

AVON ZONING ORDINANCE

CHAPTER 5. REVISION HISTORY

CHAPTER 5. PLANNED UNIT DEVELOPMENTS

Ordinance #	Plan Commission Approval Date	Town Council Adoption Date	Description
2002-14	09-24-02	11-14-02	Adoption of Chapter 5.
2010-02	03-22-10	04-08-10	Chapter 5: Total revision of entire Chapter
2012-22	10-29-12	11-15-12	Section 5-11: Property Owner permission

AVON ZONING ORDINANCE

CHAPTER 5. PLANNED UNIT DEVELOPMENTS

Section 5-1.	Purpose
Section 5-2.	Authority to Vary Regulations
Section 5-3.	Ownership & Control
Section 5-4.	Minimum Project Area
Section 5-5.	Permitted Uses & PUD Classifications
Section 5-6.	Development Standards
Section 5-7.	Procedures for Initial Review
Section 5-8.	Procedures for Secondary Review
Section 5-9.	Phasing, Extensions and Abandonment
Section 5-10.	Recording
Section 5-11.	Amendment
Section 5-12.	Limitation of Rezoning

Section 5-1. Purpose

The Planned Unit Development (PUD) zoning district is established to provide for the development of mixed zoning classifications, densities, and uses under a common classification when presented to the Plan Commission in a well-prepared, organized and documented plan. This zoning district is intended to provide for:

1. Greater flexibility in applying the ordinances to mixed zoning classifications;
2. Innovative approaches to meet the demands of the housing, commercial, and business markets;
3. The recognition of the interdependency of the above markets; and
4. The planning and development of mixed zoning classifications to be consistent with the best interest of the jurisdictional area of the Town and the applicable Town ordinances.

Section 5-2. Authority to Vary Regulations

In connection with approving a Planned Unit Development District, the Plan Commission and the Town Council shall have the authority to approve a Planned Unit Development District that varies from the provisions of this Zoning Ordinance or of the Subdivision Control Ordinance provided, however, such variation:

1. will achieve the purposes for which planned unit developments may be approved pursuant to the requirements of this Chapter;
2. will not violate the general purposes, goals, and objectives of the Zoning Ordinance and the Town's Comprehensive Plan;
3. will not unduly burden adjacent roadways; and
4. will result in a development providing adequate and appropriate levels of open space and other compensating amenities both within the proposed development and to the Town.

Section 5-3. Ownership & Control

The properties subject to any Planned Unit Development request must either be under single ownership or control, or must demonstrate consent to inclusion in the PUD request if not under a single ownership or control.

Properties under multiple ownership or control may be subject to a Planned Unit Development request,

AVON ZONING ORDINANCE

provided:

1. All owners of record provide a signed, notarized consent form for the petition file authorizing inclusion of the property within the PUD request; and
2. The properties included within a PUD request shall all be contiguous.

Properties included in a Planned Unit Development request may revoke consent, in writing, at any point during the PUD process until the approved PUD ordinance and any commitments are recorded with the title to the property.

A request to include a site within a PUD zoning district may originate from the Town Council or Plan Commission in accordance with the procedures of Chapter 3 of the Avon Zoning Ordinance.

Section 5-4. Minimum Project Area

1. There shall be no minimum project acreage for a Planned Unit Development District.
2. There shall be no minimum open space requirement for a Planned Unit Development District.
 - A. As the provision of a per-determined percentage of total project open space (as defined by the Avon Zoning Ordinance) does not necessarily result in the development of an innovative or unique project, each proposed PUD zoning district shall instead provide: amenities, recreation areas, open areas, preservation areas, improvements and features at a level consistent with the intent and character of the proposed PUD zoning district.

Section 5-5. Permitted Uses & PUD Classifications

All land use classifications that are allowed in this Ordinance may be permitted within a PUD, unless otherwise omitted. All various types of development, *i.e.*, residential, commercial or industrial shall meet the requirements of this Zoning Ordinance as they apply to those classifications.

