

ORDINANCE 290

Councilmember Etten introduced the following Ordinance and moved for its adoption, which motion was seconded by Councilmember Seams. The Ordinance being in the following words and figures:

“AN ORDINANCE TO AMEND ARTICLES 1335, 1339, 1351, AND 1355 OF PART THIRTEEN, CHAPTER THREE, OF THE LEWISBURG CITY CODE, REGARDING PLANNED UNIT DEVELOPMENTS.”

WHEREAS, pursuant to the authority granted by W. Va. Code §§ 8-11-1, et seq., and the Amended Charter of the City of Lewisburg, the council of the City of Lewisburg desires to amend certain provisions of the Lewisburg City Code. All provisions of the Lewisburg City Code not specifically amended in the attached ordinance shall remain in full force and effect.

NOW, THEREFORE, THE CITY OF LEWISBURG HEREBY ORDAINS that the Lewisburg City Code shall be AMENDED as fully set forth in the attached ordinance.

This Ordinance shall be effective upon passage.

I, the undersigned Recorder of the City of Lewisburg, State of West Virginia, do hereby certify that the foregoing amendment to an Ordinance was duly passed and adopted by the City Council of the City of Lewisburg, and that the proposed Ordinance was read by title at not less than two (2) meetings of the City Council with at least one (1) week intervening between each meeting, and that the Ordinance is now in full force and effect.

March 16, 2021

Passed First Reading

Passed Second Reading

Shannon Beatty, CMC, Recorder

PART THIRTEEN – PLANNING AND ZONING CODE shall be amended as follows:

1. CHAPTER THREE, ARTICLE 1335 – Definitions and Relationship to Community Plan

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1335.02 DEFINITIONS.

The following words and phrases, when used in this Ordinance shall for the purpose of this Ordinance, have the meanings respectively ascribed to them in this article, except where the context requires otherwise.

~~(59) **Planned Development.** A method of residential subdivision which permits variation in lot sizes without an increase in overall density of development; promotes more economic subdivision layout; encourages a variety in types of residential dwellings; and preserves open spaces, tree cover, scenic vistas, hillsides, natural drainageways and other features of natural topography.~~

(59) Planned Unit Development. A mixed-use development that includes significant amounts of commercial and residential uses while allowing variation in lot sizes; promoting more economic subdivision layout; encouraging a variety in types of residential dwellings; and preserving open spaces, tree cover, scenic vistas, hillsides, natural drainageways, and other features of natural topography.

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2. CHAPTER THREE, ARTICLE 1339 – Zoning Districts and Zoning Map

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1339.06 OVERLAY DISTRICTS ESTABLISHED.

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~~(c) The PD (Planned Development) Overlay District is intended to encourage a method of residential development that allows flexibility in lot sizes and layout, achieves efficiency in street and utility extensions and preserves tree cover and open spaces for enjoyment of the projects residents. (Passed 2-15-94.)~~

(c) It is the intent of the Planned Unit Development District to promote innovation and creativity for specifically designed and detailed Planned Unit Development. It is also the intent to promote the efficient uses of land through well-planned development. A Planned Unit Development shall be a mixed-use development. The mixed-use development shall include significant amounts of commercial and residential uses.

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3. CHAPTER THREE, ARTICLE 1351 – Supplemental Use Regulations

~~1351.01 PLANNED DEVELOPMENTS: AUTHORIZATION AND DISTRICTS WHERE PERMITTED:~~

~~(a) The Planned Development District is designed as a zoning district intended to be applied over a base zoning classification. Approval of a PD overlay zoning designation shall follow the exact same procedures as for other zoning amendments as provided by this Ordinance. Planned Development projects shall be developed following procedures set forth in the City Subdivision Regulations.~~

~~(b) Planned Developments may be utilized in all residential zoning districts of this Ordinance in accordance with the regulations and procedures established herein. Public water and public sanitary sewer shall be required for all PD projects.~~

~~(Passed 2-15-94.)~~

~~1351.02 PERMITTED USES:~~

~~No land within a proposed PD project may be used for any purpose other than those specifically established within the zoning district within which such land is located.~~

~~(Passed 2-15-94.)~~

~~1351.03 MINIMUM GROSS AREA:~~

~~Parcels considered for PD projects shall consist of a minimum of two (2) acres; however logical extensions of existing or approved PD projects of less than two (2) acres may be approved.~~

