

**THE CITY OF WINTER GARDEN**  
**CITY COMMISSION AGENDA ITEM**

**From:** Steve Pash, Community Development Director

**Via:** City Manager Mike Bollhoefer

**Date:** March 4, 2016

**Meeting Date:** March 10, 2016

**Subject:** Ordinance 16-25

**Issue:** Amending Article V, Division 2 of Chapter 118 of the Code of Ordinances of the City of Winter Garden.

**Discussion:**

An ordinance of the City Commission of the City of Winter Garden, Florida, amending Article V, Division 2 of Chapter 118 of the City of Winter Garden Code of Ordinances governing residential planned unit developments; modifying regulations governing planned unit developments with primary residential uses; providing for and creating planned unit developments with primary institutional uses; providing for secondary uses and prohibited uses within planned unit developments with primary residential and primary institutional uses.

**Recommended Action:**

Staff recommends approval of Ordinance 16-25 amending Article V, Division 2 of Chapter 118 of the Code of Ordinances of the City of Winter Garden, with the second reading and adoption hearing scheduled for the March 24, 2016 Commission Meeting.

**Attachment(s)/References:**

Ordinance 16-25

**ORDINANCE 16-25**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING ARTICLE V, DIVISION 2 OF CHAPTER 118 OF THE CITY OF WINTER GARDEN CODE OF ORDINANCES GOVERNING RESIDENTIAL PLANNED UNIT DEVELOPMENTS; MODIFYING REGULATIONS GOVERNING PLANNED UNIT DEVELOPMENTS WITH PRIMARY RESIDENTIAL USES; PROVIDING FOR AND CREATING PLANNED UNIT DEVELOPMENTS WITH PRIMARY INSTITUTIONAL USES; PROVIDING FOR SECONDARY USES AND PROHIBITED USES WITHIN PLANNED UNIT DEVELOPMENTS WITH PRIMARY RESIDENTIAL AND PRIMARY INSTITUTIONAL USES; PROVIDING FOR CODIFICATION, CONFLICTS, AND SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Winter Garden has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida and Chapters 163 & 166, Florida Statutes; and

**WHEREAS**, there is a need to create a flexible zoning classification to accommodate institutional uses within the City and a planned unit development is proper planning tool and zoning category for such purposes; and

**WHEREAS**, the City desires to modify the residential planned unit development provisions of Chapter 118, City of Winter Garden Code of Ordinances in order to allow planned unit developments with primary institutional uses subject to certain performance standards as set forth herein; and

**WHEREAS**, this Ordinance is consistent with the City of Winter Garden Comprehensive Plan; and

**WHEREAS**, this Ordinance has received a recommendation from the City’s local planning agency, has been properly read and advertised as provided by Florida law and the required meetings and hearings have been conducted on its adoption; and

**WHEREAS**, the City Commission finds that this Ordinance is in the best interest and welfare of the citizens of the City of Winter Garden.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA, AS FOLLOWS:**

**SECTION 1: Recitals.** The above referenced “Whereas” clauses are true and correct and constitute legislative findings of the City Commission.

**SECTION 2: Adoption.** Chapter 118, Article V, Division 2 of the City of Winter Garden Code is hereby amended to read as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions; provisions not included are not being modified):

**DIVISION 2. - ~~RESIDENTIAL~~ PLANNED UNIT DEVELOPMENTS**

**Subdivision I. - In General**

**Sec. 118-858. - Permitted uses.**

Uses permitted in the ~~residential~~ planned unit development (PUD) may include and shall be limited to the following:

(1) Primary residential uses. Primary residential uses permitted are single-family detached and multifamily residential dwelling units, including apartments, in semidetached, attached, and multistoried structures. The term “residential planned unit development” as used in this article shall mean a planned unit development with primary residential uses and in addition may contain nonresidential uses as provided in subsection (2).

(2) Nonresidential uses with primary residential uses. Nonresidential uses in conjunction with primary residential uses are permitted as follows:

a. Secondary nonresidential uses. Nonresidential uses of religious, public or semipublic, cultural, recreational or commercial character and personal service centers, offices and professional centers providing services to residents of the planned unit development. The nonresidential uses

shall be compatible with and secondary to the primary residential use. No building devoted primarily to a commercial use shall be built or established prior to the primary residential buildings or uses it is designed or intended to serve.

b. Hotels and motels. Hotels and motels may be permitted upon consideration of the following criteria:

1. The total acreage used for the hotel and motel, including necessary parking, support buildings and grounds and appurtenances, shall not be considered common open space and shall be included within the maximum five percent of the total acreage permitted under this division for commercial uses.

