

**ORDINANCE NO. 448**

**AN ORDINANCE OF THE CITY OF BRISBANE  
AMENDING CHAPTER 17.28 OF THE MUNICIPAL  
CODE PERTAINING TO THE PLANNED  
DEVELOPMENT (PD) DISTRICT**

**The City Council of the City of Brisbane hereby ordains as follows:**

**SECTION 1:** Chapter 17.28 in Title 17 of the Municipal Code is repealed in its entirety and a new Chapter 17.28 is enacted to read as follows:

**"CHAPTER 17.28**

**PD Planned Development District**

**Sections:**

- 17.28.010 Purposes of Chapter
- 17.28.020 Requirement for specific plan
- 17.28.030 Requirement for PD permit
- 17.28.040 Application for PD permit
- 17.28.050 Public hearing by Planning Commission; notice
- 17.28.060 Recommendation by Planning Commission
- 17.28.070 Action by City Council
- 17.28.080 Findings required for issuance of PD permit
- 17.28.090 Contents of PD permit
- 17.28.100 Other land use approvals
- 17.28.110 Expiration of PD permit; extensions
- 17.28.120 Amendment or modification of PD permit
- 17.28.130 Continuing jurisdiction over PD permit
- 17.28.140 Revocation of PD permit
- 17.28.150 Appeals to City Council

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**§17.28.010 Purposes of Chapter**

PD Planned Development District (hereinafter referred to as the "PD District") is included in the Zoning Ordinance to achieve the following purposes:

- (a) To provide a permit process for implementation of a specific plan which has been adopted for a particular site or geographic area of the City, including the review and approval of land uses, site development plans, infrastructure improvements, architectural

designs, environmental protection measures, and performance standards for operation of allowable uses.

(b) To ensure that development of the vacant land areas within the City is conducted in a coordinated manner, consistent with the established land use objectives and policies set forth in the General Plan and the applicable specific plan, while at the same time providing a flexible mechanism for development of distinct portions of such vacant land areas;

(c) To promote the beneficial use of certain areas of the City that present unique problems and development constraints by reason of their size, location, environmental setting, lack of infrastructure improvements, and potential impact upon neighboring districts; and

(d) To enable appropriate responses to future conditions and circumstances through the exercise of continuing jurisdiction over the development, use and operation of property which is regulated by the PD permit.

#### **§17.28.020 Requirement for adopted specific plan**

(a) Applications for a PD permit may only be submitted with respect to property which is included within a PD District and within the boundaries of a specific plan prepared and adopted in accordance with Section 65450 of the Government Code. As used in this Chapter, the term "specific plan" shall mean the adopted specific plan that would be implemented, in whole or in part, by the PD permit.

(b) The property which is the subject of the PD permit application may consist of any portion or all of the area covered by the specific plan. Where the application for the PD permit covers property which does not correspond with the lot lines of existing lots of record, the permit application may be combined with appropriate applications for subdivision of a larger parcel or lot line adjustments to existing parcels, if such boundary changes would be consistent with the specific plan.

(c) The approving authority may issue any number of individual PD permits relating to property which is the subject of a single specific plan. Each individual permit shall indicate the extent to which the project authorized by such permit shall be responsible for implementation of the objectives and requirements for the entire area covered by the specific plan, including, but not limited to, infrastructure improvements, open space, and public facilities.

#### **§17.28.030 Requirement for PD permit**

No uses may be conducted and no buildings or other structures shall be constructed, installed, altered, enlarged, moved or used upon any property for which a PD permit is required except as specifically authorized by and in conformity with the terms and conditions of such permit. Notwithstanding the foregoing, nothing herein shall prevent or restrict the installation of any structure or equipment or the conduct of any activities for

the purpose of testing, investigation, remediation, or monitoring of existing conditions on the property, as determined by the City Engineer.

