

**Section 10-1508 *Residential Density Incentive Planned Unit Development (RDI-PUD)***

**A. Purpose and Intent**

The purpose of this Section is to further the housing goals of the 2005 Portsmouth Master Plan by establishing a process under which the development intensity of a site may be increased in order to facilitate the creation of affordable housing options. To further this purpose, this Section authorizes the Planning Board to grant a conditional use permit for an increase in the allowable residential development intensity of a parcel based on the provision of dwelling units that will be restricted for sale or rental at below-market prices.

**B. Authority**

This Section is adopted as an innovative land use control in accordance with New Hampshire state law.

**C. General Provision**

1. In the General Residence A and General Residence B districts, the Planning Board may grant a conditional use permit to authorize a Residential Density Incentive Planned Unit Development (RDI-PUD), subject to the criteria and standards set forth herein.
2. Said conditional use permit will allow an increase in density related to the provision of affordable units, as set forth in Sections 10-1508F and 10-1508G.
3. In order to accommodate such increase in density, the conditional use permit may modify the requirements of the underlying district regarding the number of dwelling units per building and per lot, internal yards, and open space within the site, as set forth in Sections 10-1508H and 10-1508I.
4. The RDI-PUD shall comply with all zoning, site plan and subdivision regulations that apply, other than those waived or modified hereunder.

**D. Required Lot Area**

To be eligible to apply for a Residential Density Incentive Planned Unit Development, a parcel must have an area of at least one acre.

**E. Use Regulations**

A Residential Density Incentive Planned Unit Development may include all uses permitted in a

Residential PUD as set forth in Section 10-1502B, except for the following uses:

1. Day Care
2. Home Occupation II

**F. Determination of Base Residential Density**

The base residential density shall be computed in one of the following ways, at the option of the applicant:

1. The number obtained by dividing the developable area of the parcel by the minimum lot area per dwelling unit required in the underlying zoning district. For the purpose of this computation, the “developable area” shall be the total parcel area, excluding all open water bodies, inland and tidal wetlands subject to this ordinance, 100-year floodplains, slopes exceeding fifteen percent, and areas subject to existing valid open space restrictions.
2. The number of lots that could be developed in a conventional development of the lot, as demonstrated to the satisfaction of the Planning Board.

**G. Residential Density Incentive Computation**

1. The preliminary number of bonus dwelling units shall be equal to the number of affordable units multiplied by 1.50. For the purpose of this computation, “affordable units” shall mean dwelling units affordable to, and restricted to occupancy by, households with annual incomes below 120 percent of the area median family income as of the date of application, adjusted for household size.
2. Fractional bonus units shall be rounded to the nearest whole number (i.e., fractions less than 0.5 shall be rounded down, and fractions of 0.5 or more shall be rounded up).
3. The total number of dwelling units permitted through a Residential Density Incentive conditional use permit shall be the sum of (1) the base residential density, and (2) the preliminary number of bonus dwelling units computed in accordance with paragraph G.1. above; provided that the total number of dwelling units shall not exceed one hundred fifty percent (150%) of the base residential density.

**H. Maximum Number of Dwelling Units Per Building and Per Lot**

1. Buildings in an RDI-PUD may contain up to 6 dwelling units.
2. An RDI-PUD shall not be subject to the requirements of the underlying zoning district as

to maximum number of dwelling units per lot.

### **I. Dimensional Requirements**

1. Minimum side yard dimensions at the perimeter of the site shall be increased by two times the percentage increase in density over the base residential density. For example, if the density of the RDI-PUD is 25 percent greater than the base residential density, the side and rear yards shall be increased by 50 percent (two times 25 percent) over the requirements in the applicable zoning district.
2. Minimum yards internal to the RDI-PUD shall be as follows:
  - a) Front Yard to the project's principal accessway: 20 feet.
  - b) Side and Rear Yard to the project's principal accessway: 25 feet.
  - c) Minimum separation between structures: 30 feet.
3. In addition to the open space which will result from the minimum external and internal yard requirements, the Planning Board may also require that open space be reserved for recreational uses for the residents of the RDI-PUD. Such recreational uses may include, but not be limited to, children's play areas, walking trails, and picnic and seating areas.

*Internal Yards and Separation  
Between Structures:  
Based on Section 10-1503 D.2  
(Residential PUD).*

### **J. Design Requirements**

1. The development shall be constructed in a manner that is harmonious with neighboring developments, housing, and natural surroundings.
2. Affordable units shall be dispersed throughout the development to ensure a true mix of market-rate and affordable housing.
3. The exterior design of units within the development shall be comparable and, to the extent possible, indistinguishable, regardless of restrictions on price or occupancy.

### **K. Standards for Streets and Utilities**

1. Streets shall comply with the requirements of the City's Subdivision Rules and Regulations and Site Review Regulations for residential streets.
2. Utilities shall be placed underground and shall comply with the requirements of the City's Subdivision Rules and Regulations and Site Review Regulations. Facilities shall

be designed to meet City standards and specifications as indicated by the Department of Public Works.