1. Planned Unit Development – Residential (PUD-R)
 - A. Permitted uses may include any use allowed in any Residential zoning district, and all uses ancillary to residential character.
 - B. A PUD-R may not exclude group homes, residential facilities for the developmentally disabled, or residential facilities for the mentally ill.
2. Planned Unit Development – Commercial (PUD-C)
 - A. Permitted uses may included those allowed in any Commercial zoning district, any Industrial Zoning District, and all uses ancillary to Commercial or Industrial character.
3. Planned Unit Development – Mixed (PUD-M)
 - A. Permitted uses may include any use allowed in any Residential, Commercial, or Industrial Zoning District.
 - B. Residential areas within a PUD-M may not exclude group homes, residential facilities for the developmentally disabled, or residential facilities for the mentally ill.

Section 5-6. Development Standards

1. Standards:
 - A. Development Standards:
 - (a) Applicability: Unless alternate development standards are specified in the PUD district ordinance, the default development standards of the zoning district specified in the PUD district ordinance shall apply to the PUD zoning district.
 - (b) Authorization to Propose Alternate Development Standards: The petitioner may propose the use of alternate development standards.

AVON ZONING ORDINANCE

- (c) Alternate development standards deemed appropriate by the Plan Commission in order to accomplish the intent of the PUD shall be specified in the PUD District Ordinance that is certified by the Plan Commission and adopted by the Town Council.
- (d) Any lessening or other modification of the default development standards of the zoning district specified shall be directly linked to the intent of the PUD to:
 - (1) Provide a mixed-use development;
 - (2) Provide a creative design; or
 - (3) Address the unusual physical conditions of the site.
- (e) Supplemental Exhibits as Standards: Where supplemental exhibits (including, but not limited to elevations, renderings, materials samples, and color palates) are provided as supporting documentation of a concept, style, theme, or other element of a PUD zoning district, such supplemental exhibits shall be considered a component of the Development Standards of the PUD zoning district for the purposes of Secondary Review
 - (1) Any Supplemental Exhibit provided as supporting documentation as stated above shall identify (by corresponding section and sub-section numbers) the element of the applicable PUD District Ordinance that the submitted Supplemental Exhibit illustrates.
 - (2) Where any such Supplemental Exhibit is provided as illustration of compliance with any PUD District Ordinance standard requiring a numerical minimum, and where any such Supplemental Exhibit reflects provision of the required element in excess of said minimum, the Supplemental exhibit shall provide notation disclosing such.
 - (3) Any conflict or confusion between supplemental exhibits and the text of the approved ordinance shall be resolved through interpretation by the Zoning Administrator in accordance with Chapter 4 of the Avon Zoning Ordinance.

B. Design & Construction Standards:

- (a) Applicability: Unless alternate design and construction standards are adopted in the PUD district ordinance, the design and construction standards of the Avon Department of Public Works shall apply to each PUD District.
- (b) Authorization to Propose Alternate Design Standards: The petitioner may propose the use of alternate design and construction standards.
- (c) Alternate design standards deemed appropriate by the Plan Commission in order to accomplish the intent of the PUD shall be specified in the PUD District Ordinance that is certified by the Plan Commission and adopted by the Town Council.
- (d) Any lessening or other modification of the default design and construction standards of the zoning district specified shall be directly linked to the intent of the PUD to:
 - (1) Provide a mixed-use development;
 - (2) Provide a creative design; or
 - (3) Address the unusual physical conditions of the site.

C. Procedure for Establishing Alternate Standards:

- (a) Avon Department of Public Works: All proposals to deviate from the default design and construction standards of the Town of Avon shall be reviewed by the Director of the Department of Public Works in conjunction with the PUD district ordinance and concept plan(s).
- (b) Technical Advisory Committee: Prior to the petition appearing before the Plan Commission for public hearing, the petitioner shall be responsible for securing the approval of all agencies represented on the Technical Advisory Committee that would have facilities affected by an alternate standard.

