

CHAPTER 3 DISTRICTS AND REGULATIONS
ARTICLE 1319 SPECIAL USE DISTRICTS

ARTICLE 1319.9 PLANNED DEVELOPMENT AREA

1319.9.1 Purpose and Intent

The purpose of the Planned Development Area (PDA) is to encourage flexibility in the development of land in order to promote its most appropriate use; to improve the design, character and quality of new developments; to provide and promote redevelopment and reuse opportunities; to encourage a harmonious and appropriate mixture of uses and/or housing types; to facilitate the adequate and economic provision of streets, utilities and city services; to preserve critical natural environmental and scenic features of the site; to encourage and provide a mechanism for arranging improvements and sites so as to preserve desirable features; and to mitigate the problems which may be presented by specific site conditions.

It is anticipated that Planned Development Area will offer one or more of the following advantages:

(A) Serve to implement the goals, objectives, and strategies of the City of Fairmont Comprehensive Plan, in general, and with specificity to the district or neighborhood in which the proposed PDA is to be located;

(B) Apply the design principles of new urbanism, neo-traditionalism, and other emerging smart code principles, urban development patterns and best management practices;

(C) Promote development patterns that maximize compatibility of differing adjacent land uses;

(D) Enhance the appearance of neighborhoods by conserving areas of special natural beauty, steep slopes, ecological importance, flood prone areas, and natural green spaces where appropriate, while understanding that land within urban areas is best suited for urban densities and development patterns;

(E) Counteract poor urban design and mitigate congestion on streets;

(F) Promote architecture that is compatible with the vernacular examples of architecture common to the City of Fairmont and/or its surroundings;

(G) Promote design principles that allow differing types of land uses to coexist while preserving property values and minimizing potential negative consequences;

(H) Promote appropriate urban densities that will promote pedestrianism and which will help make alternative forms of transportation economically and socially feasible; and

(I) Promote and protect the environmental integrity of the site and its surroundings by providing suitable design responses to the specific environmental constraints of the site and surrounding area.

1319.9.2 Approved Development Plan

A Planned Development Area is an area under single ownership or control to be developed in conformance with an approved development plan. An approved development plan, at a minimum, shall consist of:

- 1) A map showing the development area and all proposed improvements to be included within the perimeter of the site;
- 2) A text which sets forth the uses and the development standards which must be satisfied; and
- 3) Exhibits setting forth any aspects of the development plan not fully described in the map and text.

The uses and standards expressed in the development plan constitute the use and development regulations for the Planned Development Area site in lieu of the regulations for the underlying district.

1319.9.3 Minimum Area and Single Ownership Required for a Planned Unit Development; Exception

A Planned Development Area shall consist of a parcel or tract of land comprising an area of at least four (4) acres. All land comprising the proposed Planned Development Area shall be titled in the name of a single owner; provided however, multiple ownership shall be permissible if each and every ownership interest is a co-applicant for the Planned Development Area designation and all ownership interests have executed a written agreement, in duplicate, in recordable form, the covenants of which shall run with the land and shall be binding upon any transferees, which shall identify one legal entity responsible for representing the application and which entity shall have authority to act as agent for all owners for all aspects of the Planned Development Area and the Planned Development Area process. An executed original agreement shall accompany the application for any Planned Development Area designation.

1319.9.4 General Provisions

A. A Planned Development Area Outline Plan shall indicate all land uses, development standards, and all other applicable specifications which shall govern the Planned Development Area. If the Outline Plan is silent on a particular land use, a development standard, or any other applicable specification, the use, standard or

specification established by the City of Fairmont Zoning Ordinance for the underlying district or any other applicable regulations shall apply.

B. Prior to any approval, a Planned Development Area map shall show the location and designation of all improvements. The location of a Planned Development Area shall be designated on the Official Land Use Map or Zoning Map for the City of Fairmont and shall be adopted pursuant to rules and regulations governing amendments of this Zoning Ordinance.

C. The Planned Development Area must comply with all required improvements, construction standards, design standards, and all other engineering standards adopted and enforced by the City of Fairmont, and any other pertinent regulations, except where specifically varied through the provisions of this section of the Zoning Ordinance.