~~(Passed 2-15-94.)~~

~~1351.04 DENSITY REQUIREMENTS:~~

~~The maximum number of dwellings permitted in a PD project shall not exceed the maximum number if the parcel were to be developed as a conventional subdivision.~~

~~(Passed 2-15-94.)~~

~~1351.05 DEVELOPMENT STANDARDS:~~

~~Building setback, lot frontage and width, building coverage, building height and off street parking requirements shall be required in accordance with the regulations of the base zoning classification except as provided below:~~

~~(a) The City Council may, after review by the Planning Commission, approve modifications to the setback, lot width and lot frontage requirements for the district in which the Planned Development is located.~~

~~(b) Maximum building coverage requirements may be exceeded in individual lots established within the area for which the Planned Development is requested provided the total maximum coverage within the entire proposed PD site does not exceed the maximum lot coverage for the district in which such development is located.~~

~~(c) The City Council may, after review by the Planning Commission, approve modifications to the maximum height requirement established for each district and to the requirements for off street parking established for each district.~~

~~(Passed 2-15-94.)~~

~~1351.06 DESIGN AND MAINTENANCE.~~

~~(a) Areas not included in lots shall be preserved and maintained as open space for the common use or benefit of all owners of lots within the subdivision.~~

~~(b) Diversity and originality in lot layout and building design shall be encouraged in order to achieve the best possible relationship between development and the land.~~

~~(c) Yards abutting the boundaries of the PD site shall not be less in dimension than would normally be required in a conventional subdivision in the district in which located.~~

~~(d) Irreplaceable and/or significant natural features such as major tree stands or individual trees of significant size shall be included in the site open space system.~~

~~(e) Open space intended for recreation or common use shall be easily accessible to pedestrians.~~

~~(f) Open space within a PD site shall be owned and maintained by a Property Owner's Association bearing all responsibility for maintaining the land and any structures thereon and approved as to form and organization by the City Council.~~

~~(Passed 2-15-94.)~~

1351.01 PLANNED UNIT DEVELOPMENTS: AUTHORIZATION, APPROVAL, AND DISTRICTS WHERE PERMITTED.

(a) Planned Unit Developments must follow all requirements in this section but are conferred as a matter of right. All applications will be reviewed, approved, or denied based on whether the application conforms with this section. Approval of a Planned Unit Development shall follow the exact same procedures as for other zoning amendments as provided by this Ordinance. Planned Unit Development projects shall be developed following procedures set forth in the City Subdivision Regulations.

(b) Planned Unit Developments may be utilized in any district.

1351.02 PERMITTED USES.

(a) Planned Unit Developments may include the following uses permitted by right:

- (1) Single-family detached**
- (2) Single-family attached**
- (3) Dwelling Mixed Use**
- (4) Duplex- (Dwelling two family)**

- (5) Multi-family (Apartments)
- (6) Bed and Breakfast 1-2 bdrm.
- (7) Bed and Breakfast 3-6 bdrm.
- (8) Home Occupations
- (9) Group Home
- (10) Retail sales
- (11) Professional Offices
- (12) Medical & Medical related offices
- (13) Banks with drive-in windows
- (14) Bowling alleys, skating rinks, pool halls, exercise facilities and similar uses
- (15) Movie theatres
- (16) Private golf, swim or tennis clubs and similar facilities
- (17) Golf ranges, water parks, skateboard parks and similar facilities
- (18) Nursing care & intermediate care institutions and nursing homes
- (19) Restaurant/Bar: No substantial carry-out, No drive-thru or No delivery service; no consumption outside fully enclosed building
- (20) Restaurant/Bar: No substantial carry-out, No drive-thru or No delivery service; consumption outside structure allowed
- (21) Restaurant/Bar: Carry-out, delivery and consumption outside structure allowed
- (22) Gas Sales
- (23) Car wash
- (24) Veterinarian
- (25) Child care centers - More than 6 children
- (26) Child care home - 6 or less children
- (27) Public Parks and Recreation Areas

1351.03 AREA AND DENSITY REQUIREMENTS.

- (a) Parcels considered for Planned Unit Development projects shall consist of a minimum of two (2) acres of net buildable area, which is defined as the total area of the Planned Unit Development less rights-of-way and lands with greater than twenty (20%) slope.
- (b) All land proposed for Planned Unit Development shall be under single ownership or control.
- (c) There shall be no minimum lot size or width for a parcel within the boundaries of a Planned Development.
- (d) A peripheral setback of fifteen (15) feet shall be maintained around the entire Planned Unit Development site. Within the site, there shall be no minimum setback requirements for individual parcels.
- (e) The residential development density shall not exceed sixty-five (65%) percent of the total acreage of the net buildable area. The maximum residential gross density shall be three and one-half (3.5) units per acre, with the exception of density bonuses.
- (f) The nonresidential development density, including parking, shall be a minimum of ten (10%) and a maximum of twenty (20%) percent of the total acreage of the net buildable area.

