

**NOTICE OF PROPOSED TEXT AMENDMENT ORDINANCE**

PLEASE TAKE NOTICE that a Tallmadge Charter Township Zoning Text Amendment Ordinance had its first reading at a meeting of the Tallmadge Charter Township Board held on December 10, 2013.

The Zoning Text Amendment Ordinance will amend Section 2.03 – Definitions by revising the definition of Building Inspector and adding the definition of Lot and Lot, Area. The Zoning Text Amendment Ordinance will also amend Section 3.16(b)3 – Keeping of Animals and Chapter 14 – Planned Unit Development

PLEASE TAKE FURTHER NOTICE that the Ordinance has been posted in the office of the Tallmadge Charter Township Clerk, Tallmadge Charter Township, 0-1451 Leonard Road, N.W., Grand Rapids, Michigan (telephone: 616-677-1248), and on the Township website at [www.tallmadge.com](http://www.tallmadge.com).

Dated: December 21, 2013

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Lenore Cook, Clerk  
Tallmadge Charter Township

The following Zoning Text Amendment Ordinance was introduced and a first reading completed at the Tallmadge Charter Township Board meeting on December 10, 2013.

ORDINANCE NO. \_\_\_\_\_

ZONING TEXT AMENDMENT ORDINANCE

AN ORDINANCE TO AMEND THE TALLMADGE CHARTER TOWNSHIP ZONING ORDINANCE CONCERNING DEFINITIONS IN SECTION 2.03 AND THE KEEPING OF ANIMALS IN SECTION 3.16(B)3 AND PLANNED UNIT DEVELOPMENTS IN CHAPTER 14 AND TO ESTABLISH AN EFFECTIVE DATE FOR THIS ORDINANCE.

THE CHARTER TOWNSHIP OF TALLMADGE, COUNTY OF OTTAWA, AND STATE OF MICHIGAN, ORDAINS:

Section 1. Definitions. Section 2.03 of the Zoning Ordinance shall be amended to include definitions as follows:

SECTION 2.03 – DEFINITIONS

**BUILDING INSPECTOR:** The Tallmadge Charter Township Building Inspector. In amendments to this Ordinance, the Building Inspector reference may be replaced with a reference to the Township Planning Director or Planning Director. Continuing references in this Ordinance to the Building Inspector shall be interpreted as meaning the Planning Director, unless the context clearly indicates to the contrary.

**LOT:** A parcel of land occupied, or intended to be occupied, by a main building or a group of such buildings, or utilized for the principal use and uses accessory thereto, together with such yards and open spaces as required under the provisions of this Ordinance.

**LOT, AREA:** The total horizontal area within the lot lines of a lot. In the case of a waterfront lot, the lot area shall be measured to the ordinary high water mark as measured by the State of Michigan (if none, then to the natural ordinary high water mark).

Section 2. Keeping of Animals, Farm Animals. Section 3.16(b)3 of the Zoning Ordinance shall be restated in its entirety as follows:

SECTION 3.16(b)3 – KEEPING OF ANIMALS, FARM ANIMALS

3. In both the AG and RP Districts, the number of horses and cattle, including foals and calves, goats, hogs, sheep or other fur-bearing farm animals is limited to two (2) such animals for the first two and one-half (2-1/2) acres of land and one (1) additional such animal for each additional acre of land.

Any barn, stable or other building which houses horses or cattle shall be setback a minimum of one hundred fifty (150) from any road right-of-way line and one hundred feet from any side or rear property line.

Private and commercial stables for the keeping of horses and other large domestic animals shall be regulated in accordance with Chapter 5 and 6.

Section 3. Chapter 14 – PUD Planned Unit Development District. Chapter 14 of the Zoning Ordinance shall be restated in its entirety as follows:

## **CHAPTER 14 PUD PLANNED UNIT DEVELOPMENT DISTRICT**

**SECTION 14.01. DESCRIPTION AND PURPOSE.** This Chapter provides enabling authority and standards for the submission, review, and approval or rejection of applications for Planned Unit Developments (PUDs). It is the intent of this Chapter to authorize the consideration and use of PUD regulations for some or all of the following purposes:

- (a) To encourage the use of land in accordance with its character and adaptability;
- (b) To promote the preservation and conservation of natural features and resources;
- (c) To encourage innovation in land use planning and development;
- (d) To promote the enhancement of housing, employment, shopping, traffic circulation, and recreational opportunities for the people of the Township;
- (e) To promote and ensure greater compatibility of design and use between neighboring properties and to coordinate architectural styles, building forms, and structural relationships within developments;
- (f) To provide for the regulation of legal land uses not otherwise authorized within this Ordinance;
- (g) To encourage underground utilities which can be more efficiently designed when master planning a larger area; and
- (h) To facilitate phased construction with the knowledge that subsequent phases will be approved as originally planned and approved by the Township.

The provisions of this Chapter are not intended as a device for ignoring this Ordinance or the planning upon which it has been based. To that end, provisions of this Chapter are intended to result in land use development substantially consistent with the underlying zoning, with modifications and departures from generally applicable requirements made in accordance with standards provided in this Chapter to ensure appropriate, fair, and consistent decision-making. A

PUD must comply with this Chapter.