D. Designation and Conveyance or Ownership of Permanent Open Space.

(1) Definition. Permanent open space shall be categorized as one of two types:

(a) Improved Open Space is defined as parks, playgrounds, swimming pools, ball fields, plazas, landscaped green spaces, and other areas that are created or modified by man. At least thirty (30) percent of the total permanent open space in any given Planned Development Area shall be of the Improved Open Space type.

(b) Natural Open Space is defined as areas of natural vegetation, water bodies, or other landforms that are to be left undisturbed. Creation of a graded and surfaced walking trail for pedestrian and biking use only through areas of Natural Open Space shall constitute natural open space for purposes of this Chapter in area equivalent in are to the length of the walking or biking trail multiplied by its width.

(c) Neither definition of open space shall include schools, community centers or other similar areas in public ownership.

(2) Designation. Within all Planned Development Areas, a minimum of ten (10) percent of the land of the proposed Planned Development Area shall be designated as permanent open space. No plan for a single-family or multi-family residential Planned Development Area shall be approved unless such plan provides for permanent landscaped or natural open space.

(3) Proximity.

(a) In the case of a mixed-use Planned Development Area, permanent open space shall be allocated to the property in proportion to the uses assigned to the Planned Development Area and shall be located within reasonable proximity (within one-quarter of a mile) to those uses. Provided, however, the permanent open

space need not be located in proximity to the use in the case of preservation of existing features.

(b) As an alternative, a payment in lieu of the open space provision may be made to the City for the purchase or provision of permanent open space on a separate parcel within one quarter of a mile of any Planned Development Area.

(4) Proportion. If the Outline Plan provides for the Planned Development Area to be constructed in stages, open space must be provided for each stage of the Planned Development Area in proportion to that stage.

(5) Conveyance. Permanent open space shall be owned by or conveyed to one of the following:

(a) To a municipal or public corporation;

(b) To a nonprofit corporation or entity established for the purpose of benefiting the owners and tenants of the Planned Development Area or, where appropriate and where approved by the Municipal Planning Commission and the City Council, adjoining property owners, or both. All conveyances hereunder shall be structured to insure that the grantee has the obligation and the right to affect maintenance and improvement of the common open space; and that such duty of maintenance and improvement is enforced by the owners and tenants of the Planned Development Area and, where applicable, by adjoining property owners;

(c) To owners other than those specified in Subsections (a) and (b) above, and subject to restrictive covenants describing and guaranteeing the open space and its maintenance and improvement, running with the land for the benefit of residents of the Planned Development Area or adjoining property owners, or both; or

(d) Included in single-family residential lots under the individual control of lot owners.

(E) Uses permitted in a Planned Development Area may be any use that is found in the Zoning Ordinance in any district, subject to the approval of the City of Fairmont Planning Commission and City Council; however, the City reserves the right to require that a PDA shall consist of only residential uses when circumstances warrant. Examples of such circumstances may include, but are not limited to:

(1) Significant infrastructure constraints that could cause practical difficulties in supporting nonresidential uses;

(2) The character and land use pattern of surrounding neighborhoods; or

(3) Possible deleterious changes in traffic circulation patterns in the immediate area.

A developer may also initiate a request to limit his or her Planned Development Area to residential uses.

(F) For purposes of determining overall project size, two or more parcels of land owned or controlled by the applicant that are wholly or partially separated by a public street or other right-of-way may be considered contiguous and thus may be counted in fulfilling the minimum acreage requirement of a Planned Development Area, provided that the use and development of the public street or other right of way is incorporated into, and is an integral part of the project plans; and provided that there is no other property not owned by the applicant separating the parcels in question. Where there is uncertainty in determining a parcel's qualification to be included in the Planned Development Area, the Planning Commission shall resolve the issue and make a determination as to the project boundaries, after considering the advice of the Planning Director and the request by the applicant.

1319.9.5 Procedure for Approval of Planned Development Area

Applications for a Planned Development Area shall be accompanied by all plans, descriptions, narratives, documents, and exhibits required by Section 1319.9.6 of this Article. A three-step application process shall be used. The steps in the process are:

- (1) Pre-application Conference;
- (2) Outline Plan Approval; and
- (3) Development Plan Approval.

