

**WILLARD CITY
ORDINANCE NO. 2021-1**

**AN ORDINANCE REPEALING CHAPTER 12-106, PLANNED DEVELOPMENT
OF THE WILLARD CITY MUNICIPAL CODE**

WHEREAS, Chapter 12-106 of the Willard City Municipal Code allows for diversification in the relationship of various uses and structures to sites, and permits more flexibility in the use of such sites while maintaining a partial rural nature of these areas; and

WHEREAS, Chapter 12-106 has been amended in the past to meet the needs of Willard City; and

WHEREAS, the Willard City Council desires to make Chapter 12-106 meet the City's objectives of enacting clear and consistent regulations pertaining to development within the City; and

WHEREAS, the Willard City Council intends to ensure that the standards set forth in Chapter 12-106 are internally consistent and reflect the decisions made by the City Council concerning said regulations and development; and

WHEREAS, the City Council of Willard City does hereby determine that it is in the best interest of the health, safety, and welfare of the citizens of Willard City to repeal Chapter 12-106, and reenact Chapter 12-106 of the Willard City Municipal Code at a later date,

NOW, THEREFORE, BE IT ORDAINED by the City Council of Willard City as follows:

Section 1. Repealer. Any provision of the Willard City Municipal Code found to be in conflict with this Ordinance is hereby repealed. Specifically, Chapter 12-106 of the Willard City Municipal Code is hereby repealed in its entirety as follows:

~~CHAPTER 12-106. —~~

~~PLANNED DEVELOPMENT~~

~~12-106-1. Purpose.~~

~~The purpose of the Planned Development (PD) is to allow diversification in the relationship of various uses and structures to their sites, and to permit more flexibility in the use of such sites while maintaining a partial rural nature of these areas. The application of planned development concepts is intended to encourage good neighborhood, housing, or area design, thus insuring substantial compliance with the intent of the district regulations and other provisions of this Ordinance relating to the public health, safety, and general welfare, and at the same time securing the advantages of larger-scale site planning for residential, commercial or industrial developments, or combinations thereof. To help maintain the rural nature of Willard City, a PD is an alternative to a typical one-half acre lot subdivision development.~~

~~12-106-2. Definitions~~

~~Planned Development (PD), for the purposes of this Ordinance, shall mean an integrated design for development of residential, commercial, or industrial uses, or combinations of such uses, in which one or more of the regulations, other than use regulations, of the District in which the development is to be~~

situated, is waived or varied to allow flexibility and initiative in site and building design and location, in accordance with an approved plan and imposed general requirements.

Through the zone change process, land may be classified as suitable for a rezone to PD pursuant to the following considerations as determined appropriate by the Planning Commission and City Council:

1. — Residential PDs in residential and agricultural zones must meet all requirements and regulations as stipulated in the Willard City Subdivision Ordinance and its associated Specifications and Standards except as specified in this Chapter.

2. — Commercial or industrial PD uses, or combinations of such uses, in commercial zones must meet all requirements and regulations as stipulated in the Willard City Commercial Zones and Development Ordinance and the Subdivision Ordinance Specifications and Standards, when applicable, except as specified in this Chapter.

3. — Development under this chapter requires a zone change together with a concept plan approval. Existing zone district standards may be used as a baseline for a proposed PD. A regulating plan is required and shall include design and quality standards for the entire site. Phasing plans and improvement agreements shall also be required. Development agreements are required in all cases. All such development shall be consistent with the goals of the General Plan.

4. — Combinations of residential, commercial, or industrial PD uses must meet all requirements and regulations as stipulated in the Willard City Subdivision Ordinance and its associated Specifications and Standards or the Commercial Zones and Development Ordinance, whichever is applicable to the relevant zoned, or potential zoned, portion of the development.

5. — Design Compatibility. The development should be planned as one complex land use with a common architectural design theme that provides variety with a high degree of architectural quality, rather than an aggregation of individual, unrelated buildings located on separate unrelated lots.

12-106-3. PDs in Residential and Agricultural zones.

Willard City allows Residential PDs, also known as a cluster developments, in areas zoned, or potentially zoned, as R-1/2, R-1, A-3, A-5, or MU-40 based on Willard City's current Land Use Map in affect at the time the PD application is accepted by Willard City. All requirements and regulations as stipulated in the Willard City Subdivision Ordinance and its associated Specifications and Standards must be met except as noted below:

1. — The minimum size for a Residential PD is four (4) acres.