3. The Planning Board may, at its sole discretion, grant waivers to street design standards or utility standards according to procedures established in the City's Subdivision Rules and Regulations. Any such waiver to the design standards for streets, utilities or other improvements shall make such improvements private. It is intended that in order for an improvement to be deemed public, it shall be brought into compliance with current City standards at the time of the request for acceptance.

#### **L. Review and Approval Procedures**

*Review and Approval:  
Based on Section 10-1502A  
(Residential PUD).*

1. An RDI-PUD shall be reviewed according to the procedures, required exhibits and standards applicable to a subdivision as contained in the City's Subdivision Rules and Regulations.
2. An application for Preliminary Approval shall include: number of dwelling units; proposed locations for these units; typical building elevations; location and amount of wetlands; location of significant physical features, including ledge, stands of trees, endangered species or fauna; etc.; and proposals concerning the proposed infrastructure.
3. An opportunity shall be afforded the Conservation Commission as part of a Preliminary Approval process to offer comment to the Planning Board on the particulars of a project; including but not limited to the natural features of the parcel and how these may be impacted by the proposed project.
4. Preliminary Approval by the Planning Board shall be subject to Site Plan Review under the City's Site Review Regulations and to review as to content and form by the City's Legal Department of any restrictive covenants, cooperative agreements or similar instruments requiring the participation of the City. Site Plan Review shall ensure compliance with the requirements of this Section including exterior building design issues set forth in Section 10-1508J.
5. As appropriate to verify compliance with this Section, the Legal Department may review appropriate condominium or cooperative agreements that are enacted as part of a project.

#### **M. Planning Board Findings and Action**

1. Prior to granting a conditional use permit for an RDI-PUD, the Planning Board shall make the following findings:
  - a. The site is appropriate for an RDI-PUD.

*Findings:  
Based on Section 10-1504F, 1-6  
(Assisted Living PUD).*

- b. The proposed RDI-PUD includes affordable units as required in this Section, and the residential density increase authorized by the conditional use permit is consistent with the level of housing affordability provided.
- c. Covenants or other legally binding documents have been executed restricting the affordable units as to (i) rental costs or sale and resale prices, and (ii) occupancy restrictions. Said covenants shall be for the longest legally binding term, and shall be recorded at final approval of the development.
- d. The design, construction and operation of the proposed RDI-PUD is unlikely to create detrimental impacts on the surrounding area because of (a) vehicular and pedestrian traffic congestion created by the proposed RDI-PUD; (b) a decrease in market values which result from the proposed RDI-PUD; (c) environmental impacts which could be avoided by using alternative design and construction methods, giving due consideration to economic factors to be addressed by the applicant in providing the affordable housing component of the proposed RDI-PUD; and (d) significant increase in stormwater runoff.

- 2. At its discretion, the Planning Board shall consider one of the following courses of action when considering a project under this Section:

*Actions:  
Based on Section 10-1501C  
(Residential PUD).*

- a. To grant a Conditional Use Permit for the maximum number of allowable dwelling units authorized under this Section;
- b. To grant a Conditional Use Permit for a number of dwelling units which is less than the maximum number authorized under this Section; or
- c. To deny the Conditional Use Permit for a Residential Density Incentive.

- 3. Nothing contained herein shall compel the Planning Board to approve a Residential Density Incentive conditional use permit. While the intent of this Section is to provide flexibility both to the Board in considering an application and to the applicant in designing a project, not all parcels are suitable for an increase in density over the base residential density. The applicant is encouraged to request a Work Session with the Planning Board prior to submitting an application for a Residential Density Incentive.

*Reservation of Right to Deny:  
Based on Section 10-1501C  
(Residential PUD).*

#### **N. Conditions of Approval**

- 1. The Planning Board may attach such conditions, in addition to those required elsewhere in this ordinance, that it finds necessary to further the purposes of this ordinance. Such conditions may include, but are not limited to, specifications for: type of construction; exterior building design; mix of dwelling types and dwelling unit sizes; mix of market-

rate units and affordable units; form and recording of covenants or deed restrictions; and long-term monitoring of affordability restrictions.

2. Representations made at public hearings or materials submitted to the Planning Board by an applicant for a conditional use permit for an RDI-PUD concerning features of proposed buildings, structures, parking or use shall be deemed conditions upon such conditional use permit unless explicitly modified by the Board.

### **O. Rules and Regulations**

The Planning Board shall adopt appropriate rules and regulations to implement the review process contemplated hereunder.

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#### DEFINITIONS

[To be inserted in Article I, Section 10-102A]

**Affordable Unit** – A dwelling unit that is restricted for sale, lease or rental to households within specific income ranges and available at prices affordable to households within such income ranges.

**Area Median Family Income** – The median family income for the Portsmouth-Rochester NH HUD Metro Fair Market Rent Area (HMFA) published by the U. S. Department of Housing and Urban Development, as updated yearly and adjusted for household size.

**Base Residential Density** – The number of dwelling units which could be constructed on a parcel by means of a conventional development plan, calculated as set forth in this ordinance.

**Residential Density Incentive** – An increase in the density of a residential development over the density permitted by the applicable zoning district, as authorized by this ordinance.