

**HARRISVILLE CITY  
ORDINANCE NO. 429**

**CLUSTER DEVELOPMENT AMENDMENT**

**AN ORDINANCE OF HARRISVILLE CITY, UTAH, AMENDING  
CHAPTER 11.16 RELATING TO CLUSTER DEVELOPMENT  
CONCEPTS; SEVERABILITY; AND PROVIDING AN EFFECTIVE  
DATE.**

**WHEREAS**, Harrisville City is a municipal corporation, duly organized and existing under the laws of the State of Utah;

**WHEREAS**, *Utah Code Annotated* §§ 10-8-84 and 10-8-60 allow municipalities in the State of Utah to exercise certain police powers and nuisance abatement powers, including but not limited to providing for safety and preservation of health, promotion of prosperity, improve community well-being, peace and good order for the inhabitants of the City;

**WHEREAS**, Title 10, Chapter 9a, of the *Utah Code Annotated*, 1953, as amended, enables municipalities to regulate land use and development;

**WHEREAS**, the City finds it necessary to update its land use ordinances in order to meet the challenges presented by development and to protect public health, safety, and welfare; and,

**WHEREAS**, after publication of the required notice the Planning Commission held its public hearing on September 8, 2010, to take public comment on this proposed Ordinance, and subsequently gave its recommendation to approve this Ordinance;

**WHEREAS**, the City Council received the recommendation from the Planning Commission and held its public meeting on September 28, 2010, and desires to act on this Ordinance;

**NOW, THEREFORE**, be it ordained by the City Council of Harrisville City as follows:

- Section 1: Repealer.** Any chapter, section, word, sentence, paragraph, or phrase inconsistent with this Ordinance is hereby repealed and any reference thereto is hereby vacated.
- Section 2: Amendment.** Chapter 11.16 of the *Harrisville Municipal Code* is hereby amended to read as follows:

**Chapter 11.16  
CLUSTER DEVELOPMENT CONCEPTS**

**Sections:**

**11.16.010. Purpose and intent.**

- 11.16.020. Limitations.**
- 11.16.030. General regulations.**
- 11.16.040. Uses.**
- 11.16.050. Bonus density.**
- 11.16.060. Conformance to law.**

**11.16.010. Purpose and intent.**

Subdivisions in certain single-family residential zones may be approved under clustering concepts as set forth in this chapter. The purpose of this chapter is to allow a developer to save infrastructure costs that would be incurred in a conventional subdivision, encourage open space conservation, encourage imagination in subdivision development, provide amenities as indicated in this chapter, and provide for efficient utilization of land by providing greater flexibility in the location clustered dwelling units. This chapter also allows a developer to more closely tailor a development project to a specific group of prospective owners, such as retired persons or equestrian oriented developments. The applications of cluster concepts is intended to encourage good neighborhood design and preserve open space while insuring substantial compliance with the intent of the city's land use ordinances.

**11.16.020. Limitations.**

No petition or other application for a development shall be approved under this chapter unless the development meets the regulations of the single-family residential zone, subject to the concepts and incentives provided in this chapter.

**11.16.030. General regulations.**

1. **Minimum size.** A minimum of ten (10) acres of land area is required for any clustered subdivision, unless the planning commission enters findings that a smaller but not less than five (5) acre development furthers the purpose and intent of this chapter.
2. **Application and ownership.** A clustered development is initiated by an application filed with the city and forwarded to the project management committee as the initial land use authority. The development shall be in single or corporate ownership at the time of application, or the subject of an application filed jointly by all owners of the property.
3. **Planning and mitigation.** The initial land use authority shall require that the arrangement of structures, open spaces, and amenities be developed in such a manner to assure that adjacent properties will not be adversely affected, and account for all preliminary subdivision approval requirement and other ordinance set forth in the municipal code.
4. **Planning commission.** Upon recommendation of the project management committee, the planning commission shall make its recommendation to the city council for preliminary action after any required public hearing.
5. **Density.** The maximum number of units, allowed in a clustered development shall be equal to the number of units that can be developed in the current zone,

plus any applicable bonuses as set forth in this chapter.