**SECTION 14.02. EFFECT OF PLANNED UNIT DEVELOPMENT DESIGNATION.**

The approval of a PUD application shall require an amendment to this Ordinance to revise the zoning map and designate the subject property "PUD, Planned Unit Development." An approval granted under this Chapter, including all aspects of the final development plan and conditions imposed upon it, shall constitute an inseparable part of this Ordinance.

**SECTION 14.03. PUD AUTHORIZATION.**

A PUD may be approved by the Township Board in any location within the Township. Any land use authorized in this Ordinance may be included in a PUD, as a principal or accessory use, as well as any other legal land use not otherwise authorized in this Ordinance, provided that the purpose and requirements of this Chapter are met; that adequate public health, safety, and welfare protection mechanisms are designed into the development; and that the following qualifying conditions are satisfied.

- (a) **Minimum Size.** In order to be eligible for PUD rezoning, the proposed area shall consist of a minimum of ten (10) acres for single family or two (2) family developments, five (5) acres for multiple family developments, and one (1) acre for commercial or industrial developments.
- (b) **Conditions for Consideration and Approval.** A proposed PUD must demonstrate the following characteristics.
  - 1. The PUD shall result in a recognizable and substantial benefit to the ultimate users of the project and to the Township in general, which benefit would otherwise be unfeasible or unlikely to be achieved without the PUD.
  - 2. In relation to the underlying zoning district before the property is rezoned for the PUD, the proposed type and density of use in the PUD shall not result in a material increase in the need for public services, facilities, or utilities, beyond capacity, and shall not place an inappropriate burden upon the subject land or its owners or occupants, or the surrounding land or its owners or occupants.
  - 3. The proposed development shall be compatible with the Master Plan and shall be consistent with the intent and spirit of this Ordinance.
  - 4. In relation to the underlying zoning district before the property is rezoned for the PUD, the proposed development shall not result in an unreasonable negative economic impact upon surrounding properties.
  - 5. The proposed development shall contain at least as much green area and usable open space as would otherwise be required by this Ordinance with respect to the most prevalent or dominant use in the development.
  - 6. The proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project in

conformity with this Ordinance. This provision shall not prohibit a transfer of ownership or control upon due notice to the Township Clerk.

#### **SECTION 14.04. RESIDENTIAL PUD DEVELOPMENT STANDARDS.**

- (a) **Density.** In each case, the maximum number of dwelling units and development density allowed within a PUD project shall be determined by the Township Board after review by the Planning Commission. Such determination shall be consistent with the Master Plan, the standards contained in this Ordinance, and the impact such density would have upon the water supply and sanitary sewer service, storm drainage, road capacity, traffic, parks and recreation, fire and police services, schools, character of the area, and any planned public and private improvements in the area. However, in no case shall the density of dwelling units or other uses exceed the base density as established in this Section.
- (b) **Base Density for Residential Uses.** The maximum base density for residential uses shall be determined through the completion and submission of a parallel plan.
  - 1. The parallel plan shall satisfy the following requirements.
    - a. The parallel plan shall contain enough detail to permit the Township to evaluate the feasibility of development for each lot or building area and each dwelling unit in the PUD.
    - b. The parallel plan shall be drawn to comply with the requirements of the underlying zoning district, particularly with respect to access, lot area, lot width, lot coverage, setbacks, dwelling unit sizes and other applicable provisions of the underlying zoning district.
    - c. The parallel plan shall comply with the density of the underlying zoning district of the property in the proposed PUD. Alternatively, the parallel plan shall comply with the density of the Future Land Use Map in the Master Plan and the recommendations set forth within the Master Plan text.
    - d. All lots or building areas shown on the parallel plan shall be buildable, which, for the purposes of this Section, shall mean lots or building areas that have an area of sufficient size and shape to accommodate the proposed principal building, required driveways, streets or other means of permitted access. Areas of wetlands, water bodies and other such areas shall be considered unbuildable but may be included in the lot or building area calculations if the lot or building area has sufficient other areas to accommodate any proposed improvements.
- (c) **Mixed Uses.** Commercial uses in underlying residential zoning districts may be permitted with a residential component to the extent the applicant demonstrates by expert analysis, and the Township Board finds in accordance with the factors of this Chapter, that the residential and commercial uses are compatible. Commercial uses, including parking lots and driveways

serving them, shall be separated and buffered from dwelling units in the proposed PUD in a manner consistent with Section 3.17(c) and shall comply with any applicable commercial chapter provisions. In addition, a greenbelt at least thirty (30) feet wide shall be required when a commercial use abuts property outside the proposed PUD which includes a residential area, residential zoning district, residentially used lot, school site, park, or similar area.

- (d) **Street Provisions and Vehicular Access.** Each lot or building area, principal building, and principal use within the PUD shall have vehicular access from a public street. Adequate provision shall be made for dedications of land for streets and essential services.
  
