

ORDINANCE NO. 2020-05

**AN ORDINANCE AMENDING CHAPTER 14.28 PLANNED UNIT DEVELOPMENT OF THE  
HEBER SPRINGS MUNICIPAL CODE AND FOR OTHER PURPOSES.**

**WHEREAS**, the Council, having reviewed the current Heber Springs Municipal Code Chapter 14.28 creating the procedures for obtaining Planned Unit Development (PUD) Zoning within the City of Heber Springs, and

**WHEREAS**, said Chapter 14.28 only permits application for PUD Zoning in the development phase of property, and

**WHEREAS**, it is the desire of the City Council of the City of Heber Springs to allow for the application for and approval of a PUD Zoning District of developed or partially developed property.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HEBER  
SPRINGS, ARKANSAS, AS FOLLOWS:**

**SECTION 1.** Section 14.28.02 (A) of the Heber Springs Municipal Code is hereby amended to read as follows:

**A. Ownership control** The land in a Planned Unit Development District shall be owned, leased, or otherwise controlled by a person, firm, group of individuals, partnership, corporation, trust, property owners association, or architectural control committee, provided assurances are given through the procedures contained herein that the project can be successfully completed.

**SECTION 2.** Section 14.28.02 (C) of the Heber Springs Municipal Code is hereby amended to read as follows:

**C. Uses permitted** In order to increase creativity and flexibility in the development of areas suitable for a Planned Unit Development, there are no specifically prescribed uses which are permitted within the boundaries of a Planned Unit Development. The applicant shall be responsible for preparation of a list of permitted uses within the specific Planned Unit Development requested. The development of the list shall take into account the nature and purpose of the Planned Unit Development area, and such uses and locations shall be appropriate in order to protect and be in harmony with surrounding development. At the time of the pre-application plan and conference, the applicant shall generally describe the nature and types of land uses to be located within the boundaries of the PUD District. At the time of zoning application and consideration of the preliminary plat, a specific written list of uses to be "permitted by right" shall be submitted for review by the Planning Commission. Following approval by the Planning Commission and City Council, the list of specific uses permitted by right shall serve as the control list in issuance of building permits and certificates of occupancy.

In addition to the above permitted uses that are established by right, certain other uses may be prescribed by the applicant in accordance with the restrictions included herein and said uses are designated as special permit uses. These uses more intensely dominate the area in which they are located than do other uses which might be permitted in the PUD District and, as such, they require special considerations and restrictions. If the applicant and/or Planning Commission agree that certain special permit uses should be included within the PUD District, the applicant shall precisely indicate the specific use, its location, area to be included, maximum building square footage, and such other information as required by the Planning Commission of City Council to properly and comprehensively evaluate the nature and impact of such special permit uses. When such special permit uses are approved at the time of rezoning, they shall not be subsequently changed to any other use until and unless they are changed to another use that is permitted by right, or the new proposed use if not permitted by right in a PUD District is resubmitted for rezoning approval.

**SECTION 3.** Section 14.28.02 (E) of the Heber Springs Municipal Code is hereby amended to read as follows:

**E. Perimeter requirements** In order to assure compatibility with surrounding development, the applicant shall submit specific information as to the setbacks, building height, coverage factors and other elements necessary for all perimeter lots that are adjacent to the boundary of the PUD District or adjacent to any boundary or perimeter street right-of-way. While no specific setback requirements are herein established, the Planning Commission and City Council shall consider the nature, extent and character of the adjacent development and shall take into consideration the types of area regulations applicable to adjacent properties.

**SECTION 4.** Section 14.28.03 of the Heber Springs Municipal Code is amended to read as follows:

14.28.03 Procedures for obtaining PUD Zoning A three-step review procedure is required for obtaining PUD Zoning and final approval of the final plan and plat. The first step involves a Pre-Application Plan and Conference which is designed to provide information to the local government of the applicant's intention with respect to the nature and scope of the proposed PUD District and to allow the applicant to be informed of the city's regulations and policies concerning development alternatives for the area. The second step involves assessment of fees, submission of a formal application for rezoning of the area to a PUD District and simultaneous submission of a preliminary plat in accordance with the Heber Springs Subdivision Regulations. The last step involves submission of the final development plan and plat for approval and recording. These steps are outlined as follows with respect to the procedure followed and submission requirements at each step.

**SECTION 5.** Section 14.28.03(A)(2)(a) of the Heber Springs Municipal Code is amended to read as follows:

- a. Boundaries of the property involved including but not limited to open space and any existing or parts of an existing plated subdivision;

**SECTION 6.** The Heber Springs Municipal Code is hereby amended by adding a section to be numbered 14.28.03 (D), which said section reads as follows:

**(D) Developed Property and Fee Waiver.** Should the proposed PUD District as described in the application for rezoning contain or consist of developed or partially developed property previously reviewed and approved by the Heber Springs Planning Commission, which approval being evidenced by the filing of a plat containing a Certificate of Approval signed by an authorized representative of the Planning Commission in the office of the Circuit Clerk and Ex-Officio Recorder for Cleburne County, Arkansas, then the Planning Commission may, but shall not be required, waive:

- (1) Any application review procedure requirements contained herein which are substantially similar to or consistent with the application requirements of the previously approved and recorded plat.
- (2) All or any portion of the preliminary plat review fees.

**SECTION 7.** All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 8.** In the event that any portion, provision, subsection, section or part of this Ordinance is later ruled to be invalid, such invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid portion or portions, and to this end, the provisions of this Ordinance are declared to be severable.

PASSED AND APPROVED this 18 day of June 2020.

  
Jimmy Clark, Mayor

ATTEST:

  
Nancy Hurley, City Clerk