2. The proposed streets and traffic flow and the streets, thoroughfares and traffic plan in the area adjacent to the site plan shall be adequate to support the anticipated traffic to be generated by the proposed hotel and motel.

3. The proposed hotel and motel use shall be compatible with the proposed primary residential uses, secondary nonresidential uses, and common open space within the planned unit development.

4. The proposed hotel and motel use shall be compatible with the existing land use classifications in the surrounding vicinity.

5. The area of the hotel and motel use shall be calculated as part of the total commercial acreage permitted, and the density shall not exceed 40 rooms per gross acre as per specific area delineated on the development plan.

c. Communication towers. Communication towers may be permitted upon consideration of the requirements set forth in article II of [chapter 70](#).

(3) Primary institutional uses. Primary public, quasi-public, and institutional uses including government buildings, public works facilities, public safety facilities, utility facilities, libraries, public parks, recreational uses and facilities, sports fields and facilities, and public or private schools.

(4) Secondary uses with primary institutional uses. Residential and commercial uses in conjunction with primary institutional uses are permitted as follows:

a. Commercial uses. No more than twenty-five percent (25%) of the land area within a planned unit development shall be devoted to commercial uses. The commercial uses shall be compatible with the surrounding area.

b. Residential uses. Residential uses within PUD with primary institutional uses shall meet the same development standards as required for residential uses and dwelling units in residential planned unit developments. Residential uses such as school dormitories may be permitted if they are directly related to the primary institutional use.

c. Communication towers. A communication tower may be permitted within a planned unit development upon consideration of the requirements set forth in article II of [chapter 70](#).

(5) Prohibited uses. The following uses shall prohibited within a planned unit development under this division: (i) manufacturing, (ii) industrial uses, (iii) warehouses, (iv) gasoline stations, (v) automobile, motorcycle, recreational vehicle or boat sales, rental, storage, painting, service or repair or any combination thereof; (vi) tattoo or body art establishments, (vii) billboards, (viii) adult entertainment, (ix) adult or pornographic book, magazine, video and novelty stores, (x) nightclubs, (xi) recreational vehicle and mobile home parks, (xii) funeral homes, (xiii) crematorium, (ivx) pawn shop, and (xv) any use not specifically set forth as a permitted use or special exception use in the applicable planned unit development.

Sec. 118-859. - Unified ownership or control.

The title of all land within a proposed site for a ~~residential~~ planned unit development shall be owned in fee simple or controlled by the developer submitting the applications provided for under this division. The term "controlled by" shall mean that the developer shall have the written consent of all owners of property within the proposed site not wholly owned by the developer. The consent shall contain a statement that the developer is authorized to represent the owners in the submission of an application under this division and that the owners shall agree to be bound by the decision of the city commission if the application is approved.

Sec. 118-860. - Common open space.

(a) All common open space in a residential planned unit development shall be preserved for its intended purpose as expressed in the final development plan. The developer shall choose one of the following methods of administering common open space:

(1) Public dedication to the city of the common open space. This method is subject to formal acceptance by the city and in its sole discretion.

(2) Establishment of an association or nonprofit corporation of all individuals or corporations owning property within the planned unit development to ensure the maintenance of all common open space.

(b) All privately owned common open space shall continue to conform to its intended use and remain as expressed in the final development plan through its inclusion in all deeds with appropriate restrictions to ensure that the common open space is permanently preserved. The deed restrictions shall run with the land and shall be for the benefit of present as well as future property owners and shall contain a prohibition against partition.

(c) All common open space and recreational facilities shall be specifically included in the development schedule and shall be constructed and fully improved by the developer at an equivalent or greater rate than the construction of residential structures.

(d) If the developer elects to administer common open space through an association or nonprofit corporation, the organization shall conform to the following requirements:

(1) The developer must establish the association or nonprofit corporation prior to the sale of any lots.