- (e) **Sidewalks and Street Lights.** Standard sidewalks and a system of street lights may be required with a PUD. To the extent they are required, maintenance of sidewalks and street lights shall be ensured through implementation of a system of deed restrictions providing for participation in maintenance costs by all owners of the development. The location of sidewalks and street lights shall be approved during site plan review. In addition to internal sidewalks, a sidewalk may be required parallel to the public street or public streets to which the development has direct access for the entire width of the property included within the PUD. The Township has the discretion to require sidewalks or street lights or both as provided by this subsection based upon a consideration of the following factors:
  - 1. Whether the property in the proposed PUD contains an existing sidewalk;
  - 2. Whether the property in the proposed PUD abuts an existing sidewalk;
  - 3. Whether the property in the proposed PUD is planned for sidewalks, bike paths or other recreational paths in the Master Plan, the Township recreation plan or other Township policy document;
  - 4. The vehicular traffic volume on the street or streets on which the PUD property fronts;
  - 5. Whether the property in the proposed PUD contains existing street lights;
  - 6. Whether surrounding properties contain street lights;
  - 7. The expected vehicular and pedestrian traffic volume on the streets within the PUD and the expected impact on the Township's existing and proposed street system;
  - 8. The amount of ambient light currently within the property in the proposed PUD and the amount of ambient light expected if the proposed PUD is constructed; and
  - 9. Whether the Master Plan classification for the property in the proposed PUD is Medium Density Residential A or High Density Residential A or both.
  
- (f) **Required Yards and Common Areas.** All required yards and common areas shall be landscaped and adequately and permanently maintained by the property owner, tenant, or organization responsible for maintaining common areas.

Through an irrevocable conveyance, such as deed restrictions or covenants that run with the land, the developer shall assure that all yards and common areas will be developed in accordance with the site plan and never changed to another use. Such conveyance shall:

- 1. Provide for the privately-owned open space to be maintained by private property owners with an interest in the open space (maintenance standards and a maintenance

schedule shall be submitted to the Township); and

2. Provide for assessment of private property owners within the PUD by the Township for the cost of maintenance of the open space in the event that it is inadequately maintained and becomes a public nuisance.
- (g) **Utilities.** If the development is within one thousand three hundred twenty (1,320) feet of a public sanitary sewer line or a public water line, each principal building within the PUD shall be connected to that public sanitary sewer line or public water line, as the case may be, or both if applicable. If the development is more than one thousand three hundred twenty (1,320) feet from a public sanitary sewer line or public water line, each principal building shall be connected to an onsite private sanitary sewer or water facility, as the case may be, or both if applicable, as approved by the County Health Department.
- (h) **Natural Resources and Features.** The development shall be designed to incorporate and promote the preservation of natural resources and features. Natural resources and features may not be impaired or destroyed unless consistent with the public interest. The removal or extraction of sand, gravel, soil, rock, minerals, and similar natural resources, or the reshaping, enlarging, straightening, damming or diminution of lakes, waterways, ponds, or other bodies of water, may only be permitted when such action will prepare or render the premises suitable for an ultimate use permitted under the terms of this Section. In determining whether such action is in the public interest, the benefit which would reasonably be expected shall be balanced against the reasonably foreseeable detriments of the activity. The extent to which the development is able to replace or ameliorate impaired or lost resources and features shall be considered in making this determination. All soils and mineral extraction shall take place in conformance with the Township's ordinances regulating such activities.
- (i) **Common Areas.** Open space areas (common areas) shall be large enough and of proper dimensions so as to contribute significantly to the purposes and objectives of the PUD.
1. Designated open space shall consist of contiguous land area which is restricted to non-developmental uses. The following land within the boundaries of a PUD shall not be included as meeting the requirements for open space:
    - a. Any area which is used for streets or alleys;
    - b. Any area devoted to a lot, building area, vehicle parking, and any approved land improvement;
    - c. Any area less than fifty (50) feet in width, unless specifically permitted by the Planning Commission; and
    - d. Any significant natural features which preclude building activities, such as but not limited to dunes, wetlands, lakes, rivers, streams or any other body of water.

2. Minor structures or buildings which are accessory to the designated open space may be erected subject to site plan review and approval.

(j) **Density Bonus**

1. Single Family and Two (2) Family Developments

- a. In order to preserve the maximum amount of open space, the regulation of single family and two (2) family residential PUDs provides for an increase in the number of dwelling units above the base density established with the parallel plan. All single family and two (2) family residential PUDs shall contain a minimum of ten percent (10%) open space.
- b. The density bonus shall be based on a total of one (1) or more of the following elements, provided the total density bonus shall not exceed a maximum of fifty percent (50%).
  - i. Ten percent (10%) open space: twenty percent (20%) density bonus.
  - ii. Fifteen percent (15%) open space: twenty-five percent (25%) density bonus.
  - iii. Twenty percent (20%) open space: thirty percent (30%) density bonus.
  - iv. Twenty-five percent (25%) open space: thirty-five percent (35%) density bonus.
  - v. Thirty percent (30%) or more open space: forty percent (40%) density bonus.
  - vi. Construction of public water supply system or public sanitary sewer system: five percent (5%) density bonus.
  - vii. Construction of public water supply system and public sanitary sewer system: fifteen percent (15%) density bonus.
  - viii. Construction of active recreational facilities, such as a golf course, baseball diamond, tennis court, basketball court or community clubhouse, of at least one (1) acre in size: five percent (5%) density bonus.
  - ix. If the PUD requires a minimum setback for any building envelope of at least one hundred (100) feet from any public street right-of-way not constructed as part of the PUD: five percent (5%) density bonus. No native or natural vegetation shall be removed from the one

hundred (100) foot setback, nor shall any grading or changes in topography occur, except that necessary for entrance streets into the PUD.