(g) A density bonus of up to twenty percent (20%) over the maximum residential and nonresidential density will be allowed if thirty (30%) percent of the net buildable area is provided as permanent open space.

(h) Planned Unit Developments shall preserve and protect adequate open space with a minimum of twenty (20%) percent of the net buildable area set aside as permanent open space. Permanent open space should protect sensitive areas, provide for recreational opportunities, and provide open space corridors between existing or planned parks, trails, or open space. Permanent open space shall consist of two types: Improved Open Space and Natural Open Space.

- (1) Improved open space is defined as parks, playgrounds, swimming pools, ball fields, landscaped green spaces, graded and non-motorized trails, and other areas modified by man. At least thirty (30%) percent of the total permanent open space in a Planned Development shall be improved open space.
- (2) Natural open space is defined as areas of natural vegetation, water bodies, and other landforms that are to be left undisturbed.
- (3) Neither definition of open space shall include schools, community centers, or other similar areas in public ownership.

1351.04 (*intentionally left blank*)

1351.05 DEVELOPMENT STANDARDS.

(a) Maximum building height shall not exceed forty-eight (48) feet for principal structures, and accessory structures shall not be taller than the principal structure.

(b) The regulations set forth in Article 1359, Parking and Loading Requirements shall apply.

(c) The regulations set forth in Article 1367, Signs shall apply.

(d) The provision of adequate public water and public sewer shall be required.

(e) Landscaping and screening.

- (1) A minimum thirty (30) foot wide landscaped buffer shall be required where any non-residential Planned Unit Development land use abuts a residential property adjacent to the Planned Unit Development.
- (2) A minimum thirty (30) foot wide landscaped buffer shall be required where any multi-family structure in the Planned Unit Development abuts single family structures adjacent to the Planned Unit Development.

(f) Open space.

- (1) Permanent open shall be conveyed to or owned by one of the following forms:
 - i. A municipal or public corporation.
 - ii. A homeowner's association or similar entity established for the purpose of benefiting the owners and tenants of the Planned Unit Development or,

where appropriate and approved by the Planning Commission and City Council, adjoining property owners, or both. All conveyances hereunder shall be structured to ensure 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 Unit Development and, where applicable, by adjoining property owners.

- iii. Owners other than those specified in Subsections (i) and (ii) 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 Unit Development or adjoining property owners, or both.

(2) Improvements to the common open space shall comply with the following:

- i. Any structures located within any common open space shall be accessory to recreational use of the space and shall cover no more than five (5%) percent of all common open space.
- ii. Common open space and recreational facilities shall not be operated as a profit-making venture.
- iii. The required open space shall be situated generally near the center of the Planned Unit Development site or along the streets bounding the project area such that the open space is accessible to and usable by all persons living and working in the Planned Unit Development.
- iv. Not more than fifty (50%) percent of all common open space shall be covered by water.
- v. Level or below ground improvements such as swimming pools, tennis courts, and non-motorized trails, shall not occupy more than twenty (20%) percent of open space.

- (g) No retail use shall exceed 10,000 gross square feet.

1351.06 PLANNED UNIT DEVELOPMENT APPLICATION.

(a) Criteria for Review. When reviewing and approving a Planned Unit Development, the following shall be considered:

- (1) The Planned Unit Development is generally consistent with the objectives of the city comprehensive plan.
- (2) The Planned Unit Development design preserves natural features of the site, such as floodplains, wooded areas, steep slopes, natural drainage ways, and other areas of sensitive or valuable environmental features.
- (3) Streets, sidewalks, pedestrian ways, bicycle paths, off-street parking, and off-street loading are appropriate to the land uses and will provide for safe and efficient circulation.
- (4) Ensure that the Planned Unit Development will not adversely affect the public health, safety, and general welfare of residents.
- (5) The proposed Planned Unit Development would not use or diminish the value of adjacent properties and neighborhoods.

