

## TITLE 10

### CHAPTER 10

#### SENIOR CITIZEN PLANNED UNIT DEVELOPMENT ZONE

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##### **10-10-1: INTENT**

The Senior Citizen Housing Planned Unit Development (S-PUD)) intent is to encourage efficient utilization of land that is suitable in size, location, and character, to develop a sense of community, and to ensure compatibility within the surrounding neighborhoods and environment. The intent of this S-PUD is to provide adequate accommodation for senior citizens, where the lifestyles is less burdensome and more convenient for residents to perform daily activities. These provisions are intended to create more attractive and desirable environments within River Heights City while ensuring compliance with the intent, objectives and purposes of this title and the city's general plan.

##### **10-10-2: DEFINITION:**

"Independent senior housing" refers to a multi-unit housing development that is restricted to older adults, usually age fifty-five (55 and over, and shall be defined as housing for the elderly as per federal housing guideline. Included are permitted types of development: Single-family retirement community resident ownership of attached, detached or duplex single-family homes, having amenities but few or no services.

##### **10-10-2: REGULATIONS**

- A. The following uses are permitted in the S-PUD zone:
  - 1. Single-family detached (SFD) housing
  - 2. Single-family duplex housing
  - 3. Single-family attached housin

4. This PUD zone is not intended for assisted living, nursing homes, hospitals, clinics, healthcare centers, or uses.

5. Parks and Recreation

B. Senior citizen Housing Occupancy.

1. At least eighty percent (80%) of the units shall have one (1) resident who is at least fifty-five (55) years of age or older. (Ref 42 USC 3607 (b)(2)(c).
2. No more than two (2) persons may occupy each dwelling unit unless all such persons are a family and are related by blood, marriage, or adoption, and then no more than four (4) such persons may occupy each dwelling unit. Of those who so related, no more than two (2) of those persons may be children of one (1) or both of the other said persons. This restriction is to be understood to limit the occupancy of each home to four (4) persons
3. A person shall be deemed a resident for purposes of this section upon residing within the development for a period of fourteen (14) days in any thirty (30) day period. Renters are considered to be residents and are subject to these same restrictions
4. Signage. A sign specifying that the PUD is for senior citizens (i.e., age restricted) shall be posted in a visible area. The sign shall be the responsibility of the homeowner's association (HOA).

- C. All buildings shall be limited in height to the appearance of one (1) storie above grade

D. Lot Regulations

<b>Minimum/<del>Maximum</del> Project Size</b>	3.5 <del>–</del> 6 acres
<b>Maximum Density</b>	<del>4</del> 6 dwelling units per gross acre
<b>Maximum Structure Height</b>	35 feet
<b>Off-Street Parking</b>	
Single-Family Detached	4 per dwelling unit
Single-Family Attached	2 per dwelling unit + 0.5 guest/unit
Duplex	2 per dwelling unit + 0.5 guest/unit

The following regulations apply when a building is to be sold with property immediately adjacent to the building footprint, i.e., front, side, and rear yards.

<b>Minimum Lot Area</b>	
Single-Family Detached	<del>6,000</del> sq ft
Single-Family Attached (street garage access)	<del>10,000</del> sq ft
Duplex	<del>10,000</del> sq ft
<b>Minimum Lot Width</b>	

Single-Family Detached	60 feet
Single-Family Attached (street garage access)	<del>53</del> <del>55 feet</del>
Duplex	<del>105</del> <del>100 feet</del>
<b>Setbacks</b>	
Front Yard (street garage access)	20 feet minimum
Rear Yard (street garage access)	<del>15</del> -feet minimum
Side Yard (single family detached, attached, duplex)	7.5 feet minimum
Side Yard on a Street	15 feet minimum adjacent to street

### 10-10-3: PROCEDURE

- A. Prior to the rezone request the applicant shall provide a site plan. Site plans for senior housing development PUD shall be reviewed for approval by the planning commission and the city council. Upon prior recommendation of the planning commission, the city council may set other reasonable conditions for any development which it feel will further the intent of this article.
- B. Once the zoning change has been approved, the applicant may then apply for a subdivision plat as described in Title 11, Chapter 4 (Review and Plat Requirements) of this code. (6-2024, 11-19-24)
- C. If the final plat of a S-PUD is not recorded within nine (9) months following approval of the development, the approval is void and the applicant must begin the application, review, and approval procedures over.

