

# *A Guide to* Planned Unit Development



# **NYS Legislative Commission on Rural Resources**

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Corning, in South Central New York in the heart of the Finger Lakes, is filled with small town charm along with a fascinating history and strong commitment to the arts and entertainment. It has been successful in using planned unit development in its Historic Market Street area.



## Preface

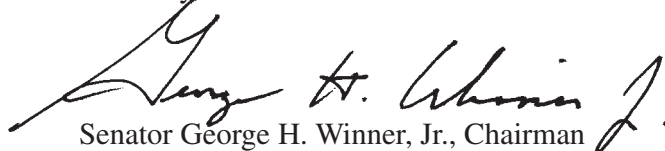
The NYS Legislative Commission on Rural Resources is pleased to present this guide to localities that are considering how they can use planned unit development to reinforce and achieve community goals and priorities. When used to implement a community's comprehensive plan, planned unit development is a cost-effective planning and zoning measure to include in a municipality's tool kit. It offers a constructive way to incorporate many other innovative land use techniques such as incentive zoning and cluster development within a single, coordinated development plan that encourages the efficient use of public facilities and services while also conserving open space and restoring our valued main streets as centerpieces of community pride.

The Rural Resources Commission has received valuable technical assistance in this effort from its state land use advisory committee which includes representatives of state and municipal agencies, builder's associations, private planning consultants, land use attorneys, professional planners, farm and business owners. In their long-range efforts to recodify and modernize New York's community planning and zoning enabling statutes, advisory committee members foresaw the need to provide clear guidance for local officials and citizens to use planned unit development (PUD) as a way to help promote quality communities across the state. Their efforts led to the enactment of Chapter 213 of the Laws of 2003 in New York which provides express statutory authority for cities, towns and villages to incorporate planned unit development provisions in their local planning and zoning.

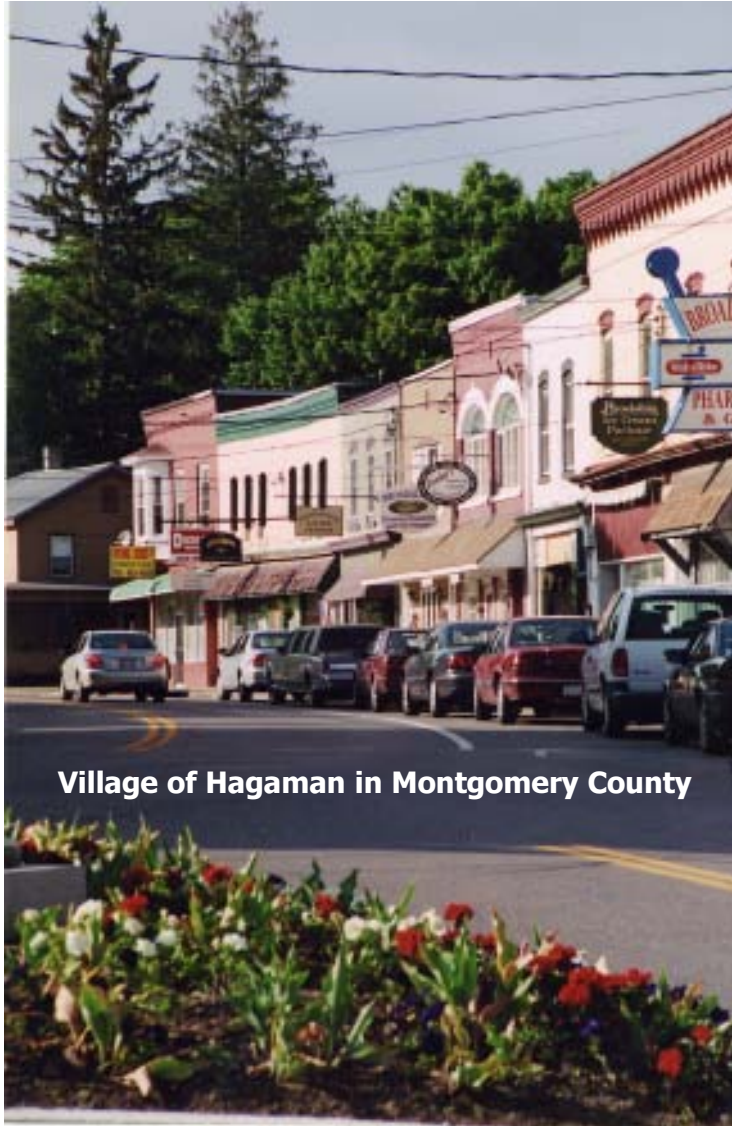
In order to further assist communities in making creative and effective use of the new PUD statute, the Rural Resources Commission has prepared this guide. It discusses when and how to use planned unit development as well as options for incorporating it in local zoning ordinances. A key to the implementation of these provisions is to link them with the municipality's comprehensive plan. Members of the Commission would appreciate any feedback readers and users of this guide wish to share regarding how it might be improved as well as examples of its use in localities. You may contact the Commission at the address shown on the inside cover of this document.

