

**CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA**

ORDINANCE NO. 08-030

**AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES BY
AMENDING THE SUBDIVISION REGULATIONS ORDINANCE**

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 153: Subdivision Regulations by amending the following:

Section

- 153.01 Regulations established
- 153.02 Generally
- 153.03 Definitions
- 153.04 Registered land survey
- 153.05 Conveyance by metes and bounds and other unapproved descriptions
- 153.06 Lot Consolidation/Lot Line Adjustment
- 153.065 Lot Divisions
- 153.07 Minor Subdivisions
- 153.08 Major Subdivisions – Sketch Plan Review
- 153.09 Major Subdivisions – Preliminary Subdivision Approval
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- 153.11 Variances; standards; platting
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- 153.14 Design standards; required improvements
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- 153.16 Required improvements; financial arrangements
- 153.17 Fees
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§ 153.01 REGULATIONS ESTABLISHED.

No land shall be subdivided, nor shall any land be platted, in the City except as provided by this chapter.

(1997 Code, § 400.02) (Am. Ord. 08-205, passed 4-3-2018) Penalty, see § 10.99

§ 153.02 GENERALLY.

(A) *Purpose.* In order to provide for orderly, economic, and safe development of land, necessary urban services and facilities, and to promote the public health and safety of the City. It is the intent of the City to protect the right of landowners to put their land to its highest and best use and protect each owner's right to full beneficial use of their land to accomplish enjoyment without detriment to the public interest.

(B) *Scope.* The provisions of this chapter apply to any division of a tract of land into 2 or more parcels for the purpose of transfer of ownership, building development, or tax assessment purposes by platting, re-platting, registered land survey, conveyance, sale, contract for sale or any other means by which a beneficial interest in land is transferred except those divisions listed below:

- (1) where all the resulting parcels, tracts, lots, or interests will be 20 acres or larger in size and 500 feet in width for residential uses and five acres or larger in size for commercial and industrial uses;
- (2) creating cemetery lots; or
- (3) resulting from court orders.

(C) *Approval necessary for acceptance of subdivision plats.* Before any plat or subdivision shall be recorded or be of any validity, it shall be referred to the Planning Commission and approved by the Council as having fulfilled the requirements of this chapter.

(D) *Building permits.* No building permits shall be issued for the construction of any building, structure, or improvement to any land or lot in a subdivision, as defined in this chapter, until all requirements of this chapter have been satisfied, with the following exceptions.

(1) Building permits may be issued for model homes after approval of the final plat by the City council upon receipt of a signed developer's agreement. The issuance of building permits for model homes shall be in accordance with the signed development agreement.

(2) Developer shall agree in writing to indemnify and hold harmless the City for damages that may occur as a result of the model home construction prior to the required improvements being completed.

(3) No certificate of occupancy shall be issued by the City until all applicable requirements set forth by the development agreement have been met.

(4) Traffic and parking arrangements relating to model homes shall be subject to the City's review and approval.

(Am. Ord. 9707, passed 5-20-1997) (Am. Ord. 08-205, passed 4-3-2018)

(E) *Conflicts.* Whenever there is a difference between minimum standards or dimensions required by this chapter or other ordinances of the City, the most restrictive standards of dimensions shall apply.

(F) *Flood plain management.*

(1) No land shall be subdivided which is held unsuitable by the City Council for reason of flooding, inadequate drainage, steep slopes, water supply, or sewage treatment facilities. All lots within the flood plain shall contain a building site at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage disposal facilities that comply with the provisions of this chapter, and have road access both to the subdivision and to the individual building sites no lower than 2 feet below the regulatory flood protection elevation.

(2) In the general flood plain district, applicants shall provide the information required in § 152.140. The Council shall evaluate the subdivision in accordance with procedures established in this chapter and standards contained in § 152.07.

(G) *Consistency with Comprehensive Plan and Zoning District.* Subdivision of property shall be in compliance with the City's Comprehensive Plan and zoning district in which the property is located.

(1997 Code, § 400.03) (Am. Ord. 08-205, passed 4-3-2018) Penalty, see § 10.99

§ 153.03 DEFINITIONS.

Unless specifically defined in this chapter, common definitions, words, and phrases used in this chapter shall be interpreted so as to give them the same meaning as they have in common usage throughout this code and are found in § 11.01.

(1997 Code, § 400.04) (Am. Ord. 08-205, passed 4-3-2018)

§ 153.04 REGISTERED LAND SURVEY.

No registered land survey of lands in the City shall be recorded with the Registrar of Titles until the registered land survey has been approved by the City. The approval shall be indicated by resolution endorsed on or attached to the registered land survey signed by the Mayor and City Clerk. No registered land survey shall be approved by the City or signed by the officers if the recording of the registered land survey will result in a subdivision in violation of any provision, regulation, or requirement of this chapter.

(1997 Code, § 400.05) (Am. Ord. 08-205, passed 4-3-2018)

§ 153.05 CONVEYANCE BY METES AND BOUNDS AND OTHER UNAPPROVED DESCRIPTIONS.

(A) No conveyance of lands to which the regulations contained in this chapter are applicable shall be made and no conveyance of land to which the regulations contained in this chapter are applicable shall be filed or recorded, if the land is described in the conveyance by metes and bounds or by reference to an unapproved registered land survey made after 10-3-1968, or to an unapproved plat made after 10-3-1968.

(B) The foregoing provision does not apply to a conveyance if the land described:

(1) Was a separate parcel of record prior to or on 10-3-1968, or as to lands within the jurisdictional boundaries of the Old Village prior to its consolidation with the Town of East Oakdale if the land was a separate parcel of record 6-4-1974;

(2) Was the subject of a written agreement to convey, entered into prior to 10-3-1968;

(3) Is a single parcel of land having not less than 5 20 acres and having a width of not less than 500 feet and its conveyance does not result in the division of a parcel into 2 or more lots or parcels any 1 of which is less than 20 acres in area or 500 feet in width; and/or

(4) Is a single parcel of commercial or industrial land of not less than five acres and having a width of not less than 300 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than five acres in area or 300 feet in width;

§ 153.06 LOT CONSOLIDATION/LOT LINE ADJUSTMENT.

(A) *Purpose and Intent.* The lot consolidation/lot line adjustment process provides a simple administrative procedure for the consolidation of 2 or more lots into 1 parcel, or to adjust a common lot line affecting existing parcels. In areas that are well defined and land descriptions are simple, the City may permit the conveyance of land using metes and bounds descriptions or without the preparation and recording of a plat. In areas which are not well defined, or where lots are irregular in shape and/or are included in more than one plat, the City may require that lot consolidation/lot line adjustment occur through the major or minor subdivision platting requirements of this chapter.

(B) *Criteria for Lot Line Adjustment/Lot Consolidation.* Lot line adjustments exempted from platting by Minnesota Statute 462.352, Subd. 12 and shall not require a plat or replat and may be administratively approved by City staff, provided all of the following are met:

(1) Each resultant parcel equals or exceeds the minimum lot dimension requirements and public road frontage requirements for the zoning district in which the property is located or is made more conforming through the lot line adjustment;

(2) The lot line adjustment does not create additional lots.

(3) The lot line adjustment shall not cause any structure on the property to be made non-conforming or in violation of the Zoning Chapter or any other provisions of the City Code.

(4) All resultant parcels shall have frontage and access on an existing improved street or access to an existing improved street protected by a restrictive covenant approved by the City Attorney which includes the City as a beneficiary.