1319.9.5.1 Pre-application Conference.

Prior to filing a formal application for approval for a Planned Development Area, the applicant shall schedule a pre-application conference with the Planning Department. The purposes of the pre-application conference shall be to:

- (1) Allow the applicant to present a general concept and to discuss characteristics of the development concept in relation to adopted municipal plans and policies;
- (2) Allow the Planning Department to inform the applicant of pertinent policies, standards, procedures and recommendations for the Planned Development Area; and
- (3) The pre-application conference is intended only for the above purposes; neither the developer nor the City of Fairmont is bound by any decision made during a pre-application conference.

1319.9.5.2 Outline Plan Approval.

(A) Based upon the pre-application conference, the applicant shall develop and submit an Outline Plan for the proposed Planned Development Area.

(B) The Outline Plan and application for the Planned Development Area shall be submitted to the Planning Department, and the Director, who, after certifying the application package to be complete, shall initiate a review of the proposed development.

(C) The application and the results of the review shall then be forwarded to the Planning Commission for its consideration, public hearing and recommendations together with the Planning Department's report and such other documents as may be pertinent to the Planned Development Area.

(D) The Planning Commission shall hold a special public meeting in the district where the proposed Planned Development Area project is located. If the project crosses district boundaries, the meeting shall be held in the district where the majority of the property is located. The hearing shall be conducted at least seven (7) days prior to the regularly scheduled Planning Commission meeting at which the formal public hearing will be held. The Planning Department will place a Class I advertisement in the newspaper specifying the time and location of the special public meeting, at least five (5) days prior to meeting.

(E) Where there are environmentally sensitive features on the site or the subsequent Development Plan is expected to be complex, or there are other important planning implications involved, the Planning Commission may reserve the right to review the subsequent Development Plan. Where the Planning Commission recommends denial of an Outline Plan and the City Council approves the plan, the Planning Commission shall review the subsequent Development Plan.

(F) Upon completion of its review, the Planning Commission shall forward the application to the City Council with a) a favorable recommendation, b) an unfavorable recommendation, or c) no recommendation.

(G) Effect of Approval of Outline Plan:

(1) When an Outline Plan for a Planned Development Area has been approved by the City Council, by Ordinance, the Plan shall become effective and its location shall be shown on the Zoning Map or Land Use Map. The Zoning Map or Land Use Map shall be amended to designate the site as a Planned Development Area (PDA).

(2) Upon such amendment of the Zoning Map or Land Use Map, the use and development of the site shall be governed by the Planned Development Area Outline Plan, subject to approval of a subsequent Development Plan.

(3) Notwithstanding approval of an Outline Plan no permit of any kind shall be issued until the Development Plan has been approved.

1319.9.5.3 Development Plan Approval:

(A) Purpose of Development Plan Approval. The purpose of the Development Plan is to designate the controls for development of the Planned Development Area. The Development Plan shall show the exact location of each building and improvement to be constructed and a designation of the specific internal use or range of uses for each building.

(B) Time Limit for Approval of Development Plan. The Development Plan shall be submitted to the Planning Department not more than eighteen (18) months following City Council approval of the Outline Plan. The Outline and Development Plans may be submitted as a single plan if all requirements of Section 1329.06 are satisfied. The Development Plan may be submitted and approved in stages, with each stage representing a portion of the Outline Plan, at the discretion of the Municipal Planning Commission. The time limit for submitting each stage for approval may be set forth in the Outline Plan, in which case that schedule shall control the timing of development, rather than the time period contained in this paragraph. The City of Fairmont Planning Commission may extend the time for application for approval of the Development Plan for good cause, consistent with the purposes of the Zoning Ordinance.

(C) Expiration of Time Limit. Periodically, the Planning Director shall report to the City of Fairmont Planning Commission on Planned Development Areas with expired time limits. The original applicants or current developers of the Planned Development Area shall be notified by the Planning Director. The Municipal Planning Commission shall determine whether to consider extending the time or to initiate action to amend the Land Use Map to rescind the Planned Development Area designation.