2. — If the Development consists initially of more than one parcel of land, the parcels must form one contiguous area and cannot be bisected or separated except by a public right of way or easement (e.g., street or trail), or a natural barrier, or barriers, such as a stream or lake.

3. — A minimum of thirty percent (30%) of land in a Residential PD development will be set aside under a protected conservation easement on part of the same property or an adjacent property, in perpetuity.

4. — The maximum overall density of dwelling units in a Residential PD is four units per acre in the development. Density shall be determined by using the developable acreage of the entire proposed development. Developable acreage is land under twenty percent (20%) slope which is capable of being improved with landscaping, recreational facilities, buildings or parking. Unmitigated natural hazard areas and wetland areas shall be "undevelopable" land. Land devoted to street usage (the right of way for public streets and the area from back of curb to back of curb for private streets) shall not be considered developable acreage and must be subtracted out of the total acreage used to determine density.

5. — The land in the protected conservation easement may not be further subdivided. It may be kept by the development's Home Owners' Association, donated to Willard City for use as a public park or other facility as deemed necessary by Willard City, or donated, with the written approval of Willard City, to the public school system. The conservation easement area must be maintained in its current or an improved condition and that condition must be acceptable to Willard City and its residents. If the area is not maintained in a condition acceptable to Willard City to meet the public health, safety, and general welfare of its citizens, Willard City will maintain it and charge the lot owners of the associated development for the maintenance costs with the costs divided equally among each lot owner. Also see section 12-106-5, Required Conditions, in this Chapter.

6. — No dwelling unit is allowed within the protected conservation easement area; however, a facility for the common use of the PD, such as a recreation center, public facilities, such as trails, parks, swimming pool, agriculture purposes, fire or police station, or public school, may be placed in this area if there is a current or projected public need and the facility is approved in writing by Willard City.

12-106-4. PDs in Commercial Zones

The City of Willard allows commercial PDs in areas zoned, or potentially zoned, as Commercial based on Willard City's current Land Use Map in affect when the PD application is accepted by Willard City. The city may also allow small scale neighborhood commercial in a Planned Development located in a residentially zoned district if the proposed commercial development is central to the development and includes a total area of at least four (4) acres. Other conditions may be required to mitigate impacts to surrounding neighborhoods and to guarantee appropriate street access. All requirements and regulations as stipulated in the Willard City Commercial Zones and Development Ordinance and the Willard City Subdivision Ordinance and its associated Specifications and Standards, when applicable, must be met except as noted below:

1. — The minimum size for a Commercial PD is four (4) acres.

2. — If the Development consists initially of more than one parcel of land, the parcels must form one contiguous area and cannot be bisected or separated except by a public right of way or easement (e.g., street or trail), or a natural barrier, or barriers, such as a stream or lake.

3. — A minimum of twenty five percent (25%) of land in a Commercial PD will be set aside under a protected conservation easement on part of the same property, in perpetuity.

4. — A Commercial PD may include areas in the sensitivity zone (see GP 25) or an MU40 zone, provided the sensitivity or MU40 zone is not in the commercially developed part of the PD.

5. — The maximum density (i.e. units per acre) and minimum lot area are as specified in the Willard City Commercial Zones and Development ordinance. Dwelling units must be multi-family, such as town-homes, condominiums, cluster-homes, or apartments, and may not be single-family homes.

6. — The land in the protected conservation easement may not be further subdivided. It may be kept by the owner, or owners, of the Commercial PD, donated to Willard City for use as a public park or other facility as deemed necessary by Willard City, or donated, with the written approval of Willard City, to the public school system. The conservation easement area must be maintained in its current or an improved condition and that condition must be acceptable to Willard City and its residents. If the area is not maintained in a condition acceptable to Willard City to meet the public health, safety, and general welfare of its citizens, Willard City will maintain it and charge the owners of the associated development for the maintenance costs with the costs divided among the owners based on the proportionate square footage of land owned. Also see section 12-106-5, Required Conditions, in this Chapter.

7. — No dwelling unit is allowed in the protected conservation easement area; however, a public facility, such as a park, fire or police station, or public school, may be placed in this area if there is a current or projected public need and the facility is approved in writing by Willard City.

8. — Special consideration shall be given to avoid placement of the PD adjacent to farming or livestock operations (refer to the Right to Farm provisions in the General Plan).

12-106-5. Required Conditions.

