
Sec. 125-243. Innovative residential developments.

- (a) *Purpose.* Innovative residential developments are developments which achieve a more creative and imaginative housing environment than normally occurs by use of the clustering technique, by employing various other methods to achieve distinctiveness and excellence in siting, design and/or landscaping. Density bonuses and reductions in various building restrictions are used to encourage these developments.
- (b) *General standards for approval.* The city commission shall approve an innovative residential development only if the commission determines that the development fulfills the purpose of this section and complies with applicable standards referred to in this section and section 125-236, additional zoning ordinance provisions and other city laws.
- (c) *Potential uses.* The following uses are allowed in an innovative residential development if the city commission considers them appropriate for the particular development being proposed and if other applicable standards are satisfied:
 - (1) Single-family dwellings, detached or attached, if each has its own separate lot.
 - (2) Duplexes, quadraplexes, triplexes and multifamily housing developments, when permitted in the zone as a semi-restricted use or a conditional use.
 - (3) Nonresidential uses permitted in the zone as a semi-restricted or conditional use when these uses are not an obstacle to providing a suitable living environment for residents of the innovative residential development.
- (d) *Minimum site size.* Innovative residential developments shall be established on parcels of land which are suitable for the proposed development.
- (e) *Residential densities.* Densities will not exceed the level which the city commission determines is appropriate due to natural features of the area, public facility and service needs and capacities, transportation needs and capacities and compatibility with nearby development. If it determines that density bonuses should be allowed in accordance with the following criteria, the maximum gross density allowed may be up to eight units per acre in an R-3 zone, 12 units per acre in an R-4 zone and 18 units per acre in an R-5 zone. Density bonuses awarded for the following criteria are cumulative:
 - (1) *Landscaping.* The gross density may be increased up to one unit per acre for landscaping plans which provide for effective use of existing vegetation and/or for approved landscape plans for streetscapes, pedestrian ways, bicycle paths, areas near buildings, open spaces and/or recreation areas. This increased density may only be awarded if the landscaping of the innovative residential development will exceed the requirements in section 125-314 for landscaped area by ten percent, for amount of trees by ten percent and/or in terms of qualitative characteristics of the landscaping.
 - (2) *Siting.* The gross density may be increased (up to one-half unit per acre in R-3 and R-4 zones and one unit per acre in an R-5 zone) for creative placement of buildings and/or other facilities in terms of visual focal points, use of existing physical features such as topography, views, sun and wind orientation, the circulation pattern, variation in building setbacks and/or building and facility groupings.
 - (3) *Design.* The gross density may be increased (up to one-half unit per acre in R-3 and R-4 zones and one unit per acre in an R-5 zone) for imaginative design features including architectural styles, harmonious use of building materials, varied use of housing types and/or other design elements of the innovative residential development.
- (f) *Basic use standards.*
 - (1) Area, width, depth, yard and lot coverage requirements for lots in an innovative residential development shall be determined by the city commission on the basis of relevant characteristics of the

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- use, the rest of the innovative residential development and the surrounding area, including those characteristics relating to use compatibility, physical feature constraints and utility and transportation capacities.
- (2) No building within the innovative residential development shall be located closer than 15 feet to any street or street right-of-way. No building with residential dwellings shall be closer than 20 feet to any nonaccessory building, except single-family dwellings may be attached or less than 20 feet apart. Additional setback requirements may be imposed by the city commission to provide adequate light, ventilation, privacy and other appropriate features.
 - (3) The maximum building height shall not exceed those building heights presented in the applicable zoning district and the city commission may further limit heights.
- (g) *Open spaces.* Innovative residential developments which receive density bonuses in accordance with subsection (e) of this section shall comply with the following provisions:
- (1) In all such innovative residential developments at least 40 percent of the site, exclusive of aquatic areas, shall be devoted to open space. Of this required open space area, no more than 25 percent may be utilized privately by individual owners or users of the innovative residential development. At least 75 percent of the required open space area must be common open space.
 - (2) No area may be considered as common open space within an innovative residential development unless it meets the following requirements:
 - a. The location, shape, size and character of the common open space is suitable for the development.
 - b. The common open space is for amenity or recreational purposes and the uses authorized are appropriate to the scale and character of the development based on consideration of its size, density, expected population, topography and the number and type of dwellings provided.
 - c. The common open space will be suitably improved for its intended use, except that common space containing natural features worthy of preservation should be left unimproved. The buildings, structures and improvements to be permitted in the common open space are appropriate to the uses which are authorized for the common open space.
 - d. No parking facilities will be included in areas designated as common open space unless the parking facilities are intended to provide access to the common open space area and are not intended to meet the ordinance requirements for other uses. No streets will be designated as common open space.
 - e. If buildings or structures are to be constructed in the common open space, the developer will provide a bond or other adequate assurances that the buildings and structures will be completed. The planning director shall release the bond or other assurances when the buildings and structures have been completed according to the development plan.
- (h) *Compatibility with adjacent development.* If topographical or other barriers near the perimeter of the innovative residential development do not provide reasonable privacy for existing or potential uses adjacent to the development, the city commission shall require buildings in the innovative residential development to be set back an adequate distance from the perimeter of the innovative residential development or require an attractively designed and maintained buffer in the form of vegetation, fencing, walls and/or berms. In no case shall buildings in the innovative residential development be closer than 25 feet to an adjacent lot in an E-1, R-1, R-2, R-3, R-4 or R-5 zone.
- (i) *Unified control.* All land intended to be included in the innovative residential development shall be under the legal control of the applicant, whether that applicant be an individual, partnership or corporation or group of individuals, partnerships and/or corporations.