AVON ZONING ORDINANCE

- (c) Local, State and Federal Agencies: Prior to the petition appearing before the Plan Commission for public hearing, the petitioner shall be responsible for securing the approval of the alternate standards of any local, State and Federal agencies that are not represented on the Technical Advisory Committee that would have facilities affected by an alternate standard.
 - (d) Restriction: Failure to secure the approval of any proposed alternate standard of any agency that would have facilities affected by an alternate standard shall preclude the bringing of any Development Plan that relies on such alternative standard before the Plan Commission or Town Council for consideration.
- 2. Definitions:
 - A. Applicability: The definitions found in Section 20 of the Avon Zoning Ordinance shall apply to every PUD zoning district.
 - B. Restrictions and Prohibitions: The petitioner shall not propose alternate definitions for words that are already defined in Chapter 20 of the Avon Zoning Ordinance.
 - C. New Definitions: The petitioner may propose definitions for words that are already defined in Chapter 20 of the Avon Zoning Ordinance.
 - (a) The new definitions shall not be applicable to the proposed PUD alone, but added to Chapter 20.
 - (b) The petitioner shall identify every instance in which the word (or any variation thereof) proposed to be defined occurs in the Avon Zoning Ordinance and every other PUD district ordinance to ensure that the usage of the word will be consistent throughout.
 - D. Amended Definitions: The petitioner may propose the amendment of definitions for words that are already defined in Chapter 20 of the Avon Zoning Ordinance.
 - (a) The new definitions shall not be applicable to the proposed PUD alone, but added to Chapter 20.
 - (b) The petitioner shall identify every instance in which the word (or any variation thereof) proposed to be defined occurs in the Avon Zoning Ordinance and every other PUD district ordinance to ensure that the usage of the word will be consistent throughout.
- 3. PUD District Ordinance Format: The submitted PUD district ordinance, all supporting documentation and related information submitted to the petition file shall follow the standard format adopted by the Town in Appendix A-8 of the Town of Avon Zoning Ordinance.
- 4. Procedures: The procedures for the establishment and administration of a PUD zoning district are set forth in Section 5-7 of this chapter.
 - A. Alternate procedures shall not be established for any PUD zoning district.
- 5. Amendments to the Avon Zoning Ordinance: Unless the PUD zoning district has specified an alternate development, design or construction standard, and amendment to the text of the Avon Zoning Ordinance or to the design and construction standards of the Department of Public Works shall apply equally to PUD zoning districts.

Section 5-7. Procedures for Initial Review

The complete review and approval process for a Planned Unit Development Ordinance consists of the following elements.

- 1. Pre-filing Conference:
 - A. A Pre-Filing conference between the petitioner and Zoning Administrator shall occur a minimum of ten (10) days prior to the filing of a proposed PUD district ordinance and concept plan.
 - B. Documentation necessary for a Pre-Filing conference shall include, at a minimum:

AVON ZONING ORDINANCE

- (a) Draft PUD zoning district ordinance text; and
 - (b) A Preliminary Plan;
 - C. Standards for the information required of the documents necessary for a Pre-Filing Conference shall be as per Appendix A-8.
 - D. The Pre-Filing conference shall serve as an opportunity to alert the petitioner to potential conflicts with adopted Town policies, plans, and ordinances, as well as an opportunity to alert the petitioner to potential conflicts with affected utility and service providers.
 - E. Failure to identify potential conflicts with Town policies, plans and ordinances or with affected utility and service providers at the Pre-Filing Conference will not eliminate the responsibility of the petitioner to address issues identified later in the approval process.
- 2. Submittal:
 - A. The submitted PUD zoning District request shall consist of:
 - (a) A completed application packet from the Town of Avon Department of Planning & Building;
 - (b) Proposed PUD zoning district ordinance text;
 - (c) Supporting information as identified in Appendix A-8 of the Town of Avon Zoning Ordinance; and
 - (d) Any additional information identified as necessary by the Zoning Administrator at the Pre-Filing Conference.
 - (1) Failure to provide the information listed in Section 5-7 (2) (a) shall result in the petition not being docketed for the next available hearing date.
- 3. Neighborhood Meeting
 - A. A minimum of fifteen (15) days prior to the scheduled Informational Meeting date, the petitioner shall host a Neighborhood Meeting for abutting property owners.
 - B. Mailed Notice of this Neighborhood Meeting shall be provided in accordance with the Legal Notice provisions of Chapter 3 of this Ordinance and with the Rules of Procedure of the Town of Avon Plan Commission, with the following exceptions:
 - (a) Notice for this Neighborhood Meeting need not be provided by Certified Mailing, and
 - (b) Notice for this Neighborhood Meeting need not be published in papers of general circulation.
 - C. The Neighborhood Meeting shall not constitute a public hearing on the proposed Planned Unit Development, and shall not be administered by Town staff or appointed board members as such.
 - (a) A report detailing the events, attendance, and information presented by the petitioner at the Neighborhood Meeting shall be submitted to the petition file a minimum of ten (10) days prior to the scheduled Informational Meeting.
 - (b) Copies of this report shall be distributed to the membership of the Avon Plan Commission by the staff of the Town of Avon as a component of any staff report provided prior to the Informational Meeting.
 - (c) Any person or persons in attendance at the Neighborhood Meeting may submit written questions, concerns, or desired changes to the petition file a minimum of ten (10) days prior to the scheduled Informational Meeting.
 - (1) Copies of comments submitted by persons in attendance at Neighborhood Meetings will be provided to Avon Plan Commission members as indicated in (ii) above.
 - D. No action may be taken on any proposed PUD zoning district at a Neighborhood Meeting, and no comments, proposed changes, or requested changes shall be considered binding.

AVON ZONING ORDINANCE

4. Technical Advisory Committee (TAC)
 - A. Any proposed PUD zoning district shall appear before the Technical Advisory Committee prior to any Public Hearing.
 - B. Any PUD zoning district proposing to modify any adopted design or construction standard of the Town of Avon Department of Public Works shall submit a description of the proposed change as per Appendix A-8 of the Town of Avon Zoning Ordinance.
 - C. Any PUD zoning district proposing to modify any adopted design or construction standard of any utility or service provider shall submit a description of the proposed change as per Appendix A-8 of the Town of Avon Zoning Ordinance.
 - D. The affected Department or utility or service provider shall provide a written response to the proposed modified design or construction standard prior to any public hearing of the proposed PUD zoning district.
5. Plan Commission informational appearance
 - A. Upon completion of elements 1-4 of this Section, the proposed PUD zoning district shall appear before the Avon Plan Commission for an informational presentation of the proposed PUD zoning district.
 - B. The informational appearance shall be conducted at a regularly-scheduled Plan Commission meeting.
 - C. The informational appearance shall not constitute the required public hearing for the proposed PUD zoning district.
 - D. The informational meeting shall be administered by Town staff and appointed board members in accordance with the Rules of Procedure of the Town of Avon Plan Commission.
 - E. No action may be taken on any proposed PUD zoning district at an informational meeting, and no comments, proposed changes, or requested changes shall be considered binding.
6. Plan Commission public hearing
 - A. A petition having completed elements 1-5 of this section may undergo public hearing before the Town of Avon Plan Commission.
 - B. Legal notice for any public hearing on any proposed PUD zoning district shall be provided in accordance with the terms of Chapter 3 of the Town of Avon Zoning Ordinance, and with the terms of the Town of Avon Plan Commission Rules of Procedure.
 - C. The public hearing for any proposed PUD zoning district shall be conducted in accordance with the terms of Chapter 3 of the Town of Avon Zoning Ordinance, and with the terms of the Town of Avon Rules of Procedure.
 - D. Action by the Plan Commission at a public hearing for a proposed PUD zoning district shall take the following form:
 - (a) Recommendation of approval to the Avon Town Council;
 - (b) Recommendation of approval with conditions or commitments to the Avon Town Council;
 - (c) Recommendation of denial to the Avon Town Council; or
 - (d) Continuance of the matter to a later hearing date.
7. Town Council
 - A. A petition having undergone public hearing before the Plan Commission shall be placed on the Avon Town Council agenda within forty-five (45) days of certification of the Plan Commission recommendation.
 - B. Town Council shall consider the petition for the Planned Unit Development ordinance in accordance with the procedures for amending the Zoning Map set forth in Chapter 3 of the Avon Zoning Ordinance.
 - C. The Town Council shall take the following action on the petition:
 - (a) Adopt the proposed PUD zoning district;