- x. Any other rural character mechanism found by the Planning Commission during site plan review to be reasonable and consistent with the intent of this Ordinance: five percent (5%) density bonus.

## 2. Multiple Family Developments

- a. In order to preserve the maximum amount of open space, the regulation of multiple family residential PUDs provides for an increase in the number of dwelling units above the base density established with the parallel plan. All multiple family residential PUDs shall contain public water and public sanitary sewer systems and a minimum of twenty percent (20%) open space.
- b. The density bonus shall be based on a total of one (1) or more of the following elements, provided the total density bonus shall not exceed a maximum of twenty-five percent (25%).
  - i. Twenty percent (20%) open space: eight percent (8%) density bonus.
  - ii. Twenty-five percent (25%) open space: twelve percent (12%) density bonus.
  - iii. Thirty percent (30%) open space: sixteen percent (16%) density bonus.
  - iv. Thirty-five percent (35%) open space: twenty percent (20%) density bonus.
  - v. Forty percent (40%) or more open space: twenty-five percent (25%) density bonus.
  - vi. Construction of active recreational facilities, such as a golf course, baseball diamond, tennis court, basketball court or community clubhouse, of at least one (1) acre in size: ten percent (10%) density bonus.
  - vii. If the PUD requires a minimum setback for any building envelope of at least two hundred (200) feet from any public street right-of-way not constructed as part of the PUD: five percent (5%) density bonus. No native or natural vegetation shall be removed from the two hundred (200) foot setback, nor shall any grading or changes in topography occur, except that necessary for entrance streets into the PUD.

- viii. Inclusion of an integrated mixture of housing types, such as detached housing with attached housing or accessory single family dwellings or the inclusion of uses in accordance with Section 14.04(c): five percent (5%) density bonus.
- ix. Any other rural character mechanism found by the Planning Commission during site plan review to be reasonable and consistent with the intent of this Ordinance: five percent (5%) density bonus.

(k) **Lot and Yard Requirements**

- 1. Single Family Developments. The minimum area and yard requirements for any lot or building area in a PUD designated for single family residential use shall be determined by the following chart. All living area and building height regulations shall conform to the R-1 District requirements.

Services Provided	Lot Requirements		Yard Requirements		
	Area	Width	Front	Sides	Rear
On-Site Septic	1 acre	165 ft.	40 ft.	20 ft.	25 ft.
Public Sanitary Sewer	10,000 sq. ft.*	80 ft.*	25 ft.	10 ft.	25 ft.
<p>* The above lot requirements for a PUD served by a public sanitary sewer system may be reduced if the Township Board determines that the reduction is consistent with the intent and purpose of this Ordinance; and that the public health, safety and welfare are still protected; and that there are sufficient area and yards to provide for air, light, ventilation, fire break, access and sufficient buildable area to accommodate all proposed construction.</p>					

- 2. Two (2) Family and Multiple Family Developments. The minimum area and yard requirements for any lot or building area in a PUD designated for two (2) family or multiple family residential use shall be determined by the Township Board based on any applicable density bonuses. All living area and building height regulations shall conform to the R-2 District for two (2) family developments and the R-3 District for multiple family developments.

**SECTION 14.05 COMMERCIAL AND INDUSTRIAL PUD DEVELOPMENT STANDARDS**

- (a) **Mixed Uses.** Developments in an underlying commercial zoning district may be permitted with a residential component to the extent the applicant demonstrates by expert analysis and the Township Board finds that the proposed uses are compatible.
- (b) **Street Provisions and Vehicular Access.** Each lot or building area, principal building, and principal use within a PUD shall have vehicular access from a public street. Adequate provision shall be made for dedications of land for streets and essential services.

- (c) **Sidewalks and Street Lights.** A system of street lights shall be required with a PUD. Maintenance of sidewalks and street lights shall be ensured through implementation of a system of deed restrictions providing for participation in maintenance costs by all owners of the development. The location of sidewalks and street lights shall be as approved during site plan review.
- (d) **Required Yards and Common Areas.** All required yards and common areas shall be landscaped and adequately and permanently maintained by the property owner, tenant, or organization responsible for maintaining common areas.