1. — No PD shall have an area less than that approved by the Land Use Authority as adequate for the proposed development.

2. — A PD which contains uses not permitted in the zoning district in which it is to be located requires a change of zoning district and shall be accompanied by an application for a zoning amendment, except that any residential use is considered a permitted use in a PD which allows residential uses and shall be governed by density, design, and other requirements of this Ordinance or the Subdivision Ordinance, as applicable.

3. — The development shall be in single or corporate-type ownership at the time of application, or the subject of an application filed jointly by all owners of the property.

4. — Preservation, maintenance and ownership of required open spaces within the development shall be accomplished in a manner acceptable to Willard City, including:

a. — Dedication of the land as a public park or parkway system, or other public facilities, or,

b. — Granting to the Local Jurisdiction a permanent, open space easement on and over the said private open spaces to guarantee that the open space remains perpetually in recreational use, with ownership and maintenance being the responsibility of an Owners' Association established with articles of association and bylaws which are satisfactory to the Governing Body, or,

- e. ~~Complying with the provisions of the Condominium Ownership Act of 1963, Title 57, Chapter 8, Utah Code Annotated, 1953, as amended, which provides for the payment of common expenses for the upkeep of the common areas and facilities, or;~~
- d. ~~Other plans, found by the Land Use Authority to be satisfactory in maintaining the open space, and to assure the space will be kept in compliance with planned usage requirements.~~

5. ~~The proposed use of the particular location shall be shown as necessary or desirable, to provide a service or facility which will contribute to the general well being of the neighborhood and the community.~~

6. ~~It shall be shown that under the circumstances of the particular case, the proposed use will not be detrimental to the health, safety, or general welfare of persons residing in the vicinity of the PD.~~

7. ~~Where the General Plan calls for a public park in or near a proposed PD, the governing body may require the developer to construct and deed a public park to Willard City.~~

8. ~~In the event the common open space and other facilities are not maintained in a manner consistent with the approved final plan, the city may at its option cause such maintenance to be performed and assess the costs to the affected property owners or responsible association. The city may also require a Special Improvement District or similar mechanism for maintenance.~~

12-106-6. General Site Plan

~~Applications shall be accompanied by a general site plan for the total area within the proposed development showing, where pertinent:~~

1. ~~The use or uses, dimensions, sketch elevations, and locations of proposed structures.~~
2. ~~Dimensions and locations of areas to be reserved and developed for vehicular and pedestrian circulation, parking, public uses such as schools and playgrounds, landscaping, and other open spaces.~~
3. ~~Architectural drawings and sketches outlining the general design and character of the proposed uses and the physical relationship of the uses.~~
4. ~~Such other pertinent information, including the general design and character of the proposed uses and the physical relationship of the uses.~~
5. ~~Such other pertinent information, including residential density, coverage, and open space characteristics, shall be included as may be necessary to make determination that the contemplated arrangement of buildings and uses makes it desirable to apply regulations and requirements differing from those ordinarily applicable under this Ordinance.~~
6. ~~An impact statement including effect on the environment, city utilities, traffic, and schools shall accompany the application.~~
7. ~~Any other relevant site plan requirements and regulations as noted in Chapter 12-400, Subdivision Ordinance, and Chapter 12-112, Commercial Zones and Development Ordinance.~~

12-106-7. Construction Limitations.

1. — Upon approval of a PD, construction shall proceed only in accordance with the plans and specifications approved by the Land Use Authority, and in conformity with any conditions attached by the Land Use Authority to its approval.
2. — Amendments to approved plans and specifications for a PD shall be obtained only by following the procedures here outlined for first approval and as noted in Chapter 12-400.
3. — Willard City shall not issue any permit for any proposed building, structure or use within the project unless such building, structure, or use is in accordance with the approved development planned with any conditions imposed in conjunction with its approval as noted in Chapter 12-400.

12-106-8. Review by Planning Commission.