AVON ZONING ORDINANCE

- (b) Adopt the proposed PUD zoning district with conditions and/or commitments;
- (c) Return the proposed PUD zoning district to the Plan Commission with proposed amendments; or
- (d) Deny the proposed PUD zoning district.

Section 5-8. Secondary Review by the Plan Commission

1. Secondary Review of any PUD zoning district shall be delegated to the Avon Plan Commission, as per IC 36-7-4-1511.
2. Development Plan Review
 - A. Development Plan Review by the Plan Commission shall serve as the secondary review of the PUD for any non-residential portion of any approved PUD zoning district.
 - (a) Development Plan Review shall be as per Chapter 4 of the Town of Avon Zoning Ordinance.
 - (b) Any Development Plan Review of an adopted PUD zoning district may consist of the entire area of the adopted PUD zoning district, or any portion of the PUD zoning district.
 - (c) Undergoing Development Plan Review of any portion of an adopted PUD zoning district shall not remove the requirement to plat any newly created, divided or otherwise modified lot in accordance with the terms of the Town of Avon Subdivision Control Ordinance.
 - B. Primary and Secondary Plat
 - (a) Primary Plat review by the Plan Commission shall serve as the secondary review of the PUD for any residential portion of any approved PUD zoning district.
 - (b) Secondary Plat review of any approved PUD zoning district shall be in accordance with the terms of the Town of Avon Subdivision Control Ordinance.

Section 5-9. Phasing, Extensions and Abandonment

1. Phasing Schedule
 - A. The phasing schedule described in Appendix A-8 and submitted as a component of the approved PUD zoning district shall govern the timing of the development of the PUD zoning district.
 - B. Secondary Review by the Plan Commission for the components of the PUD zoning district identified in the approved phasing schedule (either Development Plan Review or Primary Plat) shall be completed successfully within the timeline established by the approved phasing schedule.
 - (a) Failure to complete a Secondary Review for a component of a PUD zoning district within the timeframe established by the phasing schedule shall require amendment of the PUD zoning district in accordance with Section 5-11 Prior to seeking any additional Secondary Review for any other component of the PUD zoning district.
 - (b) While such amendment is pending and until such amendment is approved, no permits shall be issued in that portion of the PUD subject to the pending amendment.
 - C. All approvals subsequent to the required Secondary Review approval (ex: final/secondary plat, ILP, etc...) shall be completed within the timeline for said approval established by the Town of Avon Zoning Ordinance or Subdivision Control Ordinance.
2. Extensions of Time
 - A. Any request for any extension of time shall be completed prior to the expiration of the time period in question.

AVON ZONING ORDINANCE

- (a) Extensions of time filed, but not approved, by the expiration of the time period in question shall be considered denied upon the expiration of the time period in question.
 - B. Administrative: A single extension of time to complete Secondary Review of any component of a PUD zoning district may be granted by the Zoning Administrator.
 - (a) Any such extension shall be for a maximum of six (6) months.
 - (b) Any such extension shall be requested in writing, confirmed in writing, added to the petition file, and reported to the Plan Commission at the next scheduled meeting.
 - (c) The required Secondary Review of the component of the PUD zoning district shall be completed prior to the expiration of the six (6) month extension.
 - C. Any other request for an extension of time shall be considered an amendment to the adopted PUD zoning district, and shall be subject to the provisions of Section 5-XX of this Chapter.
3. Abandonment
- A. Abandonment shall be deemed to have occurred when no improvements have been made pursuant to the approved Secondary Review for twenty four (24) consecutive months, or upon the expiration of two (2) years from the date of approval of last component of the PUD zoning district receiving approval.
 - B. An amendment shall be initiated to the zoning map, as provided by law, so that the land will be zoned into a category or categories that most nearly approximate it's then existing use or such other zoning category or categories that the legislative body deems appropriate.