6. Lot area, lot width, setbacks and lot coverage regulations shall be determined by approval of the development plan. The minimum distance between any part(s) of the main buildings shall be ten (10) feet, and the minimum side yard for any single lot shall not be less than ten (10) feet.
7. Open space. Every cluster development shall provide open space within the development. No streets, sidewalks, common space, or parking areas will be included as part of the required open space.
  - a. The open space may be:
    - (1) Totally landscaped.
    - (2) Utilized as agricultural land.
    - (3) Incorporated into recreation areas as agreed by the city.
    - (4) Set aside in accordance with sensitive lands or other policies of the city.
  - b. Preservation of the open space area shall be ensured by a perpetual conservation easement deeded to an appropriate entity designated by the city.
    - (1) The conservation easement shall be submitted by the applicant with the initial application, or, if the land use authority allows, may be prepared and approved by the city at a later date in conjunction with the final subdivision plat approval.
    - (2) The conservation easement shall address the preservation, use, maintenance, and ownership of all open space within the development.
    - (3) Ownership of the open space may be by:
      - (a) A homeowners' association.
      - (b) A duly created special service district.
      - (c) Harrisville City or its designee.
    - (4) Ownership of the conservation easement may be by:
      - (a) A 501(c)(3) corporation approved by the city.
      - (b) A duly created special service district.
      - (c) Harrisville City or its designee.
    - (5) At no time shall both the open space and conservation easement be owned by the same party.
  - c. Notwithstanding other provisions of this section, all common space shall be landscaped by the developer and maintained from the onset through a lawfully organized and fully functional homeowners' association or by the home owner for the duration of the development.
8. General design. The general design of public improvements shall comply with the city's public works standards except where such exceed the quality set forth in the standards or as mutually agreed by the parties in a development agreement approved by the city in order to enhance the development.
  - a. Theme. A common building theme shall be required and approved by the

planning commission for each clustered development. The design shall provide unification of exterior architectural style, color, and size of each unit, however, with an appropriate housing mix.

- b. Covenants. The applicant shall provide for covenants, conditions, and restrictions relating to the clustered development as approved by the city.
- c. Site development. Lot layout, setbacks, and site development in a clustered development shall be consistent with the zone closest to the overall average lot size. For example, if the average lot size in the clustered development is 15,000 square feet, then the site development standards of the RE-15 zone (or its successor) apply.
  - (1) Because of the varying nature of lots in a clustered development the location, size and general footprint of all dwellings and other main buildings shall be shown on the plans submitted for review.
  - (2) Proposed traffic management, storm water management, grading, sewer, secondary water, landscaping, fencing, and all other improvement plans shall be submitted for approval to the land use authority and shall be in a form and manner similar to regulations for a conventional subdivision unless otherwise agreed by a development agreement approved by the city.
  - (3) The proposed development shall be connected to a state approved sewer system.

- 9. Service capabilities. The proposed development shall not exceed the service capabilities of the city or an affected entity, nor shall such be detrimental to the health, safety, or general welfare of persons residing in the vicinity. In the event that service capabilities of the city or any affected entity are exceeded, this will constitute grounds for disapproval. It is presumed that service capabilities are exceeded if the city engineer or an affected entity provides a letter indicating the service capabilities exceeded. Service providers include, but are not limited to the following: North View Fire Department, Bona Vista Water District, Rocky Mountain Power, Questar Gas, Qwest, Pine View Water or secondary irrigation water, U.S. Postal Service, Comcast, city storm water control, Army Corp of Engineers.
- 10. Security and guarantee. The developer is required to follow the escrow and guarantee period requirements set forth in the Subdivision Ordinance and elsewhere in the municipal code for any development in conjunction this chapter.

**11.16.040. Uses.**

Uses permitted in the cluster development shall conform to the most closely related zone as determined by the land use authority, as identified in a development agreement, or as specified in the covenants, conditions and restrictions for the clustered development so long as said development consists of separate and single-family dwellings.