(2) Membership in the association or nonprofit corporation shall be mandatory for all residential property owners within the planned unit development, and the association or corporation shall not discriminate in its members or shareholders.

(3) The association or nonprofit corporation shall manage all common open space and recreational and cultural facilities that are not dedicated to the public; shall provide for the maintenance, administration and operation of the land and any other land within the planned unit development not publicly or privately owned; and shall secure adequate liability insurance on the land.

(4) If the developer elects an association or nonprofit corporation as a method of administering common open space, the title to all residential property owners shall include an undivided fee simple estate in all common open space.

(5) Association documents shall be reviewed and approved by the city.

#### Subdivision II. - Land Use Regulations

##### Sec. 118-921. - Minimum size; dwelling units.

(a) There are no minimum acreage requirements for the PUD zoning.

(b) With commercial uses, there shall be at least 200 dwelling units of primary residential use or a primary institutional use as provided in subsection 118-858(3) in the planned unit development.

##### Sec. 118-922. - Maximum density.

The average density permitted in each planned unit development shall be established by the city commission upon recommendation of the planning and zoning board. The criteria for establishing an average density shall include existing zoning, adequacy of existing and proposed public facilities and services, site characteristics, and the recommended density of the adopted future land use plan involving the area in question. In no case shall the maximum density permitted exceed ten dwelling units per gross acre unless approved by the city commission as a medium/high density multifamily complex that provides a high degree of amenities such as gated entranceways, pools, passive and active recreational areas for both adults and for children, fitness centers, indoor basketball and/or racquetball courts, covered parking, and has heavily landscaped grounds with semi-mature canopy trees, ~~which may have a maximum of 13 units per acre.~~

##### Sec. 118-923. - Minimum common recreation and open space.

(a) For a residential planned unit development, the minimum common recreation and open space shall be 20 percent of gross site acreage. The term "common recreation and open space" shall be defined as the total amount of improved usable area, including outdoor space, permanently set

aside and designated on the site plan as recreational or open space for use by residents of the PUD. Such usable space may be in the form of active or passive recreation areas, including but not limited to playgrounds, golf course, water frontage, nature trails, lakes, and wetland areas.

(b) Common open space shall be improved to the extent necessary to complement the residential uses and may contain compatible and complementary structures for the benefit and enjoyment of the residents of the PUD. Drainage ditches, if allowed by the city commission, parking areas, road rights-of-way and minimum yards and spacings between dwelling units may not be included in determining usable open space. Water areas including wet bottom retention areas which are aesthetically and functionally designed for active or passive recreational use, wetland areas, and dry retention areas may be considered to partially fulfill open space requirements. In no case, however, shall there be less than five percent of the total developable land area set aside for active, dry-land recreational use.

Sec. 118-924. - Minimum lot area, frontage and setbacks.

(a) No minimum lot size shall be required within a residential planned unit development district.

(b) Each dwelling unit or other permitted use shall have access to a public street either directly or indirectly via a private road or other area dedicated to public or private use guaranteeing access. Permitted uses are not required to front on a publicly dedicated road. The city shall be allowed access on privately owned roads, easements and common open space.

(c) The minimum distance between structures and side yards shall be as follows:

(1) For single-family platted lots, side yard requirements shall be as follows:

a. For lot width less than 70 feet: five feet.

b. For lot width 70 feet to 84 feet: 7½ feet.

c. For lot width greater than 84 feet: ten feet.

d. For zero lot line single-family detached development: ten feet.

(2) For townhouses, unplatted residential development, commercial development, and all development other than single-family platted lots, the distance between structures shall be as follows:

a. Between structures of 20 feet in height or less: 15 feet.

b. Between structures of 20 and 30 feet in height: 20 feet.

c. Between structures of 30 feet and 40 feet in height: 25 feet.

d. Between structures over 40 feet in height: 40 feet, plus five feet for each additional ten feet of height or fraction thereof over 40 feet.

e. Between structures of varying heights, the larger distance separation shall be required.