### 10-10-4: REQUIREMENTS

S-PUD applications shall generally follow the preliminary plat submittal requirements contained in Title 11-4, with additional requirements as follows:

- A. In addition to items required for the site analysis (11-4-1:C.3), the applicant shall provide a written statement that describes the impact the development will have on natural features of the area. Include any measures taken to mitigate negative conditions that occur as a result of the project. (1-2024, 2-20-24)
- B. In addition to items required for the preliminary plat submission (11-4-2 B.), the applicant shall include dimensions and locations of areas to be reserved for vehicular and pedestrian circulation, proposed parking, ingress, and egress. Proposed circulation patterns including private driveways, public streets, and pedestrian and bicycle paths shall also be included. Description and placement of fences, walls and solid waste enclosures shall be shown.
- C. The final plat submittal shall include fully designed and engineered drawings

for the site plan, architectural plans, landscape plan and parking plan, with these plans meeting all the requirements outlined herein and which may be added as a condition of the sketch plan (conceptual) or preliminary plat approval. This is in addition to any plat and construction drawings which are required as part of the subdivision of property described in Title 11, Chapter 4.

- D. The applicant's engineer shall prepare, as part of the construction documents, an estimate of the cost of construction for all the public improvements. The city engineer shall review the estimate of the cost of construction for the purpose of determining the amount required as security of performance. The security of performance required is to assure the city that all improvements are constructed in conformance with all relevant city ordinances, regulations, and standards, and to assure the city that all expenses incurred for labor and materials used in the construction of the same are paid for by the applicant. The amount of the security of performance shall be equal to at least one and one-half (1-1/2) times the reasonable value of the improvements required, as determined by the applicant's engineer, and approved by the city engineer. The security of performance will be placed in an escrow account. The city may hold five percent (5%) of the security of performance provided by the subdivider until one year following the final inspection by the city engineer, or for such other period of time less than one year as the city deems necessary to ensure compliance as set forth in this Chapter and Title 11.
- E. The city shall require the applicant to submit for recording covenants, conditions and restrictions which will provide adequate guarantees for the permanent retention and maintenance of open space area, landscaping, natural features, private streets, other privately owned infrastructure, and architectural design standards. The covenants, conditions and restrictions shall include, at a minimum, provisions for:
  - 1. The establishment of a perpetual, irrevocable homeowners' association;
  - 2. A notice to subsequent owners of the need to obtain city approval of changes to the S-PUD, which may require either an amendment to the final development plan or a conditional use permit;
  - 3. A provision granting the city the consent of the homeowners' association and each of its members, after providing notice to each property owner and holding a public hearing, to create a special assessment area comprised of all homes and lots within the S-PUD, to finance the cost of reasonably necessary maintenance, repair, or replacement of commonly owned essential public infrastructure such as streets, sidewalks, street lighting, water systems, etc., in the event of dissolution or default by the homeowners' association;
  - 4. A provision defining "default" by the homeowners' association which shall include, at minimum, the failure of the homeowners' association, after receiving six (6) months' notice of default from the city, to take reasonable steps to remedy its failure to levy, collect and budget assessments sufficient to provide for reasonably necessary maintenance, repair or replacement of commonly owned essential public infrastructure which has

become unsafe, unsound or functionally obsolete as determined by the city engineer.

F. Modifications and Conditions May be Imposed. The planning commission and city council may impose modifications and conditions including, but not limited to, street capacities of the area, ingress and egress to adjoining streets, internal traffic, signs, lighting, building bulk, architectural style and location, and open space characteristics, as stated in the River Heights Subdivision Ordinance.