(D) Relationship of Development and Outline Plan. The Development Plan shall conform to the Outline Plan as approved.

(E) Procedure for Approval of a Development Plan: The applicant must have the Development Plan approved prior to issuance of any building permit.

(i) Development Plan Submission. The Development Plan and supporting data shall be filed with the planning staff.

(ii) Review. The Planning Director shall review the Development Plan to include site plan review, in accordance with the requirements of the Zoning Ordinance.

(iii) Staff Approval. It shall generally be the responsibility of staff to review Development Plans unless the City of Fairmont Planning Commission reviews the Development Plans, or where no Development Plan is required.

(iv) City of Fairmont Planning Commission Review. If the Planning Commission has retained Development Plan approval authority, the Planning Commission shall hold a public hearing in accordance with its rules and regulations for amendments. The Commission may 1) approve, 2) deny or 3) approve with modifications.

(F) Expiration of Development Plan. The Development Plan shall expire 2 years after approval, unless grading and/or building permits have been obtained and are still current and valid on that date. This rule shall also apply to each stage of a Development Plan approved in stages. The applicant may request, in writing, an extension of time, and the approving authority may extend the time limit where deemed appropriate. Such extension may be considered at the time of Development Plan approval.

(G) Effect of Approval of Development Plan. No permit of any kind shall be issued for any purpose within a Planned Development Area except in accordance with the approved Development Plan, and after acceptance by the City of Fairmont of all required guarantees for improvement.

1319.9.6 Pre-Application Conference, Outline Plan and Development Plan Requirements

Planned Development Area plans and supporting data shall include all documentation listed in this Section of the Code unless certain documentation is deemed superfluous by the Planning Director due to the specific circumstances of the particular request.

(A) Pre-application Conference Requirements:

(1) A written letter of intent from the applicant describing the applicant's intention for developing the site;

(2) A preliminary scaled drawing of the site depicting the proposed location and extent of the land uses, major streets, and the approximate location of any existing easements, natural features, and topographic or geologic constraints;

(B) Outline Plan Requirements

(1) A drawing of the proposed Planned Development Area shall be prepared at scale not less than 1' = 50'-0", or as considered appropriated by the Planning Director, and shall show in concept major circulation; generalized location and dimensions of buildings, structures, and parking areas; open space areas, recreation facilities, and other details to indicate the character of the proposed development. The submission shall include:

(a) A site location map;

- (b) Map data such as north point, scale and date of preparation;
- (c) The name of the proposed development, with the words "Outline Plan" in the title block;
- (d) Boundary lines and acreage of each land use component;
- (e) Existing easements and rights-of-way, including location, width and purpose;
- (f) Existing land use on abutting and adjacent properties;
- (g) Other conditions on adjoining land: topography (at 2-foot contour intervals) including any embankments or retaining walls; use and location of major buildings, railroads, power lines, towers and other influences; name of any adjoining subdivision plat;
- (h) Existing streets on and adjacent to the tract, including street name, right-of-way width, walks, curbs, gutters, culverts and drainage ways;
- (i) Proposed public improvements: streets and other major improvements planned by the public for future construction on or adjacent to the tract;
- (j) Existing utilities on the tract;
- (k) Any land on the tract within FIRM Zone A; and/or A-E (the 100-year floodplain) and/or floodway.
- (l) Other conditions on the tract, including water courses, wetlands, sinkholes, wooded areas, isolated trees six (6) inches or more in diameter, existing structures and other significant features;
- (m) Existing vegetation to be preserved and the locations, nature, and purpose of proposed landscaping;
- (n) A master plan for types, quantities and maximum square footage allotments for all signs proposed to be placed within the development, including illustrations of proposed sign types;

(2) Miscellaneous: The Planning Director shall inform the applicant of any additional documents or data requirements necessary for Outline Plan approval after the Pre-application Conference. The developer must submit 20 copies of any page of any portion of the plan that exceeds 11 inches by 17 inches in size. If fewer copies than required are submitted, the Planning Director may deem the application to be incomplete and shall not schedule hearing dates until the situation is resolved.