- (5) The resulting parcels shall generally conform to the shape, character, and area of existing or anticipated land subdivisions in the surrounding areas.
- (6) Any such lot line adjustment shall not require any public improvements.
- (7) Any easements that become unnecessary as a result of the combination of parcels must be vacated. A request to vacate easements shall be made concurrently with the application for lot consolidation/lot line adjustment. Review of the easement vacation request, including any public hearings and City Council action, shall be completed before action may be taken on the application for lot consolidation/lot line adjustment.
- (8) New easements shall be established as the City deems necessary.
- (C) *Subdivision of Property for Public Purpose.* Alternatively, the subdivision of property resulting from acquisition by governmental agencies for public improvements or uses may be processed in the same manner as a lot line adjustment or lot consolidation.
- (D) *Submittal Requirements.* Requests for lot line adjustments or lot consolidation shall be filed with the City on an official application form. The applicant's signatures shall be provided on the application form. If the applicant is not the fee owner of the property, the fee owner's signature shall also be provided on the application form, or the applicant shall provide separate written and signed authorization for the application from the fee owner. Such application shall be accompanied by the following information. The application shall be considered as being officially submitted and complete when the applicant has complied with all the specified requirements. The applicant will be responsible for all expenses incurred in obtaining the required information.
 - (1) A fee as set forth by the City's adopted fee schedule.
 - (2) Detailed written and graphic materials fully explaining the proposed lot line adjustment.
 - (3) A legal description of the affected parcels and legal descriptions for each of the resulting parcels; and, in regard to lot line adjustments, legal descriptions for the adjusted or consolidated parcels;
 - (4) A written description stating the reason for the request; and
 - (5) A land survey prepared by and signed by a registered land surveyor describing the lot line adjustment and showing all buildings, driveways, easements, setbacks, and other pertinent information including the legal descriptions herein required.
 - (6) A title search showing ownership of the property and any existing deed restrictions.
 - (7) Other information shall be provided as may be reasonably requested by the City staff.
- (E) *Review of lot line adjustment or lot consolidation.* A completed application shall be reviewed administratively by the Planning Department who shall make a written finding in regard to the provisions of division (B) above. The City's approval shall be conditioned upon recording of documents which effectuate the lot line adjustment or lot consolidation and any other conditions deemed necessary to ensure compliance with the Zoning Code. Unless a request for additional review time is requested by the City, action on the application shall be taken within 60 days after a complete application is submitted.

Prior to the issuance of any development permits, and no later than 60 days after administrative review and approval, the applicant shall provide the City with recorded documents or recorded document numbers for the deeds of conveyance which effectuate the lot line adjustment or lot consolidation. Failure to provide the required verifications within the required time shall invalidate the City's approval.

- (F) *Certification of Taxes Paid.* Prior to approval of an application for a lot line adjustment or lot consolidation, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the lot line adjustment or lot consolidation application relates.

(1997 Code, § 400.06) (Am. Ord. 08-205, passed 4-3-2018) Penalty, see § 10.99

SECTION 153.065 LOT DIVISIONS.

Section 153.065 Lot Divisions.

- A. The City Planning Director may approve administratively the subdivision of one lot or parcel into two or three lots where no public infrastructure, easements or rights-of-way are being dedicated. The following requirements must be met before the City may approve an administrative lot division:
1. The submittal of the required land use application and fee.
 2. The submittal of proof of ownership.
 3. The submittal of a current certificate of survey, prepared and signed by a Minnesota licensed land surveyor, depicting the following:
 - a. Graphic scale of the survey (engineering scale only, not less than 1 inch equals 50 feet).
 - b. North arrow.
 - c. Date of the survey.
 - d. Existing legal description of the parcel of land to be subdivided.
 - e. Existing parcel boundaries shown with survey measurement data matching the legal description of the parcel of land.
 - f. Area in square feet and in acres of the parcel of land to be subdivided.
 - g. Existing site improvements within the subject property and those within 50 feet of the boundaries of the parcel to be subdivided.
 - h. All encroachments along the outside boundary of the parcel of land to be subdivided.
 - i. All easements of record affecting the parcel of land to be subdivided.
 - j. Basins, lakes, rivers, streams, creeks, wetlands and other waterways bordering on or running through the parcel of land to be subdivided. The ordinary high water elevation and the 100-year flood elevation shall be shown where applicable.
 - k. The location, right-of-way widths and names of public streets or other public ways, showing type, width and condition of improvements, if any, that pass through and/or adjacent to the parcel of land being subdivided.
 - l. Location, right-of-way widths and names of any railroad, if any, that pass through or are adjacent to the parcel of land being subdivided.
 - m. The location, type and size of any public infrastructure (sanitary sewer, water, storm sewer) that is located on or adjacent to the parcel of land being subdivided.
 - n. Identify all gaps and overlaps of the property being subdivided.

- o. The outside boundary of the property being subdivided must be clearly marked survey monumentation.
 - p. The boundary shown with survey measurement data and proposed legal description for each of the lots as they are proposed to be subdivided.
 - q. The boundary and legal description of any proposed easements on the property. The owner must provide a 10-foot-wide drainage and utility easement along all property lines. The City also may require a drainage and utility easement over wetlands, wetland buffers, stormwater basins, lakes, drainage channels and tributaries.
 - r. The City also may require the dedication of easements or right-of-way for public streets consistent with the City's Comprehensive Plan.
 - s. If the owner is proposing residential lots that would use on-site septic systems, then the owner must provide documentation that each lot would have enough area for a primary and secondary on-site septic system along with the proposed location of the houses, driveways and wells for each of those lots.
4. A lot division shall not result in the creation of more than three lots.
 5. The Planning Director may approve or cause to be modified plans for a lot division. The Director must first determine, however, that the plans meet all city ordinances and policies and that the lot division proposal would not have an adverse impact on the subject property or surrounding properties. If the Director makes a negative determination about the proposed lot division or if the applicant wishes to appeal the decision, the case shall be sent to the Planning Commission for a review and recommendation and to the City Council for action.
 6. The City may require a letter of credit as a condition of lot divisions in order to guarantee the proper repair and patching of streets after the installation of or connection to utilities in the streets or in the public rights-of-way.
 7. The City shall not approve more than three new lots from a parcel or tract in any single calendar year.
 8. The owner must record the deeds for the lot division with Washington County within 180 days of City approval of a lot division.

§ 153.07 MINOR SUBDIVISIONS.

- (A) *Purpose and Intent.* The purpose of a minor subdivision process is to allow the City to waive certain procedures and requirements of a major subdivision. The purpose is to reduce the time and cost to the property owner for dividing land in locations and situations that are well defined and where no new public infrastructure is required. The minor subdivision process allows for concurrent review and approval of a Preliminary and Final Plat.
- (B) *Criteria for Minor subdivision.* A minor subdivision is a division of land which results in no more than 4 parcels shown on the plat/survey:

- (1) Each resultant parcel meets all applicable requirements of the Zoning Code, including but not limited to density, lot size, lot width, and minimum frontage on a public road, unless a variance has been approved according to the procedures set forth in 153.11.
 - (2) No new public rights-of-way or streets shall be necessary for or created by the subdivision.
 - (3) Streets, utility easements, drainage easements or public park land or cash in lieu of land shall be dedicated as required by the City.
 - (4) All wetland areas and Minnesota Department of Natural Resources protected waters shall be protected with a conservation easement up to the 100-year flood level.
 - (5) The minor subdivision complies with all applicable requirements of the road authority, including access spacing and location criteria for sight distances if located adjacent to a state or county highway, and/or of the watershed district(s) in which it is located.
- (C) *Submittal Requirements.* Requests for minor subdivision shall be filed with the City on an official application form. The applicant's signatures shall be provided on the application form. If the applicant is not the fee owner of the property, the fee owner's signature shall also be provided on the application form, or the applicant shall provide separate written and signed authorization for the application from the fee owner. Such application shall be accompanied by the following information. The applicant shall submit a minimum of 4 large scale copies and 10 reduced scale (11" X 17") copies and electronic versions of all graphics. The application shall be considered as being officially submitted and complete when the applicant has complied with all the specified requirements. The applicant will be responsible for all expenses incurred in obtaining the required information.
- (1) A fee as set forth by the City's adopted fee schedule
 - (2) Detailed written and graphic materials fully explaining the proposed minor subdivision.
 - (3) List of property owners located within 350 feet of the subject property in a format prescribed by the City.
 - (4) A preliminary plat prepared by a registered land surveyor in the form required by M.S. Ch. 505, as it may be amended from time to time, and the name, address, and registration number of the surveyor, which includes:
 - a. Graphical scale not more than 1 inch equals 100 feet.
 - b. North point indication.
 - c. Original and proposed lot boundaries.
 - d. Topographic data at 2 foot contours.
 - e. Existing and resulting parcel legal descriptions.
 - f. Buildable area on each lot and proposed building pad.
 - g. The location of existing structures on the site.
 - h. Existing and proposed driveway locations.
 - i. Existing easement locations.