G. The development must be planned as one coordinated land use rather than as an aggregation of individual and unrelated buildings and uses.

H. Architectural Design Standards (for all housing except single-family detached)

1. All new buildings must incorporate a defined architectural style recognized by design professionals as having basis in classical, historical, or academic architectural design styles. The following elements shall be incorporated into the design of each building.

Exterior Materials. Buildings within a development shall have a mix of complementary exterior materials to avoid all buildings looking the same. Either the city council will appoint a design review committee, or the planning commission and city council will approve all exterior building materials and building elevations.

a. Roofs. Pitched roofs are encouraged.

b. Garages

(1) Each single-family detached unit, single-family duplex unit and single-family attached unit is required to have a minimum two-car garage which shall be attached to the main structure and shall be of the same or complimentary architectural materials as the primary residence.

2. Porches, Decks and Overhangs. To provide architectural variety to the development, the use of covered porches, decks and overhangs is encouraged. Such porches, decks and overhangs shall be integrated into the design of the structure to avoid the appearance of “add-on” elements.

I. Landscape Plan

1. Landscaping requirements shall comply with Title 10, Chapter 15 (Landscaping). Variations may be approved by the planning commission.
2. Irrigation Plan. A detailed irrigation plan shall be drawn at the same scale as the planting plan and shall contain the following information:

- (1) Layout of the irrigation system and a legend summarizing the type and size of all components of the system, including the point of connection components, backflow preventer, meter, etc.;
  - (2) Static water pressure in pounds per square inch (psi) at the point of connection to the public water supply;
  - (3) Flow rate in gallons per minute and design operating pressure in psi for each valve and precipitation rate in inches per hour for each valve with sprinklers; and
  - (4) Installation details for irrigation components.
- b. Landscape Grading Plan. In addition to grading plans required by the subdivision ordinance, a landscape grading plan shall be drawn at the same scale as the planting plan and shall contain the following information:
- (1) Property lines and street names, existing and proposed buildings, walls, fences, utilities, paved areas, and other site improvements;
  - (2) Existing and finished contour lines and spot elevations as necessary to illustrate proposed landscape forms and related site improvements;
  - (3) Grades shall slope away from the structures as required by the International Building Code.

#### J. Landscaping Standards

1. Landscaping requirements Landscaping requirements shall comply with Title 10,Chapter 15 (Landscaping). Variation may be approved by the planning commission All required landscaping shall be installed prior to the city issuing any certificate(s) of occupancy for structures in the development, unless seasonal conditions make installation unfeasible, in which case the applicant shall provide cash security or its approved alternative for all landscaping, which landscaping shall be installed by the following May 31st. The cash security or approved alternative is in addition to the security of performance for the overall development.

#### K. Miscellaneous Site Development Standards

Walkways and Paths. Each development shall include common area pedestrian-friendly walkways and paths. Where possible, such walkways and paths shall connect to a larger trail system. The general location and design of such walkways and paths shall be presented as part of the preliminary site plan. The construction type, size and exact location shall be part of the final development of each phase. All walkways and paths shall be provided with adequate safety lighting.

1. Fixtures and Appurtenances. The type and location of any fixtures or appurtenances (lighting, benches, bike racks, etc.) shall be submitted as part of the final development plan of each phase and shall be approved by the city.
2. Public Infrastructure. All public infrastructure improvements shall be constructed according to the River Heights City design standards and specifications.
3. Lighting. To maintain the residential character and to shield the lighting from shining on to another residence or lot, all lighting within a development governed by these Standards shall be Dark Sky compliant and comply with the Outdoor Lighting Ordinance, Title 9, Chapter 3.
4. Signage. All signage shall comply with the River Heights City sign ordinance.
5. Fences. The S-PUD development shall be enclosed with a six (6) ft. fence. Style and color shall be submitted and approved by the planning commission.