On behalf of my colleagues on the Rural Resources Commission and members of the state land use advisory committee, I wish to compliment municipal leaders considering the use of planned unit development and related community development tools. It is through their efforts that New York will remain a quality place to live, work and play for years to come.

Sincerely,



Senator George H. Winner, Jr., Chairman  
NYS Legislative Commission on Rural Resources



**Village of Hagaman in Montgomery County**

Located in the Mohawk Valley, near Amsterdam, the Village of Hagaman has many historic and open space resources; not to mention, a charming rural main street, the community can protect through planned development.

## When and How to Use the Model Local Law In This Report

Most planned unit development (PUD) local laws seek to achieve greater design flexibility and economies of scale in the development of particular land areas within the community. Above all, PUD provisions target specific goals and objectives included in the municipality's comprehensive plan. Generally, PUD local laws anticipate projects that develop a tract of land as a unit (relatively large scale, but not always) in a unified manner. For example, a community that anticipates receiving a rezoning or site plan application for the development of a large shopping mall could use a mixed-use PUD law to negotiate significant design and use changes instead of ending up with yet another commercial strip.



**Seneca Falls (Seneca County)**

The Village of Seneca Falls' successful waterfront and main street revitalization along the historic Erie Canal in the Finger Lakes region.

Similarly, a community faced with the prospect of uniform single-lot subdivisions, could instead encourage some on-site shopping and services for homeowners and a mix of housing types and styles. Likewise, a rural community could adopt PUD provisions in advance of development in order to indicate the areas its feels are appropriate for mixed-use and more intense development.

Although PUD development is designed primarily for larger-scale projects, its use is not strictly limited to communities with one or more large lots under single ownership. PUDs are among the most flexible of zoning techniques because their provisions are set by local law. Whereas standard zoning may promote lot-by-lot development in which the entire tract is covered with lots of uniform size, PUD local laws can include the possibility of several medium-sized or smaller lots where the owners work together in using the PUD development options provided by the community. PUDs also provide the opportunity to achieve flexibility in architectural design, a mix of compatible land uses as well as the preservation of key natural or historic features, that are otherwise difficult to achieve using traditional, lot-by-lot zoning.

Before they can be implemented, PUD provisions must be added to the community's zoning local law or ordinance. The process of adding PUD provisions to the local zoning law is identical to adopting any zoning local law or amendment. The PUD local law must be drafted, published, subjected to public hearing, the zoning map amended, adopted and filed. The challenge is to choose appropriate methods for designating sites for PUD development, providing appropriate guidelines and establishing a process by which applications are approved by the municipality.

## When and How to Use the Model Local Law In This Report Continued

The PUD local law may designate one or more particular sites the comprehensive plan currently indicates should be developed in a more flexible manner than is provided for by the underlying zoning. If so, it can require that the site or sites be developed as a PUD. Or, the zoning local law or ordinance can allow PUD development in certain types of situations and provide for specific site designation at a later time, upon application by one or more landowner-developers or upon the initiative of the local legislature.

The PUD local law must state its purpose, contain standards for site and building development, and describe a process for reviewing and approving individual projects. In drafting these provisions care should be taken to involve landowners, developers and neighbors so that all are as well informed as possible of the community's intentions, objectives and standards, including any necessary mitigating or other provisions that assure the project is in harmony with surrounding land uses.

The review and approval of PUD applications is another major consideration. If the local legislature is to retain the authority, the standards contained in the PUD local law provisions can be more general, although specific enough to help clarify when, where and under what circumstances the community desires PUD development. If the legislature delegates to the local planning board the responsibility of reviewing and approving PUD applications, the standards must be more specific.

Another PUD review and approval option is a three-step process where responsibility is shared by the local legislature, planning or zoning board. In such instances, the applicant may be requested to submit a preliminary plan to the legislative body for its approval (and amendment of the zoning local law if the subject PUD district is not already designated on the zoning map). Afterward, the planning board is responsible for approval of a final plan and oversight of its implementation, which may involve several development phases.