**11.16.050. Bonus density.**

The planning commission may award a density bonus of increased units and/or decreased lot size for each clustered development as provided in this section up to a maximum of 100% in bonuses. Density bonuses are available to be awarded as follows upon the planning commission entering a finding that the applicant's subdivision and site plans do substantially comply with the following:

1. Open space preservation. Up to a 50% density bonus shall be awarded if up to a minimum of 50% of the total development remains open space.
2. Building design. A 10% density bonus shall be awarded if the covenants, conditions, and restrictions within the development require a minimum of 70% brick or rock on exterior finishes for homes within the development.
3. Front porch. A 5% density bonus shall be awarded if the covenants, conditions, and restrictions within the development include the construction of front porches that accommodate seating.
4. Landscaped park strips. A 5% density bonus shall be awarded if the applicant includes as part of the development planting approved trees species with minimum 2" caliper every 50 feet in park strips, or by an approved informal placement together with moving the sidewalk 4 feet closer to the homes or by using serpentine sidewalks in a fashion to "meander" through the park strip and front yard areas.
5. Landscaped entrance ways. A 5% density bonus shall be awarded if the applicant provides all entryways to the subdivision development include a landscaped entryway and a city approved monument style identification sign. A maintenance plan is also required to receive this bonus.
6. Amenities. A 25% density bonus shall be awarded if the development provides at least two approved amenities such as playground equipment, volleyball courts, tennis courts, pool, recreation center, community center, or similar amenity.
7. Special amenities. A 75% density bonus shall be awarded if the development provides for a standard golf course or public swimming pool.
8. Park. A 50% density bonus shall be awarded if the development provides for a fully landscaped and developed public park of five (5) or more acres with playground equipment or other features approved by development agreement.
9. Pathways and trails. A 10% density bonus shall be awarded where applicable to pathways and trails as specified on the city trails map.
10. Performance. A 10% density bonus shall be awarded for energy efficient homes and appliances as acceptable to the Planning Commission.

**11.16.060. Conformance to law.**

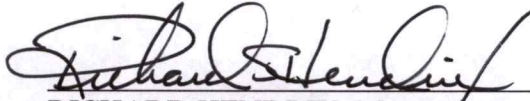
A development under this chapter is a special type of subdivision approved by the city which shall meet the public works standards, the subdivision ordinance, land use regulations, and other laws applicable to development.

**Section 3: Severability.** If any section, paragraph, sentence, clause or phrase of this

Ordinance is declared invalid by a court of competent jurisdiction, the remainder shall not be affected thereby and shall remain in full force and effect.

**Section 4: Effective Date.** This Ordinance shall be effective immediately after posting or publication.

PASSED AND ADOPTED by the City Council on this **28<sup>th</sup>** day of **September, 2010.**

  
RICHARD HENDRIX, Mayor

ATTEST:

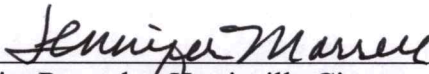
  
JENNIFER MORRELL, City Recorder

Roll call vote is as follows:		
Mr. Allen	<input checked="" type="checkbox"/> yes	<input type="checkbox"/> no
Mr. Crowther	<input checked="" type="checkbox"/> yes	<input type="checkbox"/> no
Mrs. Fowers	<input checked="" type="checkbox"/> yes	<input type="checkbox"/> no
Mr. Richins	<input checked="" type="checkbox"/> yes	<input type="checkbox"/> no
Mr. Wilhelmsen	<input checked="" type="checkbox"/> yes	<input type="checkbox"/> no

RECORDED this 30 day of September, 2010.  
PUBLISHED OR POSTED this 4 day of October, 2010

**CERTIFICATE OF PASSAGE AND PUBLICATION OR POSTING**

According to the provision of U.C.A. §10-3-713, 1953 as amended, I, the municipal recorder of Harrisville City, hereby certify that foregoing ordinance was duly passed and published, or posted at 1) City Hall 2) 2150 North and 3) City Cabin on the above referenced dates.

  
City Recorder, Harrisville City      DATE: 10-4-10