#### **10-10-5: OPEN SPACE**

- A. S-PUDs shall provide a minimum open area ("required open space"). Required open space shall be land areas that are not occupied by buildings, structures, parking areas (including private driveways), streets or alleys. Said required open space shall be devoted to landscaping, preservation of natural features, open pavilions, and recreational areas. Required open space areas shall be contiguous, not a collection of remnants, nor the area immediately surrounding housing units ("common area").
- B. The required open space requirement for a S-PUD is twenty percent (20 %) of the gross acreage of the development.
- C. The required open space should be large enough for the use of all residents of the development or the general public, if deeded to the city. Such spaces should include improvements such as playgrounds, pathways, pavilions, play courts, and areas of significant native vegetation. Specific improvements shall be approved by the city.
- D. Areas with natural features worthy of preservation, which are on the development property and not buildable, shall be preserved and may be considered part of the required open space calculation if contiguous to the rest of the development's required open space.
- E. Trails are required in S-PUDs. Location of trails shall conform to the city's Trail and Park Master Plan and the Cache County Trail Master Plan.

F. Type of Ownership Allowed for Required Open Space

1. General. Required Open Space in the S-PUD zone shall remain undivided and may be owned and managed by a homeowners' association at the election of the city. The city reserves the option to own and maintain the required open space but is not required to do so. If the city allows a homeowners' association to own and manage the required open space, a narrative describing ownership, use and maintenance responsibilities shall be submitted for all common and public improvements, and utilities of the required open space. If, at any time, the ownership of required open space is changed to another form of ownership allowed herein, the ownership change must be approved by the city and the city must be provided the first right to accept or acquire the required open space.
2. Ownership Standards. Required open space within a development shall be owned, administered, and maintained by any of the following methods, either individually or in combination, and subject to approval by the city.
  - a. Offer of Dedication: The city shall have the first and last offer of dedication of required open space. Dedication shall take the form of a fee simple ownership. The city may, but shall not be required to, accept required open space.
  - b. Homeowners' Association (HOA). The required open space and associated facilities as well as lands immediately surrounding housing units or buildings (known as "common area") may be held in common ownership by a homeowners' association.
    - (1) The applicant of the subdivision shall provide documentation showing a proforma, articles of organization and by-laws of the intended HOA, prior to the formation of the HOA.
    - (2) The applicant of the subdivision shall endow the newly formed HOA with funds equivalent to ten percent (10%) of the development cost for all common improvements which shall be used by the HOA to operate, maintain, and ensure the HOA for the first year that the association begins to operate independently of the applicant. Funds shall be deposited in the checking account in the name of the HOA within ten (10) days after the day which the HOA begins to operate independently of the applicant.
    - (3) The HOA shall be responsible for maintenance of insurance and taxes, enforceable by liens placed by the city.
    - (4) In the event of a proposed transfer of required open space by the HOA to the city, notice of such action shall be given to all property owners within the development.
    - (5) All improvements to the required open space held in common or intended to be held in common by the HOA shall be approved by



the city, installed, completed, and accepted prior to the beginning of the second phase of construction, or if the project is not phased, prior to sale of all lots. If phasing of the improvements to the required open space is required by the applicant, all incomplete improvements for the required open space shall be secured through a security of performance posted by the applicant. A development plan shall be submitted by the applicant that identifies the timeline and completion of amenities. The city engineer is hereby authorized to set the security of performance in an amount that ensures the completion of said amenities.

- c. The HOA shall have or hire adequate staff to administer common facilities and properly and continually maintain the required open space.

### 3. Maintenance Standards

- a. The owner of the required open space shall be responsible for maintenance and the raising of all monies required for operations, maintenance, and physical improvements to the required open space through annual dues, special assessments, etc. The maintenance organization shall be authorized, under its bylaws, to place liens on

the property of residents who fall delinquent in payment of such dues, assessments, etc.

