

**TOWN OF FRISCO
COUNTY OF SUMMIT
STATE OF COLORADO
ORDINANCE 23-24**

AN ORDINANCE AMENDING CHAPTER 180 OF THE CODE OF ORDINANCES OF THE TOWN OF FRISCO, CONCERNING THE UNIFIED DEVELOPMENT CODE, BY AMENDING SECTION 180-2.4.2, CONCERNING REZONING TO A PLANNED UNIT DEVELOPMENT; AND SECTION 180-4.3, CONCERNING PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT, TO PROVIDE FOR REZONING TO THE OVERLAY DISTRICT BASED UPON THE CONSTRUCTION OF WORK FORCE HOUSING.

WHEREAS, the Town of Frisco, Colorado ("Town") is a home rule municipality, duly organized and existing under Article XX of the Colorado Constitution; and

WHEREAS, the zoning and land use powers conferred upon the Town by the State of Colorado as a Home Rule Municipality empower the Town to manage land use to ensure the public health, safety, and welfare; and

WHEREAS, the Town of Frisco currently regulates land uses within the Town limits in accordance with Chapter 180 "Unified Development Code" of the Frisco Town Code, adopted pursuant to its Home Rule Constitutional authority and the Local Government Land Use Control Enabling Act of 1974, as amended, §29-20-101, et seq. C.R.S; and

WHEREAS, the Town Council desires to amend the Unified Development Code in order to enhance use of the Planned Unit Development (PUD) Overlay District; and

WHEREAS, these updates to the Town's Unified Development Code will clarify the Planned Unit Development review process and regulations, while performing updates to adapt to changing trends and needs; and

WHEREAS, the Town of Frisco Planning Commission has reviewed the proposed amendments on August 17, 2023, and has made a recommendation to approve the amendments with modifications to the Town Council; and

WHEREAS, the Town Council held Public Hearings on September 12, 2023, and September 26, 2023, to receive public comment, evidence and testimony relative to the proposed amendments to the Frisco Town Code.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FRISCO THAT:

Section 1. Section 180-2.4.2 of the Frisco Town Code, Concerning Rezoning to Planned Unit Development, is hereby amended to read as follows:

2.4.2 REZONING TO PLANNED UNIT DEVELOPMENT

A. Purpose

The zoning classification of any parcel may be changed to a Planned Unit Development (PUD) pursuant to this section. The purpose of the PUD designation is to encourage flexibility and innovation in the development of land; and to provide relief from certain

standards of the underlying zone district for projects that provide a community benefit in the form of useable open space or affordable or work-force housing in accordance with an overall development plan ~~provide the community with usable open spaces, and to promote a greater variety in design and layout of buildings, more efficient use of land, a balance of housing mix and other public amenities, and to preserve natural and scenic features.~~

B. Applicability

1. A PUD is an area of land, controlled by one or more landowners, to be developed under unified control or unified plan of development for a number of dwelling units, commercial, educational, recreational or contractor trade uses or any combination of the above, the plan for which does not necessarily correspond in lot size, dimensional requirements, type of use, density, lot coverage, open space, parking, or other restrictions to the existing land use regulations. A PUD is an overlay zoning district allowable under Section 24-67-101 et seq. Colorado Revised Statutes 1973 (1977 Replacement Volume) in all zoning districts.
2. A minimum of three dwelling units or 10,500 square feet of lot area is necessary to constitute a PUD. If a PUD is proposed on a lot that is existing legally nonconforming due to parcel size, then the minimum lot area requirement does not apply.
3. Any PUD that proposes a change in type of use, beyond what is allowed in the underlying zone district, shall constitute a rezoning request, and shall be reviewed as to the proposed change in type of use under the rezoning criteria in 2.4.1.E. All other aspects of the PUD proposal shall be reviewed according to the PUD approval criteria contained in 2.4.2.D.

C. Review Procedures

Figure 2-B identifies the applicable steps from the common review procedures in Section 108-2.3 that apply to the review of applications for PUDs. Additions or modifications to the common review procedures are noted below.

Figure 2-B: Rezoning to Planned Unit Development Review Procedures



1. Pre-Application Conference

A pre-application conference shall be held with staff in accordance with Section 2.3.1. In addition, the applicant shall provide the following conceptual materials related to the proposed PUD to help determine whether or not a PUD is the appropriate procedure for the applicant and the Town:

- a. Proposed uses; and
- b. Number and type of dwelling or commercial units (as applicable); and
- c. Percentage of workforce housing units proposed; and
- d. Floor area of all buildings; and
- e. Floor area of each use for mixed-use buildings (if applicable); and
- f. Proposed parking capacity and configuration; and
- g. General site planning layout and phasing.

2. Application Submittal

A complete application shall be furnished to the Community Development Department not less than 52 days prior to an upcoming Planning Commission meeting targeted as the application review date.

a. Owner Consent and Notice

- i. An application for approval of a new PUD shall include written consent by the owners of all property to be included in the PUD.
- ii. In cases where an amendment to a previously approved PUD is requested, the application to amend the PUD may be made by any owner within the PUD, with

written notice of the proposed application to be provided to all other property owners within the PUD.

b. PUD Plan

An application for rezoning to a PUD shall include submittal requirements as specified by the Director, including and shall include a PUD plan and associated narrative outlining the development and design guidelines proposed to differ from the underlying zone district. Approval of the PUD plan is required prior to approval of a development permit in a PUD district. The regulations of this Chapter remain applicable to all PUD development, except as specifically modified pursuant to the provisions contained in the approved PUD plan.

i. The PUD Plan indicates the broad concept of the proposed development. The plan shall include information and supporting materials as specified by the Director, which shall include at a minimum:

- a) An explanation of the objectives to be achieved by the PUD.
- b) Generally, where each type of use will be located in the PUD and the total acreage devoted to each use.
- c) Maximum number of dwelling units per gross acre to be permitted for each residential area within the PUD, indicated including sizes of building lots and types of dwelling units anticipated.
- d) The minimum acreage to be dedicated to common open space, plus the proposed use and the location of open space.
- e) The acreage and location of areas to be dedicated for school sites or other public uses.
- f) Major internal circulation systems, including locations of roadways, conceptual location of trails, and bicycle paths.
- g) A development schedule indicating the improvements included in each phase and the approximate dates when construction of the various stages of the PUD is anticipated to begin and be completed.

ii. The PUD district is an overlay, and the PUD Plan and associated narrative shall identify the underlying zoning districts within the PUD boundaries. If the applicant is proposing to create different development standards than those of this Chapter, the application shall include:

- a) Development standards and other restrictions proposed by the applicant to be applied to each proposed use, or reference standards in similar zoning districts contained in this Chapter that shall apply to each proposed use in particular areas such as: building setbacks, height limits, access requirements and grade or slope restrictions, special provisions addressing sensitive areas, parking requirements, landscape requirements, lot coverage, and floor area ratios.
- b) Written explanation and graphic material illustrating the consideration that the modified standards will produce, demonstrating how the modifications will produce a living environment, landscape quality, and lifestyle equal or superior to that produced by the existing standards.
- c) Graphic illustrations and written explanations of how the PUD addresses the specific constraints and opportunities of the site and surrounding area in a superior manner to what might be accomplished without the PUD process.

3. Concurrent Subdivision Review

If subdivision is required, the subdivision review procedure shall be carried out concurrently as noted in Section 180-2.6 with the review of the PUD as outlined in this Chapter.

4. Planning Commission Review and Recommendation

The Planning Commission shall hold a publicly noticed hearing. The Planning Commission shall review the PUD application and the comments of referral agencies and the public and shall recommend approval, approval with conditions, or denial based on the approval criteria in Section 180-2.4.2.D.

5. Town Council Review and Decision

- a. The Town Council shall review the PUD application and act to approve, approve with conditions, or deny the PUD in accordance with the approval criteria in Section 180-2.4.2.D. The Town Council may also remand the PUD application back to the Director or the Planning Commission for further consideration.
- b. If the Town Council remands the application back to the Director or Planning Commission, additional public hearings may be required before final adoption.

6. Effect of Approval

- a. Following approval of a PUD, the applicant shall submit final copies of the PUD plans and associated narrative to the Director. The Director shall record the PUD plan and narrative and the ~~zoning amendment map and ordinance~~ with the County Clerk and Recorder as soon as practicable.
- b. The approved PUD zoning and the approved PUD plan along with all exhibits are inseparable, and a PUD shall not be established without the approval of the related PUD plan.
- c. The regulations in this Chapter remain applicable to all PUD development unless expressly modified by an approved PUD.
- d. A PUD shall remain valid until the PUD is subsequently amended or rezoned to another zoning district in accordance with this Chapter.

7. Reconsideration After Three Years of No Development

It is expected that progress on the PUD development as a whole will begin and proceed in a timely manner. If the applicant does not establish vested rights for a PUD pursuant to Section 180-2.7.4, and no development has occurred on the site in three years following the approval date of the PUD, the Director may initiate a public hearing process to consider whether the property shall be rezoned to its prior zoning classification or another zoning classification.

8. Phased Projects

- a. If a project is to be built in phases, each phase shall include an appropriate share of the proposed open space, recreation facilities, public facilities, affordable or work-force housing, and other amenities of the development. The appropriate share for each phase of a specific project shall be determined at the time of preliminary plan approval, and shall be based primarily upon a proportional share for the entire development.
- b. Planned unit developments are to be developed under a unified control or unified plan. If the project is to be phased, final plans must be in substantial conformance with the approved PUD plan regardless of any change of ownership.

D. PUD Approval Criteria

In order for Planning Commission to recommend approval and for Town Council to approve any application for or any amendment to a PUD, the applicant shall establish that the following criteria are met:

1. That the project is beneficial or necessary for the economic development of Frisco; and

2. That the application preserves or contributes to usable open space, and natural and scenic features (when open space is provided as a community benefit); or the application provides affordable or work-force housing when housing is provided as the community benefit; and
 3. That the application achieves a compatibility of land uses with neighboring land uses; and
 4. That the modifications to the underlying zoning district by the project are in the best interests of the Town, and neighborhood in which the development is planned; and
 5. That the projected capacity to fully serve the project site(s) with water and sewer is available; and
 6. That Town services shall be provided in the most efficient manner practicable; and
 7. That more than one housing type, or housing price, or housing form of ownership (i.e. for sale and rental) to satisfy the needs of more than one segment of the community be provided (when residential uses are proposed); and
 8. That the project contributes amenities to the development itself, and to the community at large; and
 9. That an owners association is established to promote a sense of community and to ensure the continued existence of a viable entity responsible for maintenance of private open space and other similar duties; and
 10. That the project meets all of the applicable requirements of this Chapter that are not expressly varied in the final PUD plan, contributes to design aesthetics and layout, and promotes efficient use of land.
- E. Enforcement and Amendments to a PUD
1. To further the mutual interest of the residents, occupants and owners of a PUD and of the public in preservation of the integrity of the PUD plan, the provisions of the PUD plan shall run in favor of the Town of Frisco and shall be enforceable in law or in equity by the Town of Frisco without limitation on any powers or regulation otherwise granted by law.
 2. All those provisions of the PUD plan authorized to be enforced by the Town of Frisco may be modified, removed, or released by the Town, subject to the following:
 - a. No modification, removal, or release of the provisions of the PUD plan by the Town of Frisco shall be permitted except upon a finding by the Town, following a public hearing called and held in accordance with the provisions of this Chapter, that the modification, removal, or release is consistent with the efficient development and preservation of the entire PUD, does not affect in a substantially adverse manner either the enjoyment of land abutting upon or across a street from the PUD or the public interest, is not granted solely to confer a special benefit upon any person, and meets the criteria for PUD approval specified in Section 180-2.4.2.D.
 3. Minor Changes Allowed
 Subsequent development applications may incorporate minor changes from the development defined by the PUD approval without the need to reapply, where the Director determines that the changes continue to comply with this Chapter and are consistent with the application approval—i.e., that the changes are necessary to comply with conditions of approval or would not significantly alter the development's general function, form, intensity, character, demand on public facilities, impact on adjacent properties, or other characteristic from that indicated by the PUD approval. In any case, the following changes shall not be deemed minor changes:
 - a. A change in a condition of approval; or
 - b. An increase, or decrease, in the number of lots and/or dwellings by a difference greater than ten percent (10%) of what was originally approved by the Town.

Section 2. Section 180-4.3 of the Frisco Town Code, Concerning Planned UNIT DEVELOPMENT (PUD) OVERLAY DISTRICT, is hereby repealed in its entirety and readopted to read as follows:

180-4.3.1 GENERAL PUD REQUIREMENTS

- A. Where the PUD does not address a specific development standard or requirement of the Frisco Town Code currently in effect, the Code shall apply.
- B. Permitted Uses
Any use that is allowed by right or by conditional use permit within the underlying zone district may be allowed in a PUD.
- C. Coordination with Subdivision and Zoning Regulations
The PUD is a type of customized overlay zoning district. All standards and regulations set forth in the Town Code, as applicable, apply to the PUD and such criteria shall be met in addition to all standards and criteria set forth in this Section.
 - 1. Any provision of Section 180-2.4.2 notwithstanding, it is the intent of these provisions that subdivision hearings and review under Chapter 180, Article 7, Subdivision may cover only a portion of the entire project when the development is built in stages or phases.
 - 2. At the discretion of the applicant and subject to approval by the Town Council as a part of the PUD review, the applicant may choose to delay initiation of review of a subdivision application until final approval of PUD Zoning is obtained for the entire project area.
- D. Modification of Requirements
The Town Council may waive or modify specifications, standards, and requirements such as density, setbacks, height restrictions, land dedications, improvement standards, design standards, parking standards, right-of-way standards, and related requirements that would otherwise be applicable to a particular land use provided such waiver or modification is found to further the objectives of these PUD regulations and the community goals, policies, and objectives.

180-4.3.2 PUD STANDARDS FOR COMMUNITY BENEFITS

- A. The following provisions apply to all PUD application requests:
 - 1. Conformity with the Frisco Community Plan. The proposed PUD shall be consistent with the applicable portions of the Community Plan in the reasonable judgement of the approving body.
 - 2. Relationship to Surrounding Area. The PUD shall strive to complement the surrounding neighborhood area.
 - 3. If the Planned Unit Development is located within an overlay district, all applicable requirements of that overlay district shall be met.
- B. The following provisions apply to PUD applications providing affordable or workforce housing as a community benefit. A minimum of 25% of housing units within the PUD shall be restricted in accordance with these standards:
 - 1. The PUD development shall restrict the sale, rental, ownership, and occupancy of residential dwelling units in accordance with these standards. Such restrictions shall be in effect in perpetuity, shall not expire, and shall survive any foreclosure, unless the restrictions are otherwise released or modified with the written consent of the Town. A deed restriction shall be recorded on each unit to be restricted under these standards.
 - 2. All PUD developments shall provide, at minimum, the following:

- i. Ownership of the Unit is restricted at all times to a business located within Summit County or to an individual employed within Summit County, and occupancy of the dwelling unit is restricted at all times such that at least one person in the household shall earn the majority of their income in Summit County, or from an employer based in Summit County;
 - ii. For purposes of this section, “employed within Summit County” shall mean employment, averaging at least thirty (30) hours per week on an annual basis, at a job that pays wages or a salary, and that is undertaken either within the Unit or at another location within Summit County.
 - iii. Occupancy of a restricted unit shall be by at least one person in the household that maintains his/her sole residence in the Town of Frisco, Colorado;
 - iv. No lease of the Unit shall be for a term of less than six (6) months.
 - v. No short-term rentals, as defined by Frisco Town Code, shall be permitted for the restricted units.
- C. The following provisions apply to PUD applications providing open space as the primary community benefit.
- 1. A minimum of 55 percent of the site shall be devoted to usable open space. The Planning Commission may determine whether portions of stream areas, floodways, wetlands, accessible bodies of water, and outdoor recreational facilities may or may not be included in the calculation of usable open space as defined in Chapter 180, Article 9. In making such a determination, the Planning Commission shall consider the following criteria:
 - i. The relationship of these areas to other areas, structures, and uses within the PUD.
 - ii. The degrees to which these areas contribute to the quality, aesthetics, and overall objectives of the PUD.
 - 2. No building shall be more than 35 feet in height unless a review of the following factors indicates no adverse impacts will occur if this height is exceeded:
 - i. Building orientation in relation to the natural and built environment.
 - ii. Adverse visual effects to adjoining districts or property owners, including potential problems caused by shadows, loss of solar access, or loss of view.
 - iii. Other related impact(s) to existing uses in the area.

INTRODUCED, PASSED ON FIRST READING AND PUBLICATION AND POSTING ORDERED THE 12TH DAY OF SEPTEMBER 2023.

ADOPTED ON SECOND AND FINAL READING AND PUBLICATION BY TITLE ORDERED THIS 26TH DAY OF SEPTEMBER 2023.

TOWN OF FRISCO, COLORADO:

Hunter Mortensen, Mayor

ATTEST:

Stacey Nell, Town Clerk