Through an irrevocable conveyance, such as deed restrictions or covenants that run with the land, the developer shall assure that all yards and common areas will be developed in accordance with the site plan and never changed to another use. Such conveyance shall:

1. Provide for the privately-owned open space to be maintained by private property owners with an interest in the open space (maintenance standards and a maintenance schedule shall be submitted to the Township); and
  2. Provide for assessment of private property owners within the PUD by the Township for the cost of maintenance of the open space in the event that it is inadequately maintained and becomes a public nuisance.
- (e) **Utilities.** If the development is within one thousand three hundred twenty (1,320) feet of a public sanitary sewer line or a public water line, each principal building within the PUD shall be connected to that public sanitary sewer line or public water line, as the case may be, or both if applicable. If the development is more than one thousand three hundred twenty (1,320) feet from a public sanitary sewer line or public water line, each principal building shall be connected to an onsite private sanitary sewer or water facility, as the case may be, or both if applicable, as approved by the County Health Department. However, all commercial or industrial PUDs that are located within the Utility Service Boundary as identified in the Master Plan must be served by public water and public sanitary sewer.
  - (f) **Natural Resources and Features.** The development shall be designed to incorporate and promote the preservation of natural resources and features. Natural resources and features may not be impaired or destroyed unless consistent with the public interest. The removal or extraction of sand, gravel, soil, rock, minerals, and similar natural resources, or the reshaping, enlarging, straightening, damming or diminution of lakes, waterways, ponds, or other bodies of water, may only be permitted when such action will prepare or render the premises suitable for an ultimate use permitted under the terms of this Section. In determining whether such action is in the public interest, the benefit which would reasonably be expected shall be balanced against the reasonably foreseeable detriments of the activity. The extent to which the development is able to replace or ameliorate impaired or lost resources and features shall be considered in making this determination. All soils and mineral extraction shall take place in conformance with the Township's ordinances regulating such activities.

(g) **Common Areas.** Open space areas (common areas) shall be large enough and of proper dimensions so as to contribute significantly to the purpose and objectives of the PUD.

1. Designated open space shall consist of contiguous land area which is restricted to non-developmental uses. The following land within the boundaries of a PUD shall not be included as meeting the requirements for open space:
  - a. Any area which is used for streets or alleys;
  - b. Any area devoted to a lot, building area, vehicle parking, and any approved land improvement;
  - c. Any area less than fifty (50) feet in width, unless specifically permitted by the Planning Commission; and
  - d. Any significant natural features which preclude building activities, such as but not limited to dunes, wetlands, lakes, rivers, streams or any other body of water.
2. Minor structures or buildings which are accessory to the designated open space may be erected subject to site plan review and approval.

(h) **Density Bonus - Commercial**

1. In order to encourage the use of outdoor public spaces, the regulation of commercial PUDs provides for an increase in the building height as a bonus above the maximum established by this Ordinance.
2. The bonus height shall be based on a total of one (1) or more of the following elements, provided the total bonus height shall not exceed fifty percent (50%) of the maximum height established by the C-2 District:
  - a. Civic amenities and public places. Civic amenities include areas related to art, sports, entertainment venues, parks, open space, museums and the like. Public places include any space found by the Planning Commission during site plan review of the PUD to be reasonable and within the intent of this Chapter.
    - i. For every two thousand (2,000) square feet of civic amenity: five (5) feet height bonus.
    - ii. For every two thousand (2,000) square feet of public place: five (5) feet height bonus.
  - b. Bonus height may be granted for buildings certified as LEED (Leadership in Energy and Environmental Design) or LEED-ND (Neighborhood

Development). Applicants must submit the following information for each project seeking LEED or LEED-ND bonus height.

- i. Name of the LEED Accredited Professional working on the PUD: The development must include a LEED accredited professional as part of the development team. This team member advises the development team on LEED issues and ensures that the specific LEED credits for the development are achieved.
  - ii. LEED Scorecard: A LEED Scorecard must be submitted as part of the PUD application. The Scorecard must be accompanied by an explanation of how each credit will be achieved or why the credit cannot be achieved for the development. Prior to issuance of specific permits, reports must be submitted outlining progress on achieving LEED credits.
  - iii. Construction Waste Management Plan: A construction waste management plan must be prepared and submitted as part of the PUD application. The plan must outline where waste will be sent for recycling, reuse, reprocessing, or disposal. A letter from each of the recipient facilities must be included.
  - iv. Applicants for this bonus height must register their development with the United States Green Building Council ("USGBC"). Proof of registration must be submitted to the Township followed by quarterly updates that identify the progress of the development and points achieved. Developments must be certified by the USGBC at the agreed upon level.
- c. LEED or LEED-ND buildings.
- i. For Certified: five (5) feet height bonus.
  - ii. For Silver: eight (8) feet height bonus.
  - iii. For Gold: ten (10) feet height bonus.
  - iv. For Platinum: fifteen (15) feet height bonus.

(i) **Lot and Yard Requirements**

1. Commercial Developments

- a. The minimum lot and yard requirements, and the height regulations, for any PUD designated for commercial use consistent with the C-1 District shall conform to that C-1 District chapter of this Ordinance, except as otherwise

allowed in this Chapter.

- b. The minimum lot and yard requirements, and the height regulations, for any PUD designated for commercial use consistent with the C-2 District shall conform to that C-2 District chapter of this Ordinance, except as otherwise allowed in this Chapter.