**§17.28.040 Application for PD permit**

(a) Contents of Application. Application for a PD permit shall be filed with the Planning Director on such form as the Planning Director shall prescribe. The application shall include such of the following items as the Planning Director deems appropriate in order to evaluate and process the application:

- (1) A detailed site plan of the land area to be covered by the PD permit, drawn to scale, showing the exact location of the existing or proposed lot lines, the location of all buildings and other improvements on the site, including streets, sidewalks, pathways, parking and loading areas, and the location of parks, recreation facilities, landscaped areas, and open space, as applicable.
- (2) A topographic map of the site showing existing and proposed contour lines at an interval of not more than one foot (1') in areas of cross slope less than five percent (5%); not more than two feet (2') in areas of cross slope between five percent (5%) and ten percent (10%); and five feet (5') in areas of cross slope in excess of ten percent (10%). The topographic map shall extend at least 15 feet beyond the boundary lines of the site.
- (3) Designation of land uses to be conducted on the site, including the location on the site and the amount of floor area to be occupied by each individual use.
- (4) Architectural drawings showing the elevations of all structures as they will appear upon completion. The drawings shall include a description of all exterior surfacing materials and their colors. At the request of the Planning Director, material and color samples shall also be provided.
- (5) Calculation of the total coverage on the site, including a breakdown of the amount of coverage to be occupied by structures, parking areas, streets, sidewalks and plazas, and a calculation of the total area of the site to be devoted to open space or open areas.
- (6) Location and character of all existing easements and rights-of-way affecting the site together with a description of any existing utility installations or facilities.
- (7) Utility plan showing the proposed on-site and off-site location and design of all utility services, including water, sanitary sewer, gas and electricity, and the manner in which such utilities will be delivered to the site. The utility plan shall also show the location and nature of all easements, installations and facilities that will be offered for dedication to the public.
- (8) Grading and drainage plan, including all provisions for storm drainage and flood control.

- (9) Landscape and irrigation plan showing the location and design of landscaped areas and the varieties of plant materials to be planted therein and all other landscape features.
- (10) Lighting plans showing the location, design and intensity of all external lighting fixtures to be installed on the site, including ornamental fixtures along pedestrian pathways and within landscaped areas.
- (11) Traffic circulation plan showing the locations of entrances and exits and the estimated traffic flow into and out of the parking and loading areas, the location and dimension of each parking and loading space, the areas for turning and maneuvering vehicles, and estimates of the traffic volumes and impacts to be created by the proposed development of the site.
- (12) Geologic and soils investigation report on the site prepared by a certified engineering geologist or registered civil engineer qualified in soil mechanics.
- (13) Sign program showing the location, size, design, illumination, and other features of all signs to be constructed or installed on the site.
- (14) Location of all creeks, streams, watercourses, or drainage channels on the site, showing top of existing banks and creek or channel depth. If requested, cross-sections of the creek or channel shall also be furnished.
- (15) A market analysis for proposed commercial developments, including projected tax revenues to the City from each of the proposed uses.
- (16) Construction schedule for the proposed improvements which are the subject of the application and any off-site improvements to be constructed in connection therewith.
- (17) Such other studies, drawings, reports and documents as may be requested by the Planning Director.

(b) Application Fee. The application shall be accompanied by the payment of a processing fee in such amount as established from time to time by resolution of the City Council. Such fee may be separately calculated for each individual application in accordance with a formula or schedule based upon the size, nature, complexity, or other characteristics of the proposed development. In addition to the processing fee, the applicant shall also deposit such amounts as the Planning Director may require from time to time to cover the cost of any environmental investigations or reports, traffic studies, noise studies, geotechnic and engineering reports, and such other investigations and reports to be obtained by the City in connection with the processing of the application.

#### **§17.28.050 Public hearing by Planning Commission; notice**

The Planning Commission shall conduct a public hearing on the application for PD permit. Notice of the public hearing shall be given not less than ten days nor more than

thirty days prior to the date of the hearing by mailing, postage prepaid, a notice of the time and place of the hearing to the applicant and to all persons whose names appear on the latest available assessment roll of the County as owning property within three hundred feet of the boundaries of the site which is the subject of the PD permit application. Notice of the public hearing shall also be posted at each location within the City where agendas for Planning Commission meetings are routinely posted.