- j. Existing parks, streets and utility easements.
 - k. Delineated wetlands and water bodies including ordinary high water elevations and floodplain boundaries as applicable.
 - l. Sewage treatment systems and/or well locations.
 - m. Location and size of existing sewers, water mains, wells, culverts, or other underground utilities within the tract and to a distance of 150-feet beyond the tract, the data as grades, invert elevations, and locations of catch basins, and manholes shall also be shown;
- (5) Drainage, grading and erosion control plans, if applicable.
 - (6) Existing and proposed lowest floor elevations for each lot.
 - (7) Soil testing for the installation of subsurface sewage treatment system, if applicable.
 - (8) If driveways to a state or county highway are required, driveway permits or a letter of intent to approve said driveways from the applicable road authority.
 - (9) Any additional information if deemed necessary and required by the City. The City may waive for good cause certain information requirements not pertinent to the particular minor subdivision request.

(D) Review of Minor Subdivision.

- (1) *Review by staff and other commissions or jurisdictions.* The City shall refer copies of the preliminary plat to the City Engineer, Planner, Attorney, [the Watershed District](#) and the appropriate county, state, or other public agencies for their review and comment. The City shall instruct the appropriate staff persons to prepare technical reports where appropriate, and to provide general assistance in preparing a recommendation on the action to the Planning Commission and Council.
- (2) *Public Hearing Set.* Upon receipt of a complete application, the City shall set a public hearing following proper hearing notification. The Planning Commission shall conduct the hearing, and report its findings and make a recommendation to Council. Notice of said hearing shall consist of a legal property description and a description of the request, which shall be published in the official newspaper at least 10 days prior to the hearing and written notification of said hearing shall be mailed at least 10 days prior to the hearing to all owners of land within 350 feet of the boundary of the property in question. Public hearings shall follow the hearing procedures outlined in Section 154.102. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Chapter.

- (3) The Planning Commission shall make a finding of fact and recommend such actions or conditions relating to the request as it deems necessary to carry out the intent and purpose of this Chapter.
 - (4) The City Council shall not approve a minor subdivision until it has received a report and recommendation from the Planning Commission and the City staff, or until 60 days after the first regular Planning Commission meeting at which the request was considered.
 - (5) Approval of a minor subdivision shall require passage of a resolution by a majority vote of a quorum of the City Council.
 - (6) Prior to certification by the City of the approval of the minor subdivision, the applicant shall submit the final plat for signature, supply the deed(s) granting the City any easements required by the City and pay any required fees.
 - (7) Whenever an application for a minor subdivision has been considered and denied by the City Council, a similar application for a minor subdivision affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least 6 months from the date of its denial unless a decision to reconsider such matter is made by a majority vote of the entire City Council.
- (E) *Recording of the Minor Subdivision.* If the minor subdivision is approved by the Council, the subdivider shall record it with the County Recorder within ~~120~~ 180 days after the approval. If not filed within ~~120~~ 180 days, approval of the minor subdivision shall be considered void, unless a request for time extension is submitted in writing and approved by the City Council. The subdivider shall, immediately upon recording, furnish the City with copies of the recorded documents which effectuate the minor subdivision. No building permits shall be issued for construction of any structure on any lot within the approved minor subdivision until the City has received evidence of the plat being recorded by the County.
- (F) *Financial Guarantee.* Following the approval of a minor subdivision as required by this Section and prior to the issuing of any building permits or the commencing of any work, the applicant may be required to guarantee to the City the completion of any improvements as shown on the approved plans and as required as a condition of minor subdivision approval.
- (G) *Certification of Taxes Paid.* Prior to approval of an application for a minor subdivision, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the minor subdivision application relates.

§ 153.08 MAJOR SUBDIVISIONS-SKETCH PLAN REVIEW.

- (A) *Purpose and Intent.* In order to ensure that all applicants are informed of the procedural requirements and minimum standards of this chapter and the requirements or limitations

imposed by other City ordinances or plans, prior to the development of a preliminary plat, applicants are required to submit a sketch plan of the proposed subdivision to the City for review.

(B) *Submittal requirements.* Requests for major subdivision shall be filed with the City on an official application form. The applicant's signatures shall be provided on the application form. If the applicant is not the fee owner of the property, the fee owner's signature shall also be provided on the application form, or the applicant shall provide separate written and signed authorization for the application from the fee owner. Such application shall be accompanied by the following information. The applicant shall submit a minimum of 4 large scale copies and 10 reduced scale (11" X 17") copies and electronic versions of all graphics. The application shall be considered as being officially submitted and complete when the applicant has complied with all the specified requirements. The applicant will be responsible for all expenses incurred in obtaining the required information.

- (1) A fee as set forth by the City's adopted fee schedule
- (2) Detailed written and graphic materials fully explaining the proposed major subdivision
- (3) List of property owners located within 350 feet of the subject property in a format prescribed by the City
- (4) A scaled drawing which includes:
 - a. Locations of boundary lines in relation to a known section, quarter section, or quarter quarter section line comprising a legal description of the property;
 - b. Graphical scale not less than 1 inch equals 100 feet.
 - c. Data and north point.
 - d. Existing conditions.
 - i. Boundary line of proposed subdivision, clearly indicated;
 - ii. Existing zoning classification for land within and abutting the subdivision;
 - iii. A statement on the acreage and dimensions of the lots;
 - iv. Location widths and names of existing or previously platted streets or other public ways, showing type, width, and conditions of improvements, if any, railroad and utility rights-of-way, parks and other open spaces, permanent buildings and structures, easements in section and corporate lines within the tract and to a distance of 150 feet beyond the tract;
 - v. Location and size of existing sewers, water mains, wells, culverts, or other underground utilities within the tract and to a distance of 150 feet beyond the tract, the data as grades, invert elevations, and locations of catch basins, and manholes shall also be shown;

- vi. Boundary lines of adjoining unsubdivided or subdivided land, within 150 feet, identified by name and ownership, including all contiguous land owned or controlled by the subdivider;
- vii. Topographic data, including contours at vertical intervals of not more than 5 feet; water courses, marshes, rock outcrops, power transmission poles and lines and other significant features shall also be shown; National Geodetic Vertical Datum (N.G.V.D.) shall be used for all topographic mapping; and
- viii. The subdivider may be required to file a report prepared by a registered civil engineer or soil scientist on the feasibility of on-site sewer and water systems on each lot; the report shall include a soil borings analysis and a percolation test to verify conclusions.
- ix. Buildable area on each lot and proposed building pad.
- x. Existing and proposed driveway locations.
- xi. Existing parks, streets and easement locations.
- xii. Delineated wetlands and water bodies including ordinary high water elevations and floodplain boundaries as applicable.
- e. Proposed design features.
 - i. Layout of proposed streets showing right-of-way widths, center line grade, typical cross-sections, and proposed names of streets in conformance with all applicable City ordinances and policies; the name of any street used in the City or its environs shall not be used unless the proposed street is the logical extension of an already named street, in which event the same name shall be used. The names and number shall comply with the County Uniform Street Numbering System.
 - ii. Areas other than streets, pedestrian ways, utility easement, intended to be dedicated or reserved for public use, including the size of the areas in acres.
 - iii. Provision for surface water disposal, drainage, and flood control within the boundaries of the proposed property division consistent with section 150.273 of the City Code, storm water management and erosion and sediment control
- f. *Supplementary information.*
 - i. The supplementary information as shall reasonably be deemed necessary by City staff, the Planning Commission or the City Council;
 - ii. Proposed protective covenants;
 - iii. Statement of the proposed use of lots stating type of residential buildings with number of proposed dwellings and type of business or industry, so as to review the effect of the development on traffic, fire hazards, and congestion of population;

- iv. If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions, shall be shown. The proposed zoning plans shall be for information only and not vest any rights in the application for use other than residential;
- v. A statement showing the proposed density with the method of calculating said density also shown.
- vi. Where the subdivider owns property adjacent to that which is being proposed for division, the Planning Commission may require that the subdivider submit a sketch plan of the remainder of the property so as to show the possible relationship between the proposed division and a future subdivision. All subdivisions shall be reasonably consistent with the existing or potential adjacent subdivisions; and
- vii. Where structures are to be placed on large or excessively deep lots, which are subject to replat, the development subdivision plans shall indicate placement of structures so that lots may be further subdivided, in addition to a sketch plan that illustrates a way in which the lots can possibly be resubdivided.