- b. In the event the maintenance organization, or any successor organization, shall, at any time after establishment of a development containing required open space, fail to maintain the required open space in reasonable order and condition in accordance with the development plan, the city may serve written notice upon the owner of record, setting forth the manner in which the owner of record has failed to maintain the required open space in reasonable condition.
- c. Failure to adequately maintain the required open space in reasonable order and condition constitutes a violation of this title. The city is hereby authorized to give notice, by personal delivery or by United States postal service, to the owner or occupant, as the case may be, of any violation, directing the owner to remedy the same. Further, the city shall be authorized to correct the maintenance violation of the required open space and bill the owner or occupant.
- d. Should any city bill for maintenance of the required open space be unpaid by January 1 of each year, a lien shall be filed against the premises in the same manner as other municipal claims. A late fee of fifteen percent (15%) annually shall be added to such bills, and the city shall be entitled to recover any costs and attorney fees incurred collecting or recovering any such amounts due to the city.
- e. The following shall be fulfilled and shall be recorded on the face of the final plat:

*“If, at any time, the ownership of required open space is changed to another form of ownership allowed by River Heights City in its Residential Planned Unit Development ordinance, the ownership change must be approved by the city and the city must be provided the first right to accept or acquire the required open space.”*

#### **10-10-6: IN LIEU SUBSTITUTIONS FOR OPEN SPACE REQUIREMENTS**

- A. Cash in Lieu. The city may, at its sole discretion, accept cash in lieu of open space or amenity requirements where such funds can be more effectively used to acquire land at a more appropriate or significant location consistent with the general plan and the parks and recreation master plan. Cash in lieu payments shall not be accepted until a qualified appraisal is provided by the city, at the cost of the applicant, identifying the value of the original land for which the in-lieu substitution is proposed, based on the use that will be permitted if the open space requirement is removed, and for which cash in lieu shall be offered.
- B. Approval Required Prior to Recordation. Recordation of a final plat for a S-PUD utilizing a cash in-lieu substitution may not occur until the in-lieu substitution is approved and finalized.

#### **10-10-7: DEVELOPMENT AGREEMENT**

The applicant and the city shall enter into a development agreement, approved by the city attorney, that includes the following:

- A. The applicant shall construct and complete the project in accordance with the approved plans and in accordance with city ordinances. The terms of the contract shall be binding upon all successors of the S-PUD.
- B. A clause stating that if the final plat is not recorded within nine (9) months following approval of the development, said development approval is void and the applicant must begin the application, review and approval procedures over again.
- C. Acknowledgment that the landscape documentation package shall be provided to the city, approved, and installed as part of the project before occupancy permits are issued. Also include a description of the landscaping cash security or approved alternative, if required.
- D. Acknowledgement of provisions required in 10-10-4 G. of this chapter including:
  - 1. Establishment of a perpetual, irrevocable homeowner's association (HOA) prior to any occupancy permits are issued. The owner/applicant shall constitute a pseudo-HOA until sufficient occupants are available to establish an association according to covenants, conditions, and

restrictions.

2. The applicant will provide to the city, covenants, conditions, and restrictions (CC&Rs) of the HOA, including its bylaws, articles of incorporation and methods for permanent retention and maintenance of required open space and common areas, landscaping, natural features, private streets, other privately-owned infrastructure and that architectural design standards will be followed. The CC&Rs shall be reviewed and approved in content and form by the city. Acceptance of the CC&Rs by the city will be contingent upon meeting the intent and conditions required by this code. The CC&Rs will be approved by the city prior to recording the final plat. The CC&Rs will be recorded by the city attorney at the county recorder's office at the time of the filing of the final plat.
  3. A notice to subsequent owners of the need to obtain city approval of changes to the S-PUD, which may require either an amendment to the final development plan or a conditional use permit.
  4. Acknowledgement that a special assessment area will be created to finance the cost of reasonably necessary maintenance, repair or replacement of commonly owned essential public infrastructure in the event of dissolution or default by the HOA.
  5. A provision defining "default" by the HOA.
- E. Acknowledgement that the HOA shall be organized by the applicant and be operated with financial subsidization by the applicant, before the sale of any lots within the development.
- F. Acknowledgement that membership in the HOA is automatic (mandatory) for all purchasers of residences or lots therein and their successors. The conditions and timing of transferring control of the association from applicant to homeowners shall be identified in the CC&Rs.
- G. Acknowledgement that the HOA shall be responsible for the following:
1. Maintenance of all secondary water systems in the S-PUD.
  2. Maintenance of grounds, plants, trees, shrubs, sod, etc. in accordance with the landscaping plan.
  3. Maintenance of private streets, parking lots, sidewalks, playgrounds and other items described in the CC&Rs.
- H. Acknowledgement that city utility billings, and any other city-issued billings, will be paid by residents of individual units or the HOA for the required open space and common areas, as designated by the CC&R declaration of management policies, covenants and restrictions setting forth the responsibilities and duties of the owners, renters, or occupants within the S-PUD.