(3) Written Statement of Character of the Planned Development Area: An explanation of the character of the Planned Development Area and the reasons why it has been planned to take advantage of the flexibility of these regulations. The written statement shall include:

(a) Objectives. A specific explanation of how the proposed Planned Development Area meets the objectives of all adopted land use policies which affect the land in question.

(b) Ownership. A statement of present and proposed ownership of all land within the project including the beneficial owners of a land trust.

(c) Scheduling. Timing of proposed development indicating:

(i) Stages in which the project will be built, including the area, density, use, public facilities, and open space to be developed with each stage. Each stage of development shall be described and mapped; and

(ii) Projected dates for beginning and completion of each stage of land development.

(d) Proposed Uses.

(i) Residential Uses: type, gross area, architectural concepts (narrative or representative illustration), number of units, bedroom breakdown, and proposed occupancy limits for each residential component; and

(ii) Nonresidential Uses (for any mixed use PDA): specific nonresidential uses, including gross floor areas (GFA), architectural concepts (narrative or representative illustration), and building heights.

(e) Facilities Plan. Preliminary concepts and feasibility reports for:

(i) Streets, roadways and bikeways;

(ii) Sidewalks and pedestrian pathways;

(iii) Water supply system;

(iv) Sanitary sewers;

(v) Stormwater management;

(vi) Public utilities;

(vii) Streetscaping, furniture and lighting

(vii) Landscaping

(f) Traffic Analysis. The Planning Director or the City of Fairmont Planning Commission, shall require a study of the traffic impact caused by the proposed

Planned Development Area and/or any measures proposed to mitigate that impact. Such study shall be conducted by a licensed traffic or transportation engineer.

(C) Development Plan Requirements.

The application for Development Plan approval shall include, but shall not be limited to, the following documents:

(1) Such additional information as may have been required by the Outline Plan approval;

(2) An accurate map exhibit of the entire phase for which Development Plan approval is being requested, showing the following:

(a) Precise location of all buildings to be constructed, and a designation of the specific use or range of uses for each building. Single-family residential development on individual lots need not show precise locations of buildings on each lot, but plans shall show building setback lines and other design constraints;

(b) Design and precise location of all streets, sidewalks, curbs, drives, and parking areas, including construction details, street lighting, traffic control devices, signage, centerline elevations, pavement type, pavement design, curbs, gutters, culverts details and any other information required by the City Engineer;

(c) Location of all public utility lines and easements, both proposed and existing;

(d) A final detailed landscape plan. Tabulation on each separate subdivided use area, including land area, number of buildings, number of dwelling units per acre, type of unit, bedroom breakdown, and limits on occupancy; and

(e) Stormwater management plans including stormwater calculations, location and size of storm lines (both existing and proposed), detention/retention facilities with construction details. Stormwater management plans are to conform to local, state and federal regulations.

(f) Sediment and erosion control plans per local, state and federal regulations.

(3) If lands to be subdivided are included in the Planned Development Area, a subdivision plat meeting the requirements of a preliminary plat, as modified by the Outline Plan approval, is required where platting is to be proposed concurrent with the Development Plan review and approval process.

(4) Projected construction schedule.

(5) Agreements and covenants which govern the use, maintenance, and continued protection of the Planned Development Area and its common spaces, shared facilities, and private roads.

(6) Guarantee of Performance for Completion of Improvements. A performance bond with corporate surety or other guarantee acceptable to the City of Fairmont shall be provided for all proposed public improvements and shall be executed at time of permit application or platting, whichever comes first. Improvements that must be guaranteed include facilities that shall become public, and may include other facilities or improvements as may be specified in the Outline or Development Plan approval. If the project is to be built in phases, the bond or guarantee shall be posted prior to the commencement of work on each phase. The bond or guarantee shall specify the time for completion of improvements, and shall be in an amount of one hundred twenty-five percent of the estimated verifiable cost of the improvements, as determined by the project contractor or engineer, and as approved by the City Engineer.