2. Industrial Developments

- a. The minimum lot and yard requirements, and the height regulations, for any PUD designated for industrial use consistent with the I-1 District shall conform to that I-1 District chapter of this Ordinance, except as otherwise allowed in this Chapter.

**SECTION 14.06. PUD DESIGN CONSIDERATIONS.**

A proposed PUD shall utilize the following specific design considerations, as they are necessary to ensure compliance with all applicable regulations and to ensure the compatibility of the development with adjoining properties and the general area in which the property is located.

- (a) Perimeter setbacks.
- (b) Street drainage and utility design with respect to location, availability, ownership, and compatibility.
- (c) Underground installation of utilities.
- (d) (Reserved for Future Use)
- (e) Achievement of integrated and harmonious development with respect to signs, lighting, landscaping, and construction materials.
- (f) Noise reduction and visual screening mechanisms for adjoining residential uses.
- (g) Ingress and egress to the property with respect to vehicular and pedestrian safety and convenience, traffic flow and control, street capacity, and emergency access.
- (h) Off-street parking, loading areas, refuse areas, and other service areas with respect to ingress and egress and the potential effects of noise, glare, vibration, and odor upon adjoining properties and uses.
- (i) Screening and buffering with respect to dimensions and character.
- (j) Yard areas and other open space.
- (k) Density and intensity of development expressed in terms of percent of gross and net land

area coverage and gross and net housing units per acre and the height of buildings and other structures.

- (l) The preservation of natural resources and natural features.
- (m) Architectural design and transitional use techniques incorporated into the development to minimize or ameliorate potential land use conflicts, thereby facilitating the integration of the PUD with surrounding uses.

#### **SECTION 14.07. APPLICATION AND PROCESSING PROCEDURES.**

- (a) **Pre-application Conference.** Prior to the submission of an application for a PUD, the applicant shall meet with the Township Supervisor or the Township Planning Director and such consultants as either deem appropriate. The conference may exceed one (1) meeting time. The applicant shall present at such conference a sketch plan of the PUD, the parallel plan required by Section 14.04(b) if applicable, and the following information.
  1. A legal description of the property in question.
  2. The total number of acres to be included in the development.
  3. A statement of the approximate number of residential units; or the approximate number, type, and square footage of non-residential units; or both if applicable.
  4. The approximate number of acres to be occupied by or devoted to each type of use in the PUD.
  5. Departures from the regulations of the Ordinance which will be requested as part of the development, and the exchange expected or proposed in return.
  6. The number of acres to be preserved as open space or recreation space.
  7. All known natural resources and features to be preserved, lost, or replaced, such as but not limited to wetlands, trees, scenic views.

The purpose of this conference is to inform the Township of the concept of the proposed development and to provide the applicant with information regarding land development policies, procedures, and requirements relative to the proposed development. To this end, the applicant is encouraged to present schematic plans, site data, and any other information that will explain the proposed development.

- (b) **Preliminary Development Plan - Submission and Content.** Following the pre-application conference and together with the parallel plan required by Section 14.04(b), copies of a preliminary development plan and application for a PUD rezoning request shall be submitted. The submission shall be made to the Township Supervisor or the Township Planning Director, either of whom shall present it to the Planning Commission for

consideration. The preliminary development plan shall contain the following information:

1. Applicant's name and address;
2. The name of the proposed development;
3. Common description of property and complete legal description;
4. Dimensions of land: width, length, acreage, and frontage;
5. Existing zoning and land use of the proposed site and all adjacent properties;
6. Statement of intent of proposed use of land and any phasing of the development;
7. Names, addresses, and telephone numbers of: firm or individual who prepared the preliminary development plan; owner of the property; and applicant, if other than the owner;
8. Existing and proposed right-of-way width of all adjoining and internal streets, and layout of all internal streets;
9. Proposed acceleration, deceleration, and passing lanes on any adjoining or internal streets;
10. Location of existing drainage courses, floodplains, lakes, streams, and wetlands;
11. The applicant's intentions with respect to water, sanitary sewer, and storm drainage;
12. All parking areas, and number and size of all parking spaces;
13. The number and location of areas to be preserved as open or recreational space;
14. All known natural resources and natural features, and which of them are to be preserved;
15. Gross and net density calculations, number and types of units, and habitable floor area per unit (if applicable); and
16. Concept plan illustrating PUD concept, including each proposed use, square footage, or acreage allocated to each use, approximate locations of each principal structure and use, setbacks, and typical floor plan and elevation for each building.

- (c) **Preliminary Development Plan - Planning Commission Review.** The Planning Commission shall review the preliminary development plan and the parallel plan and shall make reasonable inquiries of the applicant. This review shall begin within sixty (60) days of receipt of all materials required in the application unless an extension is mutually agreed

upon between the Planning Commission and the applicant.

Following review of the preliminary development plan and the parallel plan, the Planning Commission shall approve or deny the preliminary development plan based on findings of fact relative to Section 14.01 and 14.03 of this Chapter, along with any comments and recommended modifications to the preliminary development plan relative to Sections 14.04, 14.05, and 14.06, as applicable. These shall be made part of the official minutes of the Planning Commission. The Planning Commission shall transmit its recommendation and comments relative to the preliminary development plan to the applicant.