(C) *Sketch Plan Review.* The sketch plan shall be reviewed by Staff, the Planning Commission, and Council. The City may refer the sketch plan to the Parks Commission to secure its recommendation as to the location of any property that should be dedicated to the public, such as parks, playgrounds, trails, open space or other public property. The City shall accept the information received, but take no formal or informal action which could be construed as approval or denial of the proposed plat.

(1997 Code, § 400.07) (Am. Ord. 08-024, passed 4-20-2010) (Am. Ord. 08-205, passed 4-3-2018) Penalty, see § 10.99

§ 153.09 PRELIMINARY MAJOR SUBDIVISIONS (PRELIMINARY PLAT).

(A) *Submittal requirements.* Requests for preliminary plat approval may be filed with the City on an official application form after the applicant has received comments on the proposed sketch plan as outlined in Section 153.08 of this Chapter. The applicant's signatures shall be provided on the application form. If the applicant is not the fee owner of the property, the fee owner's signature shall also be provided on the application form, or the applicant shall provide separate written and signed authorization for the application from the fee owner.

The application shall be considered as being officially submitted and complete when the applicant has complied all the specified requirements and submitted all the information as outlined below;

- (1) The applicant shall submit a minimum of 4 large scale copies and 10 reduced scale (11" X 17") copies of all graphics as well as electronic versions of all the submitted documentation and project plans.
- (2) Graphic scale of preliminary plat prepared by a registered land surveyor in the form required by M.S. Ch. 505, as it may be amended from time to time, and the name, address, and registration number of the surveyor not less than 1 inch to 100 feet;
- (3) A fee as set forth by the City's adopted fee schedule;
- (4) Detailed written and graphic materials fully explaining the proposed major subdivision;
- (5) List of property owners located within 350 feet of the subject property in a format prescribed by the City;
- (6) Proposed name of subdivision; names shall not duplicate or too closely resemble names of existing subdivisions; in any case, the name must be approved by the County Recorder;
- (7) Location of boundary lines in relation to a known section, quarter section, or quarter quarter section lines comprising a legal description of the property;
- (8) Names and addresses of all persons having any interest in the property, the developer, designer, and surveyor together with the interested person's registration number;
- (9) Data and north point; and
- (10) Date of preparation.
- (11) *Existing conditions.*
 - a. Boundary line of proposed subdivision, clearly indicated;
 - b. Existing zoning classifications for land within and abutting the subdivision;
 - c. A general statement on the approximate acreage and dimensions of the lots;
 - d. Location, widths, and names of all existing or previously platted streets or other public ways, showing type, width, and condition of improvements if any, railroad and utility rights-of-way, parks and other public open spaces, permanent buildings and structures, easements and section and corporate lines within the tract and to a distance of 150 feet beyond the tract;
 - e. Location and size of existing sewers, water mains, culverts, or other underground facilities within the tract and to a distance of 150 feet beyond the tract; the data as grades, invert elevations, and locations of catch basins, manholes, shall also be shown;
 - f. Boundary lines of adjoining unsubdivided or subdivided land, within 150 feet, identified by name and ownership, including all contiguous land owned or controlled by the subdivider;
 - g. Topographic data, including contours at vertical intervals of not more than 2 feet; water courses, marshes, rock outcrops, power transmission poles and

lines, and other significant feature shall also be shown; National Geodetic Vertical Datum (N.G.V.D.) shall be used for all topographic mapping; and

- h. In ~~major~~ major subdivisions where public water and sewer are not available, the City Engineer may require the subdivider to file a report prepared by a soil scientist or a registered civil engineer on the feasibility of on-site sanitary sewer and water systems on each lot. The report shall include a soil boring analysis and percolation tests to verify conclusions.

(12) *Proposed design features*

- i. Layout of proposed streets showing right-of-way widths, center line grade, typical cross-sections, and proposed names of streets in conformance with all applicable City ordinances and policies. The street names and numbers shall comply with the County Uniform Street Naming and property Numbering System, with the following exceptions:
 - i. No street name that already exists in the City shall be used, unless the proposed street name is the logical extension of an already named street, in which the same street name shall be used.
 - j. ~~the name of any street used in the City or its environs shall not be used unless the proposed street is the logical extension of an already named street, in which event the same name shall be used. The names and number shall comply with the County Uniform Street Naming and Property Numbering System, with the following exceptions:~~
 - i. ~~Unless a newly proposed street directly extends from an existing street, no street name that already exists in the City or its environs shall be used, regardless if it is on the same grid as another street.~~
 - a. North-south avenues shall follow the grid system, increasing alphabetically from east to west, but must use different names.
 - b. East-west streets shall follow the grid numbering system as appropriate, but a different suffix such as Lane, Place, Way, etc. or a different prefix such as Upper or Lower shall be used.
- ii. The names of deflecting streets shall not vary; names of continual streets shall not change, even if the street changes direction, unless an intersection exists.
- iii. The names of deflecting streets shall be determined according to their relation to an Arterial or Collector Street if appropriate, otherwise such names shall be determined according to their main point of entry in to a development or as deemed appropriate by City Council.
- iv. ~~If appropriate, names with the same theme (i.e. flowers, nature) are permitted for naming streets in an entire subdivision.~~
- v. All street names shall end with the directional suffix of North.

- b. Locations and widths of proposed alleys and pedestrian ways;
- c. Locations and size of proposed sewer lines and water mains;
- d. Layout, numbers, lot areas, and preliminary dimensions of lots and blocks;
- e. Building pads shall be shown to demonstrate minimum front and side street building setback lines;
- f. When lots are located on a curve, the width of the lot at the building setback line shall be shown;
- g. Areas, other than streets, alleys, pedestrian ways, and utility easements intended to be dedicated or reserved for public use, including the size of the area or areas in acres. This shall include areas planned for trails and parks within the City;
- h. Area calculations of lots, right-of-way, streets, public highways, alleys, parks and public trails, wetland and wetland buffers and other features with accurate dimensions;
- i. Water mains shall be provided to serve the subdivision by extension of any existing community system wherever feasible. Service connections shall be stubbed into the property line and all necessary fire hydrants shall also be provided. Extensions of the public water supply system shall be designed so as to provide public water in accordance with the standards of the City. In areas where public water supply is not available, well plans must comply with applicable state regulations and shall be submitted for the approval of the City Building Official;
- j. Sanitary sewer mains and service connections shall be installed in accordance with the standards established by the City;
- k. All private sewage treatment systems shall be installed in accordance with standards established by Washington County. Demonstration of two separate and distinct areas, suitable for septic drainfields or onsite system treatment area, is required;
- l. Surface water disposal, drainage, and flood control shall be provided within the boundaries of the proposed property division consistent with section 150.273 of the City Code, storm water management and erosion sediment control;
- m. Location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and
- n. A line or contour representing the ordinary high water level, the “toe” and the “top” of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.
- o. *Supplementary information.* The following supplementary information shall be submitted when deemed necessary by the City:
 - i. Written statement explaining changes or modifications to the sketch plan.
 - ii. Proposed protective covenants;
 - iii. An accurate soil survey of the subdivision prepared by a qualified person. In areas of questionable soil conditions, percolation tests at the rate of no fewer than two successful test results for each proposed septic

disposal area (a total of four tests per proposed lot) may be required on a lot-by-lot basis to determine the suitability of any particular site for building.