Section 5-10. Recording

- 1. Recording Prior to Construction
 - A. Prior to the issuance of any Improvement Location Permit or any development occurring:
 - (a) A copy of the approved PUD zoning district ordinance text shall be recorded with the title to the subject site;
 - (b) Any concept plan, graphic or other visual rendering adopted as a component of the PUD zoning district ordinance shall be reduced to a legible, recordable form and recorded with the title to the subject site; and
 - (c) Any written commitments attached during the approval of the PUD zoning district shall be placed on the form adopted by the Town of Avon and recorded with the title to the subject site.

Section 5-11. Amendment

- 1. Minor Amendment
 - A. Minor Amendments to PUD zoning districts may be approved by the Zoning Administrator.
 - B. Any such amendment shall be requested in writing, confirmed in writing, added to the petition file, and reported to the Plan Commission at the next scheduled meeting.
 - C. Only proposed amendments not identified in Section 5-11 (2) shall be eligible for consideration as a minor amendment.
 - D. Appeal of any denial of a minor amendment shall be in the form of a detailed amendment as established by Section 5-11 (2) of this Chapter, below.
- 2. Detailed Amendment
 - A. A detailed amendment shall be required when proposing to:
 - (a) Modify or terminate a condition of approval;
 - (b) Modify or terminate a commitment of approval;
 - (c) Increase the density or intensity of the project (*e.g.* additional structures, additional square footage, *etc...*);

- (d) A new right-of-way is proposed;
 - (e) A right-of-way is proposed to be removed from the approved PUD zoning district, concept plan, Development Plan Review or Primary Plat for the project;
 - (f) The ratio of platted lot area to common area and/or open space is being increased;
 - (g) The boundary of the area included in the PUD zoning district is being expanded to include additional area or contracted to exclude areas previously included in the approved PUD zoning district.
- B.** A detailed amendment shall follow the same procedures for approval as those listed in Section 5-7 of this Chapter, with the exception of excluding the following:
- (a) No Informational Appearance before the Plan Commission shall be required (amendment petitions may proceed directly to Public Hearing after all other preliminary steps).
- 3. Permission**
- A.** Any modification to an approved PUD zoning district shall require the consent of property owners who own at least fifty percent (50%) of the land involved.
- (a) Any amendment, modification, or re-zoning of a PUD zoning district initiated by the Town Council shall not require consent of property owners within the PUD zoning district.
- 4. Considerations**
- A.** In consideration of any proposed amendment, the Plan Commission shall evaluate the following:
- (a) Consistency of the proposed amendment with the intent of the original PUD zoning district;
 - (b) Consistency of the proposed amendment with the recommendations of all current adopted Town of Avon land use policies and plans (*ex:* Comprehensive Plan, Parks Master Plan, Thoroughfare Plan, Trail and Sidewalk Plan, et al).
 - (c) Changes to physical site conditions and to the physical conditions of properties abutting the subject site; and
 - (d) Changes to market demand, demographic shifts, geopolitical considerations, and other policy and legal environmental changes.

Section 5-12. Limitation of Rezoning

This section shall only apply to new Planned Unit Development Proposals initiated after the date of adoption of this ordinance, and is not applicable to Planned Unit Development districts in existence at the time of passage of this ordinance.

Any amendments to PUD districts in existence at the time of adoption of this ordinance shall be subject to the requirements set forth in this Section.