- I. Acknowledgement that all applicable fees will be charged by the city in accordance with a fee schedule set by the city council.
- J. A description of the required security of performance.
- K. Details of the development plan identifying the timeline and completion of required open space amenities. Information regarding the security of performance set by the city engineer ensuring the completion of said amenities shall also be included.
- L. Other documents that the city deems necessary to carry out the intent of this title.

#### **10-10-8: WATER, SEWER AND ROAD REQUIREMENTS**

The design and construction of improvements in a S-PUD shall comply with the design standards in Title 11, Chapter 6 as well as the following.

##### **A. Water Systems**

###### **1. Culinary Water System**

- a. All water lines shall be located, maintained, repaired, and governed by approved CC&Rs from the service side of the meter to the shutoff valve in the dwelling unit.

###### **2. Sprinkler System for Outside Irrigation or open space**

- a. The outdoor sprinkler system shall be approved by the city.
- b. Each system shall be serviced by a separate meter.
- c. Each system shall be serviced by an approved backflow prevention assembly designed for sprinkler systems.
- d. Each backflow protection unit shall be registered with the city and have a certified test submitted to the city annually prior to the start of the irrigation season.
- e. Each sprinkler system shall be sized in accordance with the adopted plumbing code.
- f. Sprinkler systems that have the option of being connected to a non-potable water supply must be approved by the city.

###### **3. Storm Water System**

- a. Storm water systems shall meet the requirements of the subdivision ordinance, and city and state standards.

- b. The HOA shall be responsible for repairs and maintenance of all privately-owned storm water infrastructure.

B. Sewer Systems

1. A sewer system will be installed to service a S-PUD in accordance with city standards.
2. No S-PUD shall be approved without connecting to the River Heights City public sewer system. All units must be connected to the system.
3. The S PUD shall comply with the city sewer ordinance.

C. Monthly Billing for Services

1. Monthly Billing for Utilities and Other Services.
  - a. Each dwelling unit will be billed by the city at the established rates.
  - b. Any structure other than a dwelling unit, as well as common areas and required open space, will be billed to the HOA at established rates.
  - c. Fees for the outdoor sprinkler systems of common area and required open space areas will be billed to and paid by the HOA.
  - d. Each dwelling unit will have a solid waste container and will be billed at established rates. Dumpsters or large solid waste containers shall be provided for required open space areas and will be billed at established rates.
2. Monthly Billing for Storm Water. Storm water fees will be based on the current rate schedule and will be included on the monthly utility billing to each dwelling unit or the HOA where applicable.

D. Right-of-Way (ROW): Public and Private

1. All ROWs will be designed and constructed in accordance with city specifications.
2. A S-PUD must provide for pedestrian traffic, either in connection with the ROW or in another suitable location within the S-PUD.
3. A S-PUD must plan for storm water generated by ROWs.
4. Public ROW. Main roads (minor and local streets) will be installed by the applicant at the applicant's expense and deeded to the city.

**10-10-9: FAILURE TO COMPLY WITH REGULATIONS**

In case of failure or neglect to comply with any and all conditions as established by

law and the supporting documents of the S-PUD, the city, in addition to other available remedies, may refuse to issue additional building permits and stop construction until violations or noncompliant conditions have been eliminated.

(7-2021, 11-30-21)