- iv. A statement prepared by a qualified person identifying tree coverage in the proposed subdivision in terms of type, weakness, maturity, potential hazard, infestation, vigor, density, and spacing;
- v. Statement of the proposed use of lots stating type of residential buildings with number of proposed dwelling units and/or type of business or industry, so as to reveal the effect of the development on traffic, fire hazards, and congestion of population;
- vi. If any zoning changes are contemplated, the proposed zoning for the areas, including dimensions, shall be shown;
- vii. Where the subdivider owns property adjacent to that which is being proposed for the subdivision, the Planning Commission may require that the subdivider submit a sketch plan of the remainder of the property so as to show the possible relationships between the proposed subdivision and the future subdivision. All subdivisions shall be shown to relate well with existing or potential adjacent subdivisions;
- viii. Where structures are to be placed on large or excessively deep lots which are subject to potential replat, the subdivider shall provide in the preliminary plat, a sketch plan which indicates minimum building setback lines and future roadway alignments which would not interfere with structural placement at the time of future subdivision; and
- ix. A vegetation preservation and protection plan, consistent with Section 154.257 of the Zoning Code, that shows those trees proposed to be removed, those to remain, the types and locations of trees and other vegetation that are to be planted;
- x. Developer shall provide a landscape plan, signed by a licensed landscape architect, which shows the placement of ponding, berms, trees, and tree seedlings, shrubs, and shrub seedlings and native grasses.
 - 1. Landscape plans shall adhere to all requirements of Section 154.258 of the Zoning Code and shall include the City's Landscape Standard Notes.
 - 2. Irrigation plans shall be submitted and be in compliance with Lake Elmo General Irrigation Standards.
- xi. If the development is an Open Space Preservation development, architectural and performance standards shall be submitted. If applicable, developments within the I-94 corridor and Old Village shall submit architectural renderings in order to ensure compliance with City of Lake Elmo Design Guidelines & Standards.

- xii. Any environmental review, such as an Environmental Assessment Worksheet, as required by State Statutes. If an environmental review is required, the Preliminary Plat application cannot proceed until the review or study is complete;
 - p. *Other information.* Other information shall be provided as may be reasonably requested by the City staff, Planning Commission, or Council.
- (B) *Preliminary Major Subdivision (Preliminary Plat) Review.*
 - (1) *Review by staff and other commissions or jurisdictions.* The City shall refer copies of the preliminary plat to the City Engineer, Planner, and Attorney, the Park Commission, and the appropriate county, state, or other public agencies, including but not limited to Watershed Districts, the Minnesota Department of Transportation and/or Washington County if the application abuts a county road or highway or county state-aid highway, and/or the Department of Natural Resources (DNR) if the application is within a Shoreland Overlay District and/or Floodplain Management District, for their review and comment. The City shall instruct the appropriate staff persons to prepare technical reports where appropriate, and to provide general assistance in preparing a recommendation on the action to the Planning Commission and City Council.
 - (2) Comment must be received within 30 days or it will be assumed there are no objections.
- (C) *Public Hearing Set.* Upon receipt of a complete application, the City shall set a public hearing following proper hearing notification. The Planning Commission shall conduct the hearing and report its findings and recommendations to the Council. The Planning Director shall give notice of the hearing. The notice shall consist of a property description and a description of the request. The notice shall be published in the official newspaper at least 10 days prior to the date of the hearing and written notification of the hearing shall be mailed at least 10 days prior to all owners of land within 350 feet of the boundary of the property in question. Public hearings shall follow the hearing procedures outlined in Section 154.102. The Planning Commission, at its discretion, may direct that notification be sent to property owners at distances of greater than 350 feet. The failure of any property owner to receive notice shall not invalidate the proceedings set forth in this Chapter.
- (D) *Planning Commission action.* The Planning Commission shall make a finding of fact and recommend such actions or conditions relating to the request as it deems necessary to carry out the intent and purpose of this Chapter. The Planning Commission and shall have the authority to request additional information from the subdivider concerning the proposal, as deemed necessary to formulate a recommendation on the proposal.
 - (1) The Planning Commission shall recommend approval of the preliminary plat if it in all ways conforms to the City's Comprehensive Plan and Development Code.

The Commission shall recommend denial of the preliminary plat if it makes any of the following findings:

- a. That the proposed subdivision is in conflict with the City's Comprehensive Plan, Development Code, Capital Improvements Program, or other policy or regulation.
- b. That the physical characteristics of the site, including but not limited to topography, vegetation, susceptibility to erosion and siltation, susceptibility to flooding, water storage, and retention, are such that the site is not suitable for the type or intensity of development or use contemplated.
- c. That the design of the subdivision or the proposed improvements are likely to cause substantial and irreversible environmental damage.
- d. That the design of the subdivision or the type of improvements will be detrimental to the health, safety, or general welfare of the public.
- e. That the design of the subdivision or the type of improvement will conflict with easements on record or with easements established by judgment of a court.
- f. That the subdivision is premature as determined by the standards of this Chapter.

(E) *City Council Action.*

(1) The City Council shall act upon the preliminary plat after it has received a report and recommendation from the Planning Commission and the City staff, or until 60 days after the first regular Planning Commission meeting at which the request was considered. The City Council shall have the option of receiving additional testimony if it so chooses. An application for preliminary plat shall be approved or denied within 120 days from the date of its official and complete submission unless extended pursuant to Statute or a time waiver is granted by the subdivider.

(2) If the preliminary plat is not approved by the City Council, the reasons for the action shall be recorded in the proceedings of the City council and transmitted to the applicant. If the City Council approves the preliminary plat ~~is approved~~, the approval shall not constitute final acceptance of the layout. Subsequent approval will be required of the engineering proposals and other features and requirements as specified by this chapter to be indicated on the final plat. The City Council may require revisions in the preliminary plat and final plat as it deems necessary for the public health, safety, general welfare, and convenience.

(F) *Effect of Approval.* For one year following preliminary plat approval, unless the subdivider and City agree otherwise, no amendment to the Comprehensive Plan or other official controls shall apply to or affect the use, development density, lot size, or lot layout that was approved by the City.

(G) *Effect of Denial.* If a preliminary plat application is denied by the City Council, a similar application for a preliminary plat affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six months from the date of its denial by the City Council.

(H) *Submission of final plat; request for extension.* If the preliminary plat is approved by the City Council, the subdivider must submit the final plat within 180 days after the City Council approval, or approval of the preliminary plat shall be considered void, unless a request for time extension is submitted in writing and approved by the City council. Such request for an extension shall include the following: 1) an explanation for why a final plat has not been applied for, 2) what, if any, good faith efforts have been made to complete the platting process, and 3) the anticipated completion date, and 4) the require City fee. The City Council may approve up to two such extensions of not more than one additional year per extension.

(1997 Code, § 400.08) (Am. Ord. 08-024, passed 4-20-2010) (Am. Ord. 08-205, passed 4-3-2018) Penalty, see § 10.99

§ 153.10 FINAL MAJOR SUBDIVISIONS (FINAL PLAT).

(A) *Submittal requirements.* Requests for final plat approval may be filed with the City on an official application form following City Council approval of a preliminary plat. The applicant's signatures shall be provided on the application form. If the applicant is not the fee owner of the property, the fee owner's signature shall also be provided on the application form, or the applicant shall provide separate written and signed authorization for the application from the fee owner.: The application shall be considered as being officially submitted and complete when the applicant has complied all the specified requirements and submitted all the information as outlined below;.