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- (j) *Maintenance of common areas.* Common open space, streets and any area or facility designated by the city commission as a shared area will comply with the following provisions:
- (1) The property will be conveyed under one of the following options:
 - a. To a public agency which agrees to maintain the property and buildings or structures placed on it; or
 - b. To an association of owners and/or tenants, created as a nonprofit corporation under the laws of the state, which shall adopt and impose articles of incorporation and bylaws and adopt and impose a declaration of covenants and restrictions that are acceptable to the city commission as providing for the continuing care of the property.
 - (2) The property may not be put to a use not specified in the development plans unless the development plans are first amended to permit the use. However, no change of use may be considered as a waiver of any of the covenants limiting the use of the property, and all rights to enforce these covenants against any use permitted are expressly reserved.
 - (3) If the property is not conveyed to a public agency, the covenants and restrictions that govern the association of owners and/or tenants will at least include the following provisions:
 - a. Membership must be mandatory for each home buyer or tenant and each successive buyer or tenant.
 - b. The association must be responsible for liability insurance, local taxes and the maintenance of property.
 - c. Owners and tenants must pay their pro rata share of the cost.
 - d. The association must be able to adjust assessments to meet changing needs.
 - e. The city must be authorized to enforce these and other provisions governing the use, improvement and maintenance of the property.
 - (4) If the property is not conveyed to a public agency then, in addition to those requirements set forth hereinabove, there shall be delivered to the building official at or before the time the first building permit is obtained an instrument in recordable form containing:
 - a. A legal description of the property upon which the dwelling units are to be constructed;
 - b. A statement of the total area contained within such description;
 - c. A statement of the number of existing or proposed units situate on the subject property;
 - d. A statement of the number of dwelling units for which the application is made;
 - e. A restriction prohibiting any further development or construction beyond what is set forth in the instrument.

The building official shall thereafter issue permits in accordance with what is set forth in the aforesaid instrument provided all other requirements of this chapter are met and thereafter no further permits shall be issued for any additional units on the tract described. The instrument shall be recorded to place all persons on notice of its contents and limitations upon further building.

- (k) *Utility easements.* Easements necessary for the orderly extension and maintenance of public utilities may be required as a condition of approval.
- (l) *Other standards.* All innovative residential developments will comply with regulations affecting signs referred to in section 125-310, and applicable portions of the city's regulations governing subdivisions. The city

commission may also establish additional requirements which it considers necessary to ensure that an innovative residential development conforms to the intent of this section.

- (m) *Special application requirements.* When an application is submitted for conditional use approval of an innovative residential development, the following items will be submitted in addition to other information submitted in accordance with section 125-236, the city's subdivision regulations or other city laws:
- (1) Statements describing in detail the character and intended use of the development.
 - (2) Material which presents firm evidence of unified control of the entire area within the proposed innovative residential development, including a certificate of apparent ownership and encumbrance with the opinion of counsel representing the applicant establishing that the applicant has the unrestricted right to impose all of the covenants and conditions upon the land as are contemplated by the provisions of these regulations.
 - (3) A statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the innovative residential development, such as land areas and dwelling units.
 - (4) A statement indicating the justification for any desired density bonuses.
 - (5) Agreements, provisions and covenants which govern the use, maintenance and continued protection of the innovative residential development and any of its common open space or other shared areas. This material shall include material which binds successors in title to any commitments concerning completion of the project and its maintenance and operation.
 - (6) Additional information needed to demonstrate compliance with the standards in this section and those referred to in section 125-242.

(Code 1983, § 22-82; Ord. No. H-186, § 30-82, 6-15-1981; Ord. No. 21-008 , § 3, 4-5-2021)