In order that it may approve a PD, the Planning Commission shall have authority to require that the conditions of Chapter 12-108, Design Review, and the following conditions (among other conditions it deems appropriate) be met by the applicant. The following conditions are intended to emphasize, enhance, or add to the conditions in Chapter 12-108:

1. — That the proponents of the PD have demonstrated to the satisfaction of the Planning Commission that they are financially able to carry out the project.
2. — That the proponents intend to start construction within one year of the approval of the project, and intend to complete said construction, or approved stages thereof, in accordance with the approved plan.
3. — That the development is planned as one complex land use rather than as an aggregation of individual and unrelated buildings and uses.
4. — That the development as planned will accomplish the purpose outlined in Section 12-106-1.
5. — The Planning Commission shall require such arrangements of structures and open spaces within the site development plan as necessary to assure that adjacent properties will not be adversely affected.
6. — Landscaping, fencing and screening related to the several uses within the site and as a means of integrating the proposed development into its surroundings shall be planned and presented to the Planning Commission for approval, together with other required plans for the development.
7. — The size, location, design and nature of signs, if any, and the intensity and direction of area or flood lighting shall be detailed in the application.
8. — A grading and drainage plan shall be submitted to the Planning Commission with the application.

9. — A planting plan showing proposed tree and shrubbery plantings shall be prepared for the entire site to be developed as part of a general landscaping plan. Use of xeriscape designs is recommended.

12-106-9. Scope of Planning Commission Action.

In carrying out the intent of this Chapter, the Planning Commission shall consider the following principles:

1. — It is the intent of this Chapter that site and building plans for a PD shall be prepared by a qualified designer or qualified team of designers having professional competence in urban planning as proposed in the application.

2. — It is not the intent of this Section that control of the design of a PD by the Planning Commission is so rigidly exercised that individual initiative be stifled and substantial additional expense incurred; rather, it is the intent of this Section that the control exercised be the minimum necessary to achieve the purpose of this Chapter.

3. — The Planning Commission may recommend approval or disapproval of an application for a PD. In a recommendation for approval, the commission may attach such conditions as it may deem necessary to secure compliance with the purposes set forth in Section 12-106-1. Final approval of the PD application shall be made by the City Council in compliance with the regulations of this Ordinance. Approval of a PD Rezone in no sense excuses the developer from the applicable requirements of the City Ordinances in effect at the time of the approval, except as modifications thereof are specifically authorized in the approval of the application for the PD.

4. — At least one public hearing is required for review of PD applications. The land use authority may determine that additional public hearings are necessary. The public hearing(s) may be held in combination with the rezone request. Written notice shall be mailed to property owners within one-quarter (1/4) mile of the proposed PD a minimum of fifteen calendar days prior to the hearing, by the city, at the expense of the applicant. Failure to receive actual notice of the hearing shall in no way affect the validity of the action, providing a good faith effort is made by the city.

12-106-10. Performance Bonds.

The city may allow a developer to proceed with recording or development activities (as defined below) before completing improvements listed in this chapter if the developer files with the city a cash bond, escrow bank account bond, or an irrevocable letter of credit as an improvement assurance warranty (as described below) in a form approved by the city attorney and in an amount specified by the city engineer, plus fifty percent to assure actual construction of the improvements listed in this chapter within two years after the date such transaction is posted. Upon partial completion of an element of the improvements and after receiving lien release disclosures signed by contractors, sub-contractors, suppliers, and other firms with vested interest who completed work on or supplied material for the portion of work involved, such as storm drain, roadway, parks and open space, and/or culinary and secondary water, then the City shall release ninety five percent of the valued amount with respect to such element, upon substantial completion of an element of the improvements, and after receiving lien release disclosures the City shall release one hundred percent of the constructed value amount with respect to such element, and the remainder of such amount will be held for an additional one year period beginning on the date such improvements are accepted as an improvement assurance warranty.

12-106-11. Conflict, Severability, and Effective Date.

1. Conflict. If any portion of this code is found to be in conflict with any other provision of any zoning, building, fire, safety, or health ordinance of the City code, the provision which establishes the higher standard shall prevail.

2. Severability. If any section, subsection, sentence, clause, or phrase of this code or its application to any person or circumstance is held invalid by the decision of any court of competent jurisdiction, the remainder of this code, or the application of the provision to other persons or circumstances is in effect and shall remain in full force and effect.

3. Effective Date. This code shall take effect and be in force on February, 16th, 2009. Approved by the City Council this 12th day of February, 2009 and signed in authentication of its passage this 16th day of February, 2009.

Section 2. Reenactment. Chapter 12-106 will be reenacted at a later date.

Section 3. Effective Date. This ordinance shall take effect immediately upon posting and publication in the manner as required by law.

PASSED AND ADOPTED by the City Council on this 11th day of February, 2021.



ATTEST:

Michelle Vest Snarr
MICHELLE VEST SNARR,
CITY RECORDER

Kenneth Braegger
KENNETH BRAEGGER, MAYOR