1319.9.7 Review Considerations

In considering a Planned Development Area Outline Plan, the Planning Director in his report to the City of Fairmont Planning Commission, the Planning Commission in its recommendation to City Council, and the City Council in its decision, shall evaluate the project in light of as many of the following objectives as may be relevant to the specific proposal:

(A) The extent to which the Planned Development Area meets the purposes of the Zoning Ordinance, the Comprehensive Plan, and any other adopted planning objectives of the City of Fairmont;

(B) The extent to which the proposed plan meets the requirements, standards, and stated purpose of the Planned Development Area regulations;

(C) The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to, the density, dimension, bulk, use, required improvements, and construction and design standards and the reasons why such departures are or are not deemed to be in the public interest;

(D) The proposal will not be injurious to the public health, safety, and general welfare;

(E) The physical design of the Planned Development Area and the extent to which it makes adequate provision for public services, provides adequate control over vehicular traffic and promotes alternative forms of transportation, provides for and protects designated permanent open space, and furthers the amenities of urban ambience, light and air, recreation and visual enjoyment;

(F) The relationship and compatibility of the proposed plan to the adjacent properties and neighborhood, and whether the proposed plan would substantially interfere with the use or diminish the value of adjacent properties and neighborhoods;

(G) The desirability of the proposed plan to the City of Fairmont's physical development, tax base and economic well-being. At the discretion of the Planning Commission and City Council, special consideration in the form of increased development flexibility may be given to projects that are intended to rehabilitate or replace dilapidated areas, brownfields, or other areas of general visual or economic blight. Such special consideration shall not be granted to projects intended for construction on lands that consist of 60 percent or more of greenfield or previously undeveloped lands.

(H) The proposal will not cause undue traffic congestion, and can be adequately served by existing or programmed public facilities and services.

(I) The proposal preserves significant ecological, natural, historical, and architectural resources to the extent possible.

(J) The proposal will enhance the appearance, image, function, and economic sustainability of the community at large.

(K) Projects which are designed to a more human scale, support multi-modal transportation options, promote pedestrianism, reserve useful open space, provide significant amenities to residents, and incorporate architectural detailing, massing and scale that is consistent with historical community norms shall have a significant advantage in the review process over those that merely seek to maximize inappropriate forms of density, circumvent customary development standards, or promote a pattern of development that can be generally recognized as "urban sprawl," as defined in the definition section of the zoning ordinance. Projects that fail to achieve these objectives will likely result in a recommendation for denial by the Planning Department and/or Planning Commission.

(L) The proposal makes reasonable accommodations in housing, recreational amenities, and pedestrian facilities for individuals with disabilities.

(M) The proposal dedicates and provides a percentage of the total number of dwelling units to be offered at sale or rental prices deemed affordable to individuals of low and moderate income, as defined by the U.S. Department of Housing and Urban Development. Generally, between 3 to 5 percent of all units should meet this goal.

(N) For any PDA containing only residential uses, clustering of units should be utilized (and may be required by the City) in order to preserve meaningful open space and/or recreational amenities for the residents. In addition, such projects shall be required to provide a mixture of different dwelling types and sizes. Examples of dwelling

types include townhouses, row houses, patio homes, zero lot line houses, single-family detached housing, apartments, duplexes, condominiums, etc.

1319.9.08 Changes In the Approved Planned Development Area

(A) Changes Requiring Outline Plan Approval. Changes which alter the concept or intent of the Planned Development Area including but not limited to:

- (1) Significant increases in density;
- (2) Significant changes in the proportion or allocation of land uses;
- (3) Change in the list of approved uses;
- (4) Changes in the locations of uses;
- (5) Changes in functional uses of open space, where such change constitutes an intensification of use of the open space; and/or
- (6) Changes in the final governing agreements where such changes conflict with the approved Outline Plan.

(B) Changes Requiring Development Plan Approval. These changes shall include the following:

- (1) Changes in lot arrangement, or addition of buildable lots that change approved density of the development;
- (2) Changes in site design requirements, such as location of required landscaping, signage, building height, architectural character, cube and/or footprint, or other such requirements of the Zoning Ordinance;
- (3) Changes to the internal street system or off-street parking areas;
- (4) Changes in drainage management structures;
- (5) Changes in access to the development site, where such change amounts to an intensification in the traffic patterns of roadways of classification higher than local; and/or
- (6) All other changes not expressly addressed under Section (A) shall require new Development Plan approval.