~~(d) A minimum 25-foot yard shall be required from the nearest part of any building wall to the edge of any public right-of-way or private street, and all structures shall have a minimum 20-foot rear yard. A minimum 25-foot yard shall be maintained between the walls of all single family structures and the perimeter of the PUD. A minimum 25-foot yard shall be maintained between the walls or edges of all accessory structures such as screen rooms and any PUD perimeter that is adjacent to a public right-of-way. Additional perimeter yard requirements for multistory buildings shall be figured at five additional feet for each ten feet of height over the first story.~~

(e) Maximum height for single-family residential structures shall be 35 feet and maximum height for all other residential and non-residential structures shall be 50 feet unless approved by special exception by the city commission in addition to a finding by the city commission that height in excess of 50 feet will be compatible with adjacent uses and will substantially further the health, safety or general welfare of the citizens of the city.

(f) Accessory buildings or structures may only be placed in the rear yard according to the requirements of this chapter.

(g) Building setbacks from water areas and lakes shall be 30 feet from the mean high water line.

Sec. 118-925. - Maximum length of structure.

The maximum length of a structure in a residential planned unit development is 200 feet. Units constructed under the zero lot line concept with common walls shall be considered as one structure and shall not exceed 200 feet. There is no maximum length for structures in a PUD that has primary institutional uses.

Sec. 118-926. - Maximum commercial use area.

The maximum commercial area permitted within a residential planned unit development shall be five percent of the total gross acreage of the site. If the PUD contains more than 500 dwelling units, the maximum commercial area may be increased to seven percent of the total gross acreage. The maximum commercial area for a PUD with primary institutional uses shall be as provided in subsection 118-858(4)a. The commercial areas within a PUD shall be situated and buffered so as not to provide any detrimental effect on residential uses.

Sec. 118-927. - Minimum floor area per unit.

In a residential planned unit development, the minimum floor area per unit shall be as follows:

- (1) Single family dwellings, 1,000 square feet.
- (2) Multifamily dwellings including townhouses:



- a. Efficiency, 450 square feet.
  - b. One bedroom, 550 square feet.
  - c. Two bedrooms, 650 square feet.
  - d. Three bedrooms, 800 square feet.
- (3) Hotels and motel units, where permitted, 300 square feet.
- (4) Dormitories, where permitted, 250 square feet.

Sec. 118-928. - Off-street parking.

All uses in a ~~residential~~ planned unit development shall meet the city's parking and landscaping requirements.

Sec. 118-929. - Underground utilities.

Within the ~~residential~~ planned unit development, all utilities including telephone, television cable and electrical systems shall be installed underground unless physical and technical conditions require aboveground installation. Primary facilities providing service to the site of the PUD and city-owned properties with a PUD may be exempted from this section by determination of the city commission. Large transformers shall be placed on the ground, and such transformers and all utilities not installed underground shall be contained within landscaped enclosures or vaults. Any required substations shall be screened by walls resembling a structure which is compatible with the design of the PUD.

Sec. 118-930. - Development standards.

For a ~~residential~~ planned unit development, the minimum construction requirements for streets or roads, sidewalks, sewer and water facilities, drainage and all utilities shall be in compliance with the requirements of chapter 78, chapter 110 and the manual in appendix A to this Code.

**SECTION 3: Codification:** Section 2 of this Ordinance shall be codified and made part of the City of Winter Garden Code of Ordinances. Sections of this Ordinance may be renumbered or re-lettered to accomplish the intent of this Ordinance; that the word, “Ordinance” may be changed to “Section,” “Article,” or other appropriate word. The City Clerk is given liberal authority to correct scribes’ errors, such as incorrect code cross references, grammatical, typographical and similar or like errors when codifying this Ordinance.

**SECTION 4: Control:** In the event of a conflict or conflicts between this Ordinance and other ordinances, this Ordinance controls.

**SECTION 5: Severability:** It is the intent of the City Commission of the City of Winter Garden, and is hereby provided, that if any section, subsection, sentence, clause, phrase or provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall be construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

**SECTION 6: Effective Date:** This Ordinance shall become effective upon adoption at its second reading.

**FIRST READING:** \_\_\_\_\_.

**SECOND READING AND PUBLIC HEARING:** \_\_\_\_\_.

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, by the City Commission of the City of Winter Garden, Florida.

APPROVED:

\_\_\_\_\_  
JOHN REES, Mayor/Commissioner

ATTEST:

\_\_\_\_\_  
KATHY GOLDEN, City Clerk