- (1) The applicant shall submit a minimum of 4 large scale copies and 10 reduced scale (11" X 17") copies of all graphics as well as electronic versions of all the submitted documentation and project plans.
- (2) Certification by a registered land surveyor in the form required by M.S. Ch. 505, as it may be amended from time to time, and the name, address, and registration number of the surveyor;
- (3) A fee as set forth by the City's adopted fee schedule.
- (4) Final tree preservation and landscape plans.
- (5) A written summary of how all conditions of preliminary plat approval have been met.
- (6) Written statement explaining changes or modifications to the preliminary plat.
- (7) Final plat including the following information:
 - i. Name of the subdivision;

- ii. Location by section, township, range, county, and state, and including descriptive boundaries of the subdivision;
- iii. The location of monuments shall be shown and described on the final plat;
- iv. Location and area calculations of lots, right-of-way, streets, public highways, alleys, parks and trails, wetland and wetland buffers and other features with accurate dimensions;
- v. Lots shall be numbered clearly; blocks are to be numbered, with numbers shown clearly in the center of the block;
- vi. The exact locations, widths, and names of all streets to be dedicated;
- vii. Location width and use of all easements to be dedicated;
- viii. Scale of plat (the scale to be shown graphically on a bar scale), date, and north point;
- ix. Statement dedicating all easements;
- x. Statement dedicating all streets, utility easements, and other public areas not previously dedicated; and
- xi. Certificate for approval by the City Council. This certificate shall be prepared for the signatures of the Mayor and the City Clerk.

(8) Final grading and drainage plan, appropriately labeled, using a copy of the current certificate of survey as a base for the site in question and prepare and signed by a Minnesota licensed engineer, depicting the following information:

- i. North arrow and date of preparation.
- ii. Graphic Scale (engineering scale only, not less than one (1) inch equals fifth (50) feet).
- iii. For each lot, provide lot and block numbers, building pad location, building type and proposed building first floor elevation, low floor elevation and elevation at garage slab.
- iv. Stormwater Management Plan, with a narrative, including the configuration of drainage areas and calculations that meet the requirements of the City Code and/or applicable Watershed Standards.
- v. Location of all natural features on the tract. Natural features are considered to include, but are not limited to the following: tree lines, wetlands, ponds, lakes, streams, drainage channels, bluffs, steep slopes, etc.
- vi. All delineated Wetlands and watercourse buffers per the City and Watershed standards; and wetland replacement plan, if needed.
- vii. Location of all existing storm sewer facilities, including pipes, manholes, catch basins, ponds, swales, and drainage channels within one hundred fifty (150) feet of the tract. Existing pipe type, grades, rim and invert elevations and normal and high water elevations must be included.

- viii. Normal water level (NWL) and 100-year high water level (100-year HWL) for all water bodies, existing and proposed.
 - ix. Spot elevations at drainage break points and emergency overflows (in BOLD) with directional arrows indicating site, swale and lot drainage.
 - x. Retaining Walls (wall heights and elevations).
 - xi. Locations, grades, rim and invert elevations of all storm sewer facilities, including ponds and BMP's proposed to serve the tract.
 - xii. Locations and elevations of all street high and low points.
 - xiii. Street grades shown.
 - xiv. Provide phasing plan for site grading.
 - xv. All soil erosion and sediment control measures to be incorporated during and after construction must be shown. Locations and standard detail plates for each measure must be included on the plan using Lake Elmo City standard details. Plan must meet the requirements of MPCA General Permit Construction Activity.
 - xvi. All revegetation measures proposed for the tract, including seed and mulch types and application rates must be included on the plan.
 - xvii. Existing contours at two (2) foot intervals shown as dashed lines (may be prepared by a Minnesota licensed surveyor). Existing contours shall extend one hundred fifty (150) feet outside of the tract.
 - xviii. Proposed grade elevations at two (2) foot intervals shown as solid lines.
 - xix. Other information as required and outlined in the City Plan Sheet Format Requirements.
- (9) Final utility plan, appropriately labeled, prepared and signed by a Minnesota licensed engineer, depicting the following:
- i. Easements locations, dimensions, and purposes.
 - ii. Underground and overhead facilities.
 - iii. Proposed utility plans including sanitary sewer, watermain, and storm sewer, all in accordance with the City Engineer Design Standards Manual.
- (10) Final street and storm sewer plan, appropriately labeled, prepared and signed by a Minnesota licensed engineer, depicting the following information:
- i. Layout of proposed streets showing the proposed lot lines, right-of-way widths, and proposed street names, in accordance with the City's Street Naming Policy, as outlined in 153.09 (11) (a).
 - ii. Locations and widths of proposed streets, alleys and pedestrian-ways.
 - iii. Location, dimensions and purpose of all easements.
 - iv. Annotation of street geometrics for all horizontal curves, tangent lengths and corner radii.
 - v. Centerline profile and gradients for all streets, with vertical geometrics annotated on the plan profiles.

- vi. Typical cross section of proposed street improvements.
 - vii. Minimum front and side street building setback lines.
 - viii. When lots are located on a curve, the width of the lot at the building setback line.
 - ix. For any non-single family residential development, location and number of off-street parking spaces (guest, handicapped, bicycle, motorcycle, etc.) including typical dimensions of each.
 - x. Other information as required and outlined in the City Plan Sheet Format Requirements.
- (11) *Other written materials.* The application form shall be accompanied by, or address, the following written materials:
- i. Lot size for all lots and outlots in tabular form.
 - ii. Area calculations of lots, right-of-way, streets, public highways, alleys, parks and public trails, wetland and wetland buffers and other features with accurate dimensions;
 - iii. Cost estimates for grading and all public improvements.
 - iv. A copy of any proposed homeowners association documents, private covenants or deed restrictions.
 - v. Commitment for Title Insurance.
 - vi. If a common interest community (CIC) is created, the developer shall provide proof that a replacement reserve amount was created in accordance with Minnesota Statute 515(b) (3)-1141.

(B) *Review of Final Plat.*

- (1) The application shall be in substantial compliance with the approved preliminary plat, including any modifications required as a condition of preliminary plat approval. Pursuant to Minnesota Statutes, Chapter 462.358, an application for a final plat shall be approved or denied within 60 days of the date from the date of its official and complete submission unless extended pursuant to Statute or a time waiver is granted by the subdivider.
- (2) *Review by staff and other commissions or jurisdictions.* The City shall refer copies of the final plat to the City Engineer, Planner, Attorney, ~~the Park Commission~~, and the appropriate county, state, or other public agencies, including but not limited the Minnesota Department of Transportation, Watershed District and/or Washington County if the application abuts a county road or highway or county state-aid highway, and/or the Department of Natural Resources (DNR) if the application is within a Shoreland Overlay District and/or Floodplain Management District, for their review and comment. The City shall instruct the appropriate staff persons to prepare technical reports where appropriate, and to provide general assistance in preparing a recommendation on the action to the ~~Planning Commission~~ and City Council.

- (3) Planning Commission action. The Planning Commission shall review final plats only if the applicant is proposing a substantial change(s) as determined by City Staff from the preliminary plat as approved by the City Council.
- (4) *City Council Action.* The final plat shall be approved or disapproved within 60 days after the filing of the final plat by resolution and conditioned upon the execution of the development agreement for basic improvements, public dedication, security, and other requirements determined necessary or appropriate by the Council. If disapproved, the grounds for any refusal to approve a plat shall be set forth in the proceedings of the City Council and reported to the applicant.
- (5) The resolution approving the plat shall authorize the Mayor and City Clerk or Administrator to execute an endorsement of approval for the City. The Mayor and the City Clerk or Administrator shall not execute the endorsement until any development agreement or security required by the resolution of the approval have been approved in writing by the City Attorney.

(Am. Ord. 9705, passed 5-6-1997) (Am. Ord. 08-205, passed 4-3-2018)

(3) *Special assessments.* When any existing special assessments which have been levied against the property described are to be divided and allocated to the respective lots in the proposed plat, the Engineer shall estimate the cost of preparing a revised assessment roll, filing the assessment roll with the County Auditor, and making the division and allocation. Upon approval by the Council of the cost, the cost shall be paid to the City.