- (d) **Final Development Plan Submission.** Within six (6) months following receipt of preliminary development plan approval or denial, the applicant shall submit to the Planning Commission ten (10) copies of a final development plan, conforming with Section 14.07(e) below. This final development plan shall constitute an application to amend this Ordinance and shall be noticed for public hearing before the Planning Commission pursuant to Section 22.01. If the final development plan has not been submitted within the six (6) month period, the preliminary development plan process shall lapse and the applicant must recommence the review process from the beginning. The Township Board may extend the time for submission of the final development plan upon a showing by the applicant that no material change of circumstance has occurred.
- (e) **Contents of Final Development Plan Application.** An application for final development plan approval of a PUD shall include all of the information required in Section 14.07(b) and the following:
  - 1. A final site plan meeting all the requirements for site plan contents under Chapter 18 of this Ordinance; and
  - 2. Identification of all open spaces, including preserves and recreational areas, and all proposed uses for such areas.
- (f) **Additional Information.** The Township Board may, after the Planning Commission has completed its review and made its recommendation concerning the final development plan, require one or more of the following as part of the final development plan submission to the Township Board:
  - 1. Evidence of market need for the proposed use(s) and economic feasibility of the development;
  - 2. A traffic impact assessment;
  - 3. An environmental impact assessment; and
  - 4. A fiscal impact assessment.

Any of the above studies, if required, shall be conducted by consultants retained by or

approved by the Township. The applicant shall be required to reimburse the Township for any expenses incurred in the preparation or review of the study(s).

**SECTION 14.08. PLANNING COMMISSION - FINAL ACTION.** After a public hearing, the Planning Commission shall recommend that the proposed amendment to this Ordinance be approved or denied, and that the proposed PUD be approved, denied, or approved with conditions. The recommendation concerning the proposed PUD shall be based on review and findings of fact with respect to the standards and guidelines included in or referenced in this Chapter (specifically including without limit Section 14.01 and Section 14.03).

**SECTION 14.09. TOWNSHIP BOARD - FINAL ACTION.** After receiving the recommendation of the Planning Commission, the Township Board shall hold a public hearing concerning the proposed PUD and then either approve, deny, or approve with conditions the PUD application and final development plan, as well as the proposed amendment to this Ordinance.

(a) **Conditions.** In approving a PUD, the Township Board may impose reasonable conditions which include but are not limited to conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, protect the natural environment and conserve natural resources and energy, ensure compatibility with adjacent uses of land, and promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:

1. Be designed to protect natural resources; the health, safety, welfare, or social and economic well being of those who will use the land use or activity under consideration; residents and landowners immediately adjacent to the proposed land use or activity; and the community as a whole;
2. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity; and
3. Be necessary to meet the intent and purpose of this Ordinance, be related to the standards established in this Ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

(b) **Record of Conditions.** The conditions imposed with respect to the approval of a PUD shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the Township Board and the applicant. The approving Township Board shall maintain a record of conditions which are changed. The final development plan, as approved, shall act as a restriction upon the development. The development must conform with the final development plan.

**SECTION 14.10. PERFORMANCE GUARANTEES.** The Township Board, after recommendation from the Planning Commission or at its own discretion, may require a performance bond or similar guarantee in accordance with Section 18.12.

## **SECTION 14.11. PHASING AND COMMENCEMENT OF CONSTRUCTION.**

- (a) **Phasing.** If a development is proposed for construction in phases, the planning and design shall be such that, upon completion, each phase shall be capable of standing on its own in terms of the presence of services, facilities, and open space and shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of the users of the PUD and the residents and owners of the surrounding area. In addition, in developments which include residential and non-residential uses, phasing shall provide that at least thirty-five (35) percent of all proposed residential units are completed concurrent with completion of the first phase of any non-residential construction; at least seventy-five (75) percent of all proposed residential units are completed concurrent with the second phase of non-residential construction; and one hundred (100) percent of all proposed residential units are completed concurrent with the third or final phase of non-residential construction. The percentages shall be approximations and determined specifically at the discretion of the Township Board. The percentages may be significantly varied should the Township Board determine that the applicant has presented adequate assurances that the residential component or components of the development shall be completed within a specified period.
  
- (b) **Commencement and Completion of Construction.** Construction shall be commenced within one (1) year following final approval of a PUD or within one (1) year of any other necessary governmental approval for commencement of construction, whichever is later, provided all other necessary approvals have been actively pursued. If construction is not commenced within such time, approval of the final development plan for the PUD shall expire. An extension for a specified period may be granted by the Township Board upon good cause shown if such request is made to the Township Board prior to the expiration of the initial period. Moreover, in the event a final development plan approval has expired, the Township Board may rezone the property in any reasonable manner following Planning Commission recommendation and a public hearing in accordance with Section 22.01. If a final development plan has expired and, at the discretion of the Township Board, the property remains classified as PUD, prior to the commencement of construction, a new application shall be required and shall be reviewed in light of the then prevailing conditions and applicable law and provisions of this Ordinance.