#### **§17.28.060 Recommendation by Planning Commission**

The Planning Commission shall act in an advisory capacity with regard to the application for a PD permit and shall adopt, by resolution, a recommendation to the City Council as to whether the PD permit application should be approved or denied. If approval of the application is recommended in whole or in part, the resolution shall include a statement of the findings made by the Planning Commission in accordance with Section 17.28.080, the proposed conditions of approval suggested by the Planning Commission, and such other matters pertaining to the application or the PD permit which the Planning Commission recommends be considered by the City Council. If denial of the application is recommended in whole or in part, the resolution shall generally describe the reason for such recommendation but no specific findings by the Planning Commission are required to be made.

#### **§17.28.070 Action by City Council**

(a) Upon receipt of the recommendation from the Planning Commission, the City Council shall conduct a public hearing on the PD permit application and notice thereof shall be given in the same manner as prescribed in Section 17.28.050.

(b) The City Council may either grant or deny the application for PD permit. The City Council may also, in its discretion, refer the application or any portion thereof back to the Planning Commission for such further proceedings thereon as may be directed by the City Council.

(c) If granted, the PD permit may be revocable, may be granted for a limited period of time, and may be granted subject to such conditions as imposed by the City Council.

#### **§17.28.080 Findings required for issuance of PD permit**

The City Council may grant a PD permit as applied for or in modified form if, on the basis of the application and the evidence submitted, the City Council makes all of the following findings:

(a) The land uses and improvements authorized by the PD permit are consistent with the specific plan and the General Plan.

(b) The land uses and improvements authorized by the PD permit to be established or operated on the site will not be detrimental to the public health, safety or general welfare or materially injurious to other uses or improvements in the vicinity.

(c) The project authorized by the PD permit effectively mitigates or resolves any constraints on the development of the site and serves to enhance and improve the use and occupancy of the property which is the subject of the PD permit.

(d) All of the applicable findings required for the granting of a design permit, as set forth in Chapter 17.42 of this Title, can be made.

### **§17.28.090 Contents of PD permit**

The PD permit shall constitute authorization for development and use of the site in the manner specified in the permit, and may include, but shall not be limited to, any or all of the following:

(a) Designation of the specific uses that may be conducted on the site, including the quantity of lot area or floor area that may be occupied by individual uses.

(b) Design and location of all improvements to be constructed on the site, including architectural elevations and site plan establishing the structure size, height, coverage, setbacks, distances between structures, and public or private amenities, open space and open areas.

(c) Designation of streets, pedestrian pathways, easements, utility installations, parks, open space areas, recreation facilities, and other improvements or areas to be offered for dedication to the City or other public agency.

(d) Sign program, which shall comply with the requirements set forth in Chapter 17-36 of this Title.

(e) Conditions for mitigation and control of adverse impacts created by construction activity authorized by the PD permit to be conducted upon the site or elsewhere.

(f) Conditions for prevention and control of potential adverse geologic impacts, including erosion, slope instability, landslide, or loss of lateral or subjacent support.

(g) Conditions and performance standards for mitigation and control of potential adverse impacts created by the operation of the authorized uses on the site, including restrictions on the type and number of commercial vehicles or equipment, restrictions on the hours of operation, and implementation of measures to control noise, glare, vibration, odors, or other effects upon neighboring properties.

(h) Conditions requiring completion of all necessary proceedings for subdivision or lot line adjustment of the property which is the subject of the PD permit.

(i) Conditions relating to compliance with the requirements of any other regulatory agencies having jurisdiction over the site, including the Regional Water Quality Control Board, the State Department of Toxic Substances Control, and the State Solid Waste Management Board.

**§17.28.100 Other land use approvals**

The PD permit shall constitute a comprehensive and integrated authorization for all uses to be conducted and all improvements to be constructed on the site and no separate use permit under Chapter 17.40, or design permit under Chapter 17.42, or sign permit under Chapter 17.36 of this Title shall be required.