(4) *Recording final plat.* If the final plat is approved by the City Council, the subdivider shall record it with the Washington County Recorder within 180 ~~120~~ days after the City approval. If not filed with Washington County within 180 ~~120~~ days of City Council approval, the City approval of the final plat shall be considered void, unless a request for time extension is submitted in writing and approved by the City Council. No building permits shall be issued for construction of any structure on any lot in the plat until the City has received evidence of the plat being recorded by the County. This evidence may be in the form of a receipt or other documentation from Washington County.

(1997 Code, § 400.09) (Am. Ord. 08-205, passed 4-3-2018) Penalty, see § 10.99

§ 153.11 VARIANCES; STANDARDS; PLATTING.

(A) *Purpose.* The City may grant a variance ~~A variance may be granted~~ from the minimum standards required by this chapter as they apply to specific property where unusual hardship on the land exists, but variances may be granted only upon the specific ground set forth in this section. In granting any variance, the Planning Commission may recommend, and the Council shall prescribe, the conditions as it deems necessary and desirable to protect the public interests. In no case shall any of the procedural requirements of this chapter be waived nor shall a variance be deemed to permit any waiver or avoidance of the procedural requirements.

(B) *Planning Commission review.* No variance shall be granted until the matter has been considered by the Planning Commission. In making its recommendations, the Planning Commission shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity.

(C) *Findings.* A variance shall be granted only where the City Council finds:

(1) That there are special circumstances or conditions affecting the applicant's land that the strict application of the minimum standards of this chapter would deprive the applicant of the reasonable use of that land;

(2) That the granting of the variance will not be detrimental to the public welfare or injurious to other property; and

(3) That the variance required by reason of unusual hardship relating to the physical characteristics of the land.

(1997 Code, § 400.11) (Am. Ord. 08-205, passed 4-3-2018)

§ 153.12 VARIANCE PROCEDURES.

(A) *Application.* Requests for a variance to the City subdivision standards or an appeal shall be filed with the City on an official application form. The application shall be accompanied by a fee as established from time to time by resolution of the City Council. The application shall also be accompanied by detailed written and graphic materials necessary for the explanation of the request. The applicant shall submit a minimum of 4 large scale copies and 10 reduced scale (11" X 17") copies and electronic versions of all graphics.

(B) *Hearing.* The Planning Commission shall hold a public hearing on the variance request in accordance with the standards set forth in the zoning code.

(C) *Appearance of applicant before Planning Commission.* The applicant or a representative of applicant shall appear before the Planning Commission in order to answer questions concerning the proposed variance request.

(D) *Findings.* The Planning Commission shall make its findings and recommend the actions or conditions relating to the request as they deem necessary to carry out the intent.

(E) *Approval/denial.* Upon receiving the report and recommendation of the Planning Commission, the City Council shall decide whether to approve or deny the request for a variance. The City Council shall not grant a variance until it has received the report and recommendation from the Planning Commission or until 30 days after the application was accepted by the City. The Council shall decide whether to approve or deny the request for a variance or an appeal no later than 60 days after the filing of the application unless a time extension is granted in accordance with Minnesota State Law.

(F) *Written findings and order.* The City Council shall make written finding of fact and order in granting or denying any application for a variance or appeal. In granting any variance or

making any order related to a variance or appeal, the City Council shall impose any condition it considers necessary to protect the public health, safety, or welfare.

(G) *Notification of decision.* The Planning Director or the City Clerk shall notify the applicant of the Council's decision in writing.

(1997 Code, § 400.12) (Am. Ord. 08-205, passed 4-3-2018)

§ 153.13 PLANNED UNIT DEVELOPMENTS (P.U.D.).

(A) Upon receiving a report from the Planning Commission, the City Council may grant exceptions from the provisions of these regulations in the case of a Planned Unit Development, provided that the City Council finds that the proposed development is fully consistent with the purpose and intent of these regulations and in compliance with the Planned Unit Development objectives as identified in Article XVII of the zoning code.

(B) This provision is intended to provide the necessary flexibility in City subdivision standards for new land planning and land development trends and techniques.

(1997 Code, § 400.13) (Am. Ord. 08-072, passed 3-5-2013) (Am. Ord. 08-205, passed 4-3-2018)

§ 153.14 ENGINEERING DESIGN STANDARDS; REQUIRED IMPROVEMENTS.

Submittals must meet plan sheet format requirements set forth by the City of Lake Elmo Engineering Design Standards.

(A) *Blocks.*

(1) In general, intersecting streets, determining block lengths, shall be provided at the intervals as to serve cross traffic adequately and to meet existing streets. Where no existing plats control the blocks in residential subdivisions, blocks shall not be less than 600 feet nor more than 1,800 feet in length, except where topography or other conditions justify a departure from this maximum. In blocks longer than 900 feet, pedestrian ways and/or easements through the block may be required near the center of the block. Blocks for business or industrial use may vary from the elements of design contained in this section if the nature of the use requires other treatment.

(2) The width of the block shall normally be sufficient to allow 2 tiers of lots of appropriate depth. Blocks intended for business or industrial use shall be of the width as to be considered most suitable for their respective use, including adequate space for off-street parking and deliveries.

(3) Blocks for commercial and industrial areas may vary from the elements of design contained in this section if the nature of the use requires other treatment. In those cases, off-street parking for employees and customers shall be provided along with safe and convenient limited access to the street system. Space for off-street loading shall also be provided with

similar access. Extension of roads, railroad access right-of-way, and utilities shall be provided as necessary.

(B) *Lots.*

(1) *Area.* The minimum lot area, width, and depth shall not be less than that established by the zoning code in effect at the time of adoption of the final plat.

(2) *Corner lots.* Corner lots for residential use shall have additional width to permit appropriate building setback from both streets as required in the zoning code.

(3) *Side lot lines.* Side lines of lots shall be approximately at right angles to street lines or radial to curved street lines.

(4) *Frontage.* Every lot must have a minimum frontage on a public street accepted for maintenance purposes by the City (or to be accepted upon completion of construction by the applicant), other than an alley, as required in the zoning code. No subdivision shall be permitted which will result in a lot with less than the minimum frontage on a public street as required by the zoning code except where a variance is granted as provided by this chapter. In no case shall a variance to this frontage requirement be granted which would permit access to a lot by means of an easement or private road except as provided in § 153.101.

(5) *Setback lines.* Setback or building lines shall be shown on all lots intended for residential use and shall not be less than the setback required by the zoning code.

(6) *Water courses.* Lots abutting a water course, wetlands, drainage way, channel, or stream shall have additional depth and width, as required under the provisions of the zoning code for the shoreland and wetland system districts.

(7) *Features.* In the subdividing of any land, due regard shall be shown in the proposed design for all natural features, such as tree growth, water courses, wetlands, historic spots, or similar conditions which, if preserved, will add attractiveness and stability to the proposed development.

(8) *Lot remnants.* All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots or planned as outlots, rather than allowed to remain as unusable parcels.

(9) *Frontage on 2 streets.* Double frontage, or lots with frontage on 2 parallel streets, shall not be permitted except where lots back on arterial streets or highways, or where topographic or other conditions render subdividing otherwise unreasonable. Double frontage lots shall have an additional depth of at least 20 feet in order to allow space for screen planting along the back lot line.

(10) *Turn-around access.* Where proposed residential lots abut a collector or arterial street, they should be designed and platted in a manner as to encourage turn-around access and egress on each lot.

(11) *Minimum lot line.* No lot shall have a total width at the front or rear lot line of less than 30 feet.

(12) *Large lot planning.* In any area where lots are platted in excess of 24,000 square feet or 160 feet in width at the minimum building setback line, a preliminary resubdivision plan may

be required showing a potential and feasible way in which the lot or lots may be resubdivided in future years for more intensive use of the land, the placement of buildings or structures upon the lots shall allow for potential resubdivision.

(13) *Shoreland.*

(a) *Land suitability.* No land shall be subdivided which is held unsuitable by the City for the purposed use because of flooding, inadequate drainage, steep slopes, soil and rock formations with severe limitation for development, severe erosion potential, inadequate water supply or sewage disposal capabilities.