Not the only option a municipality may want to consider, this approach is the one envisioned in the model local PUD law presented herein. Offered as a guide to local officials and their technical advisors, an experienced attorney will be able to assist a community in tailoring the general outline of the model so that it meets local needs and goals.

It is strongly advised that officials who are planning to incorporate PUD provisions in local zoning laws or ordinances review the following authoritative works in order to avoid possible legal complications later on: *All You Ever Wanted To Know About Zoning*, by Sheldon W. Damsky, Joseph M. Catalano & James A. Coon, published by the New York Planning Federation and *Well Grounded: Using Local Land Use Authority to Achieve Smart Growth*, by John R. Nolon, published by the Environmental Law Institute.



## **A Local Law in relation to the establishment of Planned Unit Development Districts and the Review of Planned Unit Development Plans**

**City/Town/Village of \_\_\_\_\_**  
**Local Law No. \_\_\_\_\_ for the year \_\_\_\_\_**

### Section 1. Legislative Purpose

The (city/town/village) of \_\_\_\_\_ hereby finds and determines that:

(a) When coordinated with the municipal comprehensive plan, planned unit development can be an effective tool for guiding development in ways that support community goals and priorities.

(b) Planned unit development provides a means by which different land uses within an area covered by a single development plan may be combined to achieve compatibility among such uses. Unattainable with traditional municipal zoning techniques, planned unit development provides flexibility in the regulation of land use development in order to (i) encourage innovation in land use variety and design, in the layout and type of new structures and in their integration with existing structures; (ii) enhance efficiency in the use of land, natural resources, energy, community services and utilities; (iii) encourage open space preservation and protection of natural resources, historic sites and structures; (iv) facilitate the provision of housing and improved residential environments; and (v) enhance the ability of municipalities to promote business and employment opportunities.

### Section 2. Definitions

As used herein:

(a) “Authorized board or body” means the (city/town/village planning board or other body) designated by the legislative body to review and act on final planned unit development plans.

(b) “Planned unit development” means a site upon which residential, commercial, industrial or other land uses or any combination thereof may be authorized in a flexible manner so as to achieve the goals of the municipal comprehensive plan.

(c) “Planned unit development district” means an independent, freestanding zoning district, wherein the zoning regulations need not be uniform for each class or type of land use, but where the use of land shall be in accordance with a preliminary planned unit development plan approved by the legislative body.

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d) “Preliminary planned unit development plan” means a proposal for a planned unit development prepared in a manner prescribed by local regulation showing the layout of the proposed project including, but not limited to, maps, plans, or drawings relating to proposed land uses, approximate location and dimensions of buildings, all proposed facilities unsized, including preliminary plans and profiles, at suitable scale and in such detail as is required by local regulation; architectural features, lot sizes, setbacks, height limits, buffers, screening, open space areas, lighting, signage, landscaping, parking and loading, traffic circulation, protection of natural resources, public or private amenities, adjacent land uses and physical features, and such other elements as may be required by local regulation.

(e) “Preliminary planned unit development plan approval” means the approval with conditions, if any, of the layout of a proposed planned unit development as set forth in a preliminary plan and the simultaneous amendment of the zoning local law or ordinance by the legislative body to create and map a planned unit development district encompassing the preliminary plan; subject to the approval of the plan in final form pursuant to the provisions of this local law.

(f) “Final planned unit development plan” means an approved preliminary planned unit development plan prepared at such additional detail and showing information as is required by local regulation, and the modifications, if any, required by the legislative body at the time of approval of the preliminary planned unit development plan, if such preliminary plan has been so approved.

(g) “Final planned unit development plan approval” means the signing of a final plan by a duly authorized officer of the authorized board or body pursuant to a resolution granting final approval to the plan or after conditions, if any, specified in said resolution granting conditional approval of the plan are completed. Such final approval qualifies the plan for filing in the office of the clerk as provided herein.

### Section 3. Authority

In addition to any other powers and authority to plan and regulate by zoning, the (City/Town/Village of \_\_\_\_\_) hereby enacts requirements for the review of planned unit development plans and the establishment and simultaneous mapping of planned unit development districts pursuant to the provisions of this local law.