**SECTION 14.12. EFFECT OF APPROVAL.** The PUD amendment and all conditions imposed, if any, shall constitute the land use authorization for the property. All improvements and uses shall be in conformity with this amendment. The applicant shall record an affidavit with the Ottawa County Register of Deeds which shall contain the following:

- (a) Date of approval of the PUD by the Township Board.
- (b) Legal description of the property.
- (c) Legal description of the required open space along with a plan stating how this open space is to be maintained.

- (d) A statement that the property will be developed in accordance with an approved PUD site plan and any conditions imposed by the Township Board unless an amendment thereto is duly approved by the Township upon the request and/or approval of the applicant or applicant's transferee's and/or assigns. Notice of any amendments shall be similarly recorded.

#### **SECTION 14.13. REVISION OF APPROVED PLANS.**

- (a) **General Revisions.** An approved final development plan for a PUD may be revised with major changes in accordance with the procedures set forth in Section 14.07, Section 14.08 and Section 14.09.

Major changes include, but are not limited to, increases in density, land area, or building size; the addition of uses not authorized by the original PUD approval; the rearrangement of lots, blocks, or building tracts; changes in the character or function of a street; and changes in the concept of the development.

- (b) **Minor Changes.** Notwithstanding subsection (a) above, minor changes may be approved by mutual agreement of the applicants or successors in interest and the Planning Commission, provided the changes comply with all applicable requirements of this Ordinance and all other Township regulations and State law, and subject to the Planning Commission finding that:

1. The minor changes will not adversely affect the initial basis for granting approval.
2. The minor changes will not adversely affect the overall PUD in light of the description and purpose of the development as set forth in Section 14.01.

**SECTION 14.14. APPEALS/VARIANCES.** The Board of Appeals is without jurisdiction to accept appeals or grant variances to decisions by the Township Board to deny, approve, or approve with conditions proposed PUDs; to conditions placed upon PUDs; or to the requirements placed upon PUDs by this Chapter of the Ordinance.

#### **SECTION 14.15. OTHER REQUIRED PROCEDURES AND APPROVALS.**

- (a) **Platting.** Where provisions of Michigan Public Act 288 of 1967, as amended, the Land Division Act; or the provisions of any State law regarding condominiums or land divisions; or the provisions of any applicable Township ordinances concerning land divisions or platting, apply to PUD projects, the applicant shall be required to comply with all requirements of applicable State law and Township ordinances.
- (b) **Issuance of a Building Permit.** To insure conformance to an approved final development plan, each principal structure or use indicated in an approved PUD shall be subject to review and approval under the provisions of Chapter 20 of this Ordinance, prior to the issuance of a building permit.

Section 4. Conflicts. In the event this ordinance conflicts with any other ordinance this ordinance shall apply.

Section 5. Effective Date. This Ordinance was approved and adopted by the Township Board of Tallmadge Charter Township, Ottawa County, Michigan on \_\_\_\_\_, 2014 after a public hearing as required pursuant to Michigan Act 110 of 2006, as amended, and after introduction and a first reading on \_\_\_\_\_, 2014 and publication after such first reading as required by Michigan Act 359 of 1947, as amended. This Ordinance shall be effective on \_\_\_\_\_, 2014, which date is the eighth date after publication as is required by Section 401 of Act 110, as amended, provided that the effective date shall be extended as necessary to comply with the requirements of Section 402 of Act 110, as amended.

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James E. VanEss  
Township Supervisor

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Lenore D. Cook  
Township Clerk

**CERTIFICATE**

I, Lenore Cook, Clerk for the Charter Township of Tallmadge, Ottawa County, Michigan, certify that the foregoing Text Amendment Ordinance was adopted at a regular meeting of the Tallmadge Charter Township Board held on \_\_\_\_\_, 2014. The following members of the Township Board were present at that meeting: \_\_\_\_\_.

The following members of the Township Board were absent: \_\_\_\_\_. The Ordinance was adopted by the Township Board with members of the Board: \_\_\_\_\_ voting in favor and members of the Board: \_\_\_\_\_, voting in opposition. Notice of Adoption of the Ordinance was published in the *Ottawa Advance* on \_\_\_\_\_, 2014.

\_\_\_\_\_  
Lenore Cook, Clerk

**AFFIDAVIT OF POSTING**

STATE OF MICHIGAN     )  
  )ss  
COUNTY OF OTTAWA    )

The undersigned, Lenore Cook, the Tallmadge Charter Township Clerk, being first duly sworn, deposes and says as follows:

1. That she posted a proposed Zoning Text Amendment Ordinance for Tallmadge Charter Township, after its first reading at a meeting of the Tallmadge Charter Township Board held on December 10, 2013 and its second reading on \_\_\_\_\_, 2014 in the Township Clerk's office and on the Township's website at www.tallmadge.com on \_\_\_\_\_, 2014

\_\_\_\_\_  
Lenore Cook, Clerk  
Tallmadge Charter Township

Subscribed and sworn to before this  
\_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Notary Public, Ottawa County, Michigan  
Acting in Ottawa County, Michigan  
My commission expires: \_\_\_\_\_