(b) *Review by Commissioner of Natural Resources.* All plats within a shoreland district shall be reviewed by the Commissioner before approval by the City may be granted. Review shall require that the proposed plats be received by the Commissioner at least 10 days before a hearing is called by the City for consideration of approval of a preliminary plat.

(c) *Copies of plats supplied to Commissioner.* Copies of all plats within shoreland areas shall be submitted to the Commissioner within 10 days of final approval by the City.

(C) *Easements.*

(1) *Width and location.* An easement for utilities at least 10 feet wide, shall be provided along all lot lines. If necessary for the extension of main water or sewer lines or similar utilities, easements of greater width will ~~may~~ be required along lot lines or across lots. See section 150.277(A) (2) (e) of the City Code and the City's Engineering Design Guidelines for other applicable easement regulations.

(2) *Continuous utility easement locations.* Utility easements shall connect with easements established in adjoining properties. These easements, when approved, shall not subsequently be changed without the approval of the City Council after a public hearing.

(3) *Provisions for drainage.* Easements shall be provided along each side of the center line of any water course or drainage channel whether or not shown in the Comprehensive Plan, to a width sufficient in the judgment of the City Council to provide proper maintenance and protection and to provide for storm water runoff and installation and maintenance of storm sewers. They shall be dedicated to the City by appropriate language in the owner's certificate. See section 150.277(A) (2) (e) of the City code for other applicable easement regulations.

(D) *Erosion and sediment control.* Erosion and sediment control plans shall be provided in accordance with section 150.277(B) of the City code.

(E) *Drainage.* A complete and adequate drainage system design, in accordance with the Watershed District, section 150.277(A) of the City code, and Local Storm Water Management Plan, approved by the City Engineer, shall be required for the subdivision.

(F) *Monuments for plats.*

(1) Official monuments, as designated or adopted by the County Surveyor's Office or approved by the County District Court for use as judicial monuments, shall be set at each corner or angle on the outside boundary of the final plat or in accordance with a plan as approved by the City Engineer. The boundary line of the property to be included with the plat must be fully

dimensioned, all angles of the boundary excepting the closing angle to be indicated, all monuments and surveyor's irons to be indicated, each angle point of the boundary perimeter to be so monumented.

(2) Twenty-four inch long pipes or steel rods shall be placed at each lot and at each intersection of street center lines. All United States, state, county, or other official bench marks, monuments, or triangular stations in or adjacent to the property shall be preserved in precise position and shall be recorded on the plat.

(3) A second monumentation shall be required following the final grading and completion of streets, curbs and utility improvements for a plat in order to ensure that all irons and monuments are correctly in place.

(4) (a) Proof of the final monumentation shall be in the form of a surveyor's affidavit that the monumentations complete. The surveyor's affidavit shall be submitted to the county; and

(b) Surveyor's office and to the City within 1 year from the date of recording the plat.

(G) *Sanitary sewer and water distribution and public utilities.*

(1) Sanitary sewers and water facilities shall be installed in accordance with the City's Engineering design Standards Manual ~~standards~~ and specifications as provided for in the City's Comprehensive Sewer Plan and Water Supply and Distribution Report, and other City plans, and shall be subject to the review and approval of the City Engineer.

(2) Where City water facilities are not available for extension into the proposed subdivision. The City Council may, by ordinance, grant a franchise for the water facilities, to serve all properties within a subdivision where a complete and adequate neighborhood water distribution system is designed in conjunction with the subdivision, and complete plans for the system are submitted for the approval of the Council.

(3) Where City sewer and water facilities are not available for extension into proposed subdivision, the City Council may permit the use of private or other water and sewer systems in accordance with all appropriate state and local regulations.

(4) All utility lines are to be placed underground in accordance with the provisions of all applicable City ordinances and standards. Exceptions to this requirement may be granted by action of the City Council.

(H) *Streets, alleys, and curbs.* The design of streets, alleys, and curbs shall conform to the City of Lake Elmo Engineering Design Standards.

(1) *Streets, continuous.* Except for cul-de-sacs, streets shall connect with streets already dedicated in adjoining or adjacent subdivisions, or provide for future connections to adjoining unsubdivided tracts, or shall be a reasonable projection of streets in the nearest subdivided tracts. The arrangement of thoroughfares and collector streets shall be considered in their relation to the reasonable circulation of traffic, to topographic conditions, to runoff of storm water, to public convenience and safety, and in their appropriate relation to the proposed uses of the area to be served.

(2) *Local streets and dead-end streets.* Local streets should be so planned as to discourage their use by non-local traffic. Permanent dead-end streets are prohibited except for public streets

that will provide a street connection to an adjoining property. Cul-de-sacs shall be permitted where topography or other physical conditions justify their use. Temporary and permanent cul-de-sacs shall be designed in conformance with the City of Lake Elmo Engineering Design Standards.

(3) *Street plans for future subdivisions.* Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan for a proposed future street system for the unsubdivided portion of the parcel shall be prepared and submitted to the City by the subdivider.

(4) *Provisions for resubdivision of large lots and parcels.* When a tract is subdivided into larger than normal building lots or parcels, the lots or parcel shall be arranged to permit the logical location and openings of future streets and appropriate resubdivision, with provision for adequate utility connections for the resubdivision.

(5) *Subdivisions abutting collector or minor arterial streets.* Wherever a proposed subdivision abuts or contains an existing or planned collector or minor arterial street as designated on the City's thoroughfare plan, the lots shall access onto local streets wherever possible. Local streets may be existing or provided with the subdivision.

(6) *Alleys.* Except in the case of a planned unit development, either a public or private alley may be required in a block where commercially zoned property abuts a major thoroughfare or a major street. Alleys in residential areas other than those zoned for multiple family use shall not be permitted.

(7) *Half streets.* Dedication of half streets shall not be approved, except where it is essential to the reasonable development of the subdivision and in conformity with the other requirements of these regulations, where it is found that it will be practical to require the dedication of the other half when the adjoining property is subdivided, or where it becomes necessary to acquire the remaining half by condemnation so that it may be improved in the public interest.

(8) *Adding width to existing streets.* Where a subdivision abuts or contains an existing street of inadequate width, sufficient additional width shall be provided to meet standards set forth in the City of Lake Elmo Engineering Design Standards and/or other applicable standards.

(9) *Additional right-of-way and roadway widths.* Additional right-of-way and roadway widths may be required to promote public safety and convenience when special conditions require it or to provide parking space in areas of intensive use or to accommodate on or off-road pedestrian facilities.

(10) *Street improvements for plats.*

(a) The City Engineer shall determine when the full width of the right-of-way shall be graded, including the subgrade in accordance with the provisions for construction as outlined in the *City of Lake Elmo Engineering Design Standards*.

(b) All streets shall be designed and improved in accordance with the City Engineering Design Standards. ~~standards and specifications for street construction established by the Council.~~

(11) *Curb and gutter.* Curb and gutter shall be provided when required in accordance with the *City of Lake Elmo Engineering Design Standards*.

- (13) Proposed streets shall conform to the state, county, or local road plans or preliminary plans as have been prepared, adopted and/or filed.

(I) *General improvements.* The following shall be installed in accordance with the City of Lake Elmo Engineering Design Standards Manual and all other applicable City standards:

- (1) Trees and boulevard sodding.
- (2) Streets signs shall be installed at each intersection.
- (3) Driveway approaches, sidewalks, or pedestrian pathways.
- (4) Street lighting fixtures.

(5) Sidewalks are required on one side of all streets. The City Council may require sidewalks along both sides of all streets in areas where the residential density equals or exceeds 3 dwelling units per net acre of land or in any commercial, industrial, or other business areas if the City Council determines that sidewalks are required for public safety.

(1997 Code, § 400.14) (Am. Ord. 08-024, passed 4-20-2010) (Am. Ord. 08-205, passed 4-3-2018) Penalty, see § 10.99

§ 153.15 PARK LAND DEDICATION REQUIREMENTS.

(A) *Dedication of land for park and open space use.* In all new residential subdivisions, a percentage of the gross area of all property subdivided shall be dedicated for parks, playgrounds, trails, public open space, or other public recreational use