**§17.28.110 Expiration of PD permit; extensions**

(a) A PD permit granted pursuant to this Chapter shall expire twenty-four (24) months from the date on which such permit became effective, unless prior to such expiration date a building permit is issued and construction is commenced on the site or structure constituting the subject of the PD permit, or a certificate of occupancy is issued for such site or structure, or, if no building permit or certificate of occupancy is required, the use or activity authorized by the PD permit is commenced upon the site.

(b) A PD permit may be extended for a period or periods of time not exceeding thirty-six (36) months. The application for extension shall be filed prior to the expiration date of the permit and shall be accompanied by payment of a processing fee in such amount as established from time to time by resolution of the City Council. A public hearing shall be conducted on the application for extension and notice thereof shall be given in the same manner as prescribed in Section 17.28.050 of this Chapter. Extension of a PD permit is not a matter of right and the approving authority may deny the application or grant the same subject to conditions. No extension shall be granted unless the approving authority is able to make all of the findings required for approval of the original permit. The application for extension may be acted upon by the Planning Commission unless, under the terms of the PD permit, such extension requires approval by the City Council or the matter is appealed to the City Council pursuant to Section 17.28.150.

**§17.28.120 Amendment or modification of PD permit**

(a) Amendments or modifications to a PD permit shall require approval by the City Council, except as follows:

(1) The Planning Commission and the Zoning Administrator shall have authority to approve any items which, under the terms of the PD permit, have been specifically delegated to either of them for approval, either as a condition for issuance of the permit or at any time thereafter.

- (2) Minor changes during the course of construction which do not materially affect the use, nature, appearance, quality or character of the project may be approved by the Zoning Administrator.
- (3) The relocation of a use or activity authorized by the PD permit to another location regulated by the same permit where no significant adverse impacts are created as a result of such relocation may be approved by the Zoning Administrator.

(b) The application requirements, public hearing procedures and findings required for amendments or modifications to a PD permit shall be as prescribed in Sections 17.28.040, 17.28.050 and 17.28.080 of this Chapter.

#### **§17.28.130 Continuing jurisdiction over PD permit**

(a) The City Council shall, in all cases, retain continuing jurisdiction over each PD permit and may at any time, either on its own initiative or in response to an application or request to do so, modify or delete any conditions of a PD permit or impose any new conditions if the City Council determines that:

- (1) such action is necessary for implementation of the specific plan, or to preserve or promote the public health, safety or general welfare, or to protect the environment, or to prevent the creation or continuance of a public nuisance; and
- (2) such action will not violate any vested rights that may have been acquired under the PD permit, unless the modification of such rights has been requested or agreed to by the holder of the permit.

(b) A public hearing shall be conducted by the City Council and notice thereof shall be given in the same manner as prescribed in Section 17.28.050 of this Chapter.

#### **§17.28.140 Revocation of PD permit**

Subject to any vested rights that may have been acquired under a PD permit issued pursuant to this Chapter, a PD permit may be revoked, in whole or in part, upon a determination by the City Council that the holder of such permit has failed to comply with any conditions thereof or has violated any applicable provisions of this Title. A public hearing on the revocation shall be conducted by the City Council and notice thereof shall be given in the same manner as prescribed in Section 17.28.050 of this Chapter.

#### **§17.28.150 Appeals to City Council**

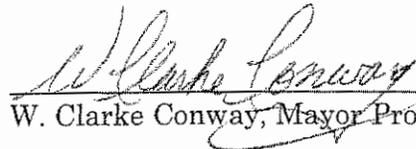
Any determination or decision by the Planning Commission under this Chapter may be appealed to the City Council in accordance with the procedure set forth in Chapter 17.52 of this Title."

**SECTION 2:** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Brisbane hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

**SECTION 3:** This Ordinance shall be in full force and effect thirty days after its passage and adoption.

The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on the 8<sup>th</sup> day of May, 2000, by the following vote:

AYES: Councilmembers Bologoff, Johnson, Panza, Mayor Pro Tem Conway  
NOES: None  
ABSENT: Mayor Waldo  
ABSTAIN: None

  
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W. Clarke Conway, Mayor Pro Tem

ATTEST:

  
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Sheri Marie Schroeder, City Clerk