- (6) The proposed Planned Unit Development will not cause traffic congestion.
 - (7) The proposed Planned Unit Development will enhance the appearance, function, and economic sustainability of the city at large.
 - (8) Clustering of residential units should be utilized to preserve open space and recreational amenities for residents. Such projects, to the greatest extent possible, will include a mixture of different dwelling types, sizes, and lot configurations.
- (b) Application. Application shall be made to the Planning Commission. This application shall contain at the least the following:
- (1) A legal description of the property under consideration, which also shows that such property contains at least two (2) acres of net buildable area.
 - (2) A fully dimensioned map of the land, including topographic information at a contour interval of not less than two (2) feet where land slopes do not exceed five (5%) percent or a contour interval of not less than five (5) feet where land slopes exceed five (5%) percent.
 - (3) A site plan showing the location of all existing and proposed principal and accessory buildings and structures, parking lots, buffer strips, plantings, streets, public ways, and curb cuts.
 - (4) Proposed reservations for parks, parkways, playgrounds, and other open spaces with an indication of structure of organization proposed to own and maintain the common open space.
 - (5) A vicinity map showing the location of the site in relation to the surrounding neighborhood.
 - (6) Total number of residential units proposed.
 - (7) Calculation of the area of land per dwelling unit.
 - (8) Type and total square footage of all nonresidential land uses.
 - (9) Setbacks and height of all existing and proposed structures.
 - (10) Location of all watercourses and wetlands.
 - (11) The feasibility of proposals for the disposition of sanitary waste and storm water.
 - (12) The substance of covenants, grants of easement, or other restrictions proposed to be imposed upon the use of the land, buildings, and structures, including proposed easements or grants for public utilities.
 - (13) The required modifications in the land use regulations otherwise applicable to the subject property.
 - (14) A schedule showing the proposed times within which applications for final approval of all sections of the Planned Unit Development are intended to be filed if the development plans call for development over a period of years. This schedule must be updated annually on the anniversary of its approval until the development is completed and accepted.
 - (15) A written statement by the landowner setting forth the reasons why a Planned Unit Development would be in the public interest and would be consistent with the comprehensive plan for the development of the municipality.
 - (16) Approved preliminary subdivision plan.

(c) Procedure.

- (1) Subdivision and Land Development applications for a Planned Unit Development shall be prepared and submitted in accordance with Article 1317 Plat Preparation and Approval Procedures.
- (2) A zoning permit for a Planned Unit Development shall only be issued following approval by the Planning Commission of the Subdivision and Land Development Application for the Planned Unit Development.

4. CHAPTER THREE, ARTICLE 1355 – Density and Dimension Requirements

1355.01 MINIMUM LOT SIZE.

Subject to the provisions of Section 1351.0304, Planned Unit Developments, all lots in the following zones shall have at least the amount of square footage indicated in the following table:

ZONE	MINIMUM SQUARE FEET
OC	No minimum
RR	40,000
RO	20,000
R1	8,000
R2	3,000
OR	7,000*
EI	20,000
CC	3,000*
C1	5,000*
C2	No Minimum
I1	No Minimum
IC	No Minimum

* If used for residential purposes otherwise no minimum.

1355.02 RESIDENTIAL DENSITY.

(a) Subject to provisions of Section 1351.0304, Planned Unit Developments, every lot for residential purposes shall have the number of square feet per dwelling unit indicated in the following table. In determining the number of dwelling units permissible on a tract of land, fractions shall be rounded to the nearest whole number.

ZONE	MINIMUM SQUARE FEET PER DWELLING UNIT
RR	40,000
RO	20,000
R1	8,000
R2	3,000
OR	7,000
EI	3,000
CC	No Minimum
CI	5,000

Duplexes may be allowed on lots having a minimum area of 12,000 square feet within the R1 district after issuance of a Conditional Use Permit by the City Council.

1355.03 MINIMUM LOT WIDTHS.

(a) No lot may be created that is so narrow or otherwise so irregular that it would be impractical to construct on it a building that:

- (1) Could be used for purposes that are permissible in that zoning district.
- (2) Could satisfy any applicable setback requirements for that district.

(b) Except as provided in Section 1351.0304, Planned Unit Developments, the following minimum lot widths shall be required:

ZONE	LOT WIDTH (in feet)
OC	No minimum
RR	100
RO	80
R1	60
R2	60
OR	60
EI	100
CC	No Minimum

C1	80
C2	100
I1	100
IC	100

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