Uses.

Only residential uses and accessory uses are allowed.

17.68.080 Ownership.

The development shall be in single or corporate ownership at the time of application, or the subject of an application filed jointly by all owners of the property.

17.68.090 Density Bonus Considerations.

An applicant for a Planned Unit Development Overlay Zone may be eligible for a density bonus based on the value the City Council places on proposed amenities provided in the project. Density in excess of the Base Density may be considered for projects which satisfy the intent of the requirements, as determined by the City, of one or more of the density bonus amenities listed below. The bonus is granted, as determined by the City Council, in the rezoning/development agreement process. A density bonus shall not exceed twenty (20) percent above the Base Density.

Amenities for a particular project may vary from those of another project because of the project type and market for which the project is being built. Types of amenities may include, but are not limited to, substantial landscaping; public tennis or pickle ball courts; trails; equestrian facilities; recreation facilities; parks; permanent open space; common useable agricultural or farming open spaces; or other similar features. Open spaces lacking a particular use/function or a high level of maintenance do not contribute toward granting a bonus density. Such open spaces shall be privately maintained through the PUD. The City shall consider the total project and the proposed amenities, and determine the amount of

density bonus, if any, a project may receive. When figuring total project density, the number of lots will always be rounded down to the nearest lot.

A density bonus shall always be at the option of the City. If the City determines that a density bonus is not appropriate in a certain area, the bonus will not be given. Additionally, the City may limit the number of additional lots allowed in a certain project.

The following list of amenity categories shall be considered by the City for a density bonus in a PUD Overlay Zone. The Council will use one or more of these categories to grant up to a 20% density bonus. If a project receives the density bonus, the Base Density will be multiplied by the percentage granted to determine the additional units. Such calculations that result in fractional density results may be rounded down to the nearest whole number. In order to determine total project density, the City shall add all additional units to the Base Density.

To be considered for a density bonus, the amenities shall add value to the project and result in a more desirable project for the community as defined below. Developers are expected to provide amenities beyond those found in typical subdivisions to receive a bonus, based on the overall project quality and the following:

A. Rural site design and features

The City will consider an innovative site plan which promotes rural characteristics and preserves natural features of the site. To qualify for this density bonus, the overall site plan should incorporate rural design features such as, but not limited to: horse pasture, crop cultivation, community gardens, orchards, open space for grazing of animals, preservation of open irrigation ditches or their enhancement, unique curb/gutter and sidewalk configurations, deeper and varied setbacks, historical materials with a rural architectural theme, etc.

B. Substantial Public Benefit

The City will consider this amenity bonus if substantial public benefit through the provision of public facilities (such as park dedication, trail system, or other recreational facilities), that are both unique in character from other City facilities and serve the needs of an area greater than the immediate development, is provided by the project. No density increase for substantial public benefit may be approved unless the public facilities provided are considered an enhancement of the typically required street improvements, sidewalks or trails, public recreational amenities, utilities, drainage facilities, and contribute to the rural theme of the area.

17.68.100 Payment in Lieu.

Payment in lieu of any of the minimum requirements or amenities of this Chapter cannot be accepted.

17.68.110 Design.

The City shall require such arrangements of structures and open spaces within the site development plan as necessary to ensure that adjacent properties will not be adversely affected as described below.

- A. Density.** Density of land use shall in no case be more than twenty (20) percent higher than allowed in the current zoning district.
- B. Arrangement.** Where feasible, the least height, density of buildings and uses, and/or greater setbacks shall be arranged around the boundaries of the development.
- C. Specific regulations.** Lot area, width, front and rear yard requirements, height, density, and coverage regulations shall be determined through approval of the rezone and development agreement and guided by the existing underlying zone. Side yard setbacks cannot be changed as part of a PUD.

17.68.120 Considerations.

In carrying out the intent of this Chapter, the City shall consider the following principles:

- A. It is the intent of this Chapter that site and building plans for a PUD shall be prepared by a designer or team of designers having professional competence in urban planning as proposed in the application. The City may require the applicant to engage such professional expertise as a qualified designer or design team.
- B. It is not the intent of this Chapter that control of the design of a PUD by the City is so rigidly exercised that individual initiative be stifled and substantial additional expense incurred; rather, it is the intent of this Chapter that the control exercised be the minimum necessary to achieve the purposes of this Chapter.

17.68.130 Approval.

Rezoning to the PUD Overlay may be allowed in any agricultural or residential zoning district upon Planning Commission recommendation and City Council approval through the rezone process. All such rezone requests shall be accompanied by a development agreement.

17.68.140 Subdivision Processing.

Only PUD subdivisions previously approved for a rezone with an approved development agreement shall be allowed in this zone. All PUDs developed under the PUD Overlay Zone shall be processed using the subdivision ordinance, except that after Planning Commission approval of the preliminary and final plats, and subsequent plat corrections, if needed, the City staff may proceed with recordation of the PUD subdivision.

A. Relationship of PUD to This Title and Other Development Ordinances of West Bountiful City.

This Chapter is intended to be supplementary to the other provisions of this Title. Unless specifically indicated in this Chapter, all requirements of this Title and all other development ordinances of West Bountiful City must be satisfied with the following exceptions:

1. The frontage and lot area requirements may be modified for all lots, pads, or parcels within the Planned Unit Development except those located directly across a public street from a development that satisfies the standard frontage requirements of Title 17, Zoning.
2. The density of the development shall be calculated based on Sections 17.68.040 and 17.68.090.

B. Phasing.

All residential subdivisions with more than ten (10) lots, pads, parcels, or units shall include a phasing plan that specifies the timing of public improvements and residential construction. This plan must be submitted to the Planning Commission at or before the submission of the Preliminary Plat.

The phasing plan shall include the number of units or parcels to be developed in each phase; the approximate timing of each phase; the timing of construction of public improvements and subdivision amenities to serve each phase, whether onsite or offsite; and the relationship between the public improvements in the PUD subdivision and contiguous land previously subdivided and yet to be subdivided. A developer may request a revision of the phasing plan, which may be necessary due to conditions such as changing market conditions, inclement weather or other factors. Should a developer fail to install amenities in a particular phase, the City may withhold building permits on the next phase until the missing amenities are installed.

C. Landscaping.

Landscaping, fencing and screening of the uses within the site and as a means of integrating the proposed development into its surroundings shall be planned and presented to the Planning Commission for approval, together with other required plans for the development. A planting plan showing proposed tree and shrubbery plantings shall be prepared for the entire site to be developed. A grading and drainage plan shall also be submitted to the Planning Commission with the PUD subdivision.

D. Guarantees and Covenants.

In addition to a development agreement, adequate guarantees shall be provided for permanent retention and maintenance of all open space areas before final plan approval can be granted.

1. Open Space Guarantees: The City shall require the preservation, maintenance and ownership of all open space through one or more of the following:
 - a. Dedication of the land as a public park or parkway system.
 - b. Dedication of the land as permanent open space on the recorded plat.
 - c. Granting the City a permanent open space easement on the private open spaces to guarantee that the open space remain perpetually in recreation or

agricultural use, with ownership and maintenance being the responsibility of a residential corporation or association.

- d. Through compliance with the provisions of the Condominium Ownership Act, as outlined in Utah Code Annotated, Title 57, as amended, which provides for the payment of common expenses for the upkeep of common areas and facilities.

In the event the common open space and other facilities are not maintained in a manner consistent with the approved final PUD subdivision plan, the City may at its option cause such maintenance to be performed and assess the costs to the affected property owners or responsible corporation or association.

2. Performance Guarantee: In order to ensure that the PUD subdivision will be constructed to completion in an acceptable manner, the applicant shall post performance guarantees as outlined in the subdivision ordinance. The escrow account shall include the completion of offsite improvements, including, among other things, landscaping, sprinkling or irrigation systems, drives, storm drains, street surfacing, parking areas, sidewalks, curbs and gutters.
3. Covenants, Conditions and Restrictions for private amenities/improvements:

The applicant for any PUD subdivision shall, prior to the conveyance of any unit, submit to the City a declaration of covenants, conditions and restrictions relating to the project, which shall become part of the final development plan and shall be recorded to run with the land. The declaration shall include management policies which shall set forth the quality of maintenance that will be performed, and shall specify the party responsible for such maintenance within the development. The declaration shall also contain, at a minimum, the following:

- a. The establishment of a corporation or other association responsible for all maintenance, which shall levy the cost thereof as an assessment to each unit owner within the development.
- b. The establishment of a management committee, with provisions setting forth the number of persons constituting the committee, the method of selection, and the powers and duties of the committee; and including the person or entity with property management expertise and experience who shall be designated to manage the maintenance of the common areas and facilities in an efficient and quality manner.
- c. The method of calling a meeting of the members of the corporation or other association, with the members thereof that will constitute a quorum authorized to transact business.
- d. The manner of collection from unit owners for their share of common expenses, and the method of assessment.

- e. The establishment of an initial reserve fund for the corporation or other association, to adequately cover maintenance and operation expenses until such time as the corporation or association is fully operational and self-sustaining.
- f. Provisions as to percentage of votes by unit owners which shall be necessary to determine whether to rebuild, repair and restore or sell property in the event of damage or destruction of all or part of the project.
- g. The method and procedure by which the declaration may be amended.
- h. The declaration required herein, amendments, and any instrument affecting the property or any unit therein, are subject to approval by the City and must be recorded with the County Recorder.

17.68.150 Limitations on Application.

- A. Construction on a PUD subdivision shall start within 1 year of the approval of the PUD subdivision, and such construction, or approved stages thereof, shall be completed within 4 years after the date construction begins, unless these timeframes are renegotiated with the City Council for good cause by the applicant. Failure to meet the one year deadline will result in fines and/or action to nullify the Development Agreement and Zone change, and such actions shall be described in the Development Agreement.
- B. Upon approval of a PUD subdivision, construction shall proceed only in accordance with the plans and specifications approved by the City Council in the development agreement.
- C. Amendment to approved plans and specifications for a PUD shall be obtained only by following the procedures outlined in this Chapter and may require a modification to the development agreement.
- D. The code official shall not issue any permit for any proposed building, structure or use within the project unless such building, structure or use is in accordance with the approved development agreement and PUD subdivision plat and with any conditions imposed in conjunction with those approvals.