Section 4. Elements

(Municipalities adopting planned unit development local laws may consider including the following elements in the review and approval of planned unit developments):

(a) describe the goals underlying the creation of a planned unit development district, including the types of land uses, structures and development density permitted, as well as provisions, if any, relating to cluster development, incentives, bonuses, open space, historic structures and areas;

(b) describe the minimum acreage necessary for the establishment of a planned unit development district;

(c) provide for multi-year approvals of final planned unit development plans in phases, including a schedule for the completion of buildings, public and private facilities and site improvements;

(d) describe the procedures for amending final planned unit development plans, including any notice and hearing provisions for such amendments;

(e) include provisions that ensure consistency of preliminary and final planned unit development plans with the municipal comprehensive plan;

(f) include provisions whereby approval of a preliminary and/ or final planned unit development plan may lapse or be withdrawn upon failure of the applicant to proceed with the development or otherwise fail to meet conditions of approval;

(g) designate the authorized board or body that shall review and act upon final planned unit development plans;

Section 5. Compliance with state environmental quality review act

In its review and approval of applications to create planned unit development districts pursuant to this local law, the legislative body shall comply with the provisions of the state environmental quality review act under article eight of the environmental conservation law and its implementing regulations.

Section 6. Methods of Procedure

(Municipalities adopting planned unit development local laws may consider, including the following methods of procedure for the review and approval of planned unit developments):

(a) upon the receipt of an application and preliminary plan for the establishment of a planned unit development district, the legislative body shall review the application and preliminary plan in consultation with the authorized board or body;

(b) within ninety days of receiving the application, and prior to acting on a zoning amendment to create a planned unit development district, the legislative body shall hold one or more public hearings on such proposed preliminary plan and amendment. Notice of the public hearing should be published in a newspaper of general circulation at least ten calendar days in advance of the hearing. The proposed zoning amendment and preliminary plan should be made available for public review at the office of the clerk and may be made available at any other public place;

(c) At least ten days before the public hearing on the application and proposed amendment to the zoning ordinance to create a planned unit development district, the legislative body shall mail notices thereof to the applicant and to the county planning board or agency or regional planning council, as required by section two hundred thirty-nine-m of the general municipal law, which notice shall be accompanied by a full statement of such proposed action, as defined in subdivision one of section two hundred thirty-nine-m of the general municipal law.

(d) within one hundred twenty days of receiving the application and after holding public hearings, the legislative body shall act to approve, approve with modifications and/or conditions or deny the application, and if approved amend the local law or zoning ordinance to establish and map a planned unit development district. Upon taking such action, the legislative body shall advise the applicant, the authorized board or body and the county planning board or agency, in writing of its determination within five business days after such action is taken, and place a copy of such letter on file in the office of the clerk;

(e) a final planned unit development plan shall be submitted by the applicant to the authorized board or body for review and approval, or approval with modifications and/or conditions. Review of the final planned unit development plan by the authorized board or body shall take into consideration the preceding action of the legislative body on the preliminary planned unit development plan; and

(f) the authorized board or body's determination on the final planned unit development plan shall be filed in the office of the clerk within five business days after such decision is rendered, and a copy thereof mailed to the applicant.



Section 7. Effective Date.

This act shall take effect upon its filing in the office of the Secretary of State of the State of New York and the clerk is hereby directed to file such local law immediately.

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East View Gardens is located in the Village of Minoa, NY (Onondaga County) the site of the old Minoa High School. Its proximity to the center of the Village allows for easy access to shopping and all the amenities of village life. The project's owner is the Minoa Housing Co. I, LP, which consists of the Southern Hills Preservation Corp. and David Bacon as the general partners.



Communities can encourage development that has creative site design and mix of uses of incorporating flexibility into its ordinances, especially with regard to use, setbacks and minimum lot sizes. Planned unit developments can help developers build projects that otherwise would fail to meet traditional zoning standards, while giving local governments valuable design oversight. — Tompkins County Planning

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The St. Isaac Jogues Apartments, sponsored by the Diocese of Buffalo, NY is located in Wheatfield, NY. Funding for the project has been provided by the U. S. Department of Housing & Urban Development's HUD 202 Program and with funds provided by the Affordable Housing Program of the Federal Home Loan Bank of New York, (AHP-FHLBNY). This three story low-income housing project will house senior citizens who are 62 years or older. There are forty-nine (49) one-bedroom apartment units that have a full kitchen, living room, bathroom, appliances and ample storage.



This Boulder, Colorado development was planned with its occupants - single parent families - in mind. Building clusters surround a central green space, creating a sense of community and a place for children to play. Parking is near the front door of each unit, making it easy to get kids and groceries from car to home. And kitchen sinks are located at front windows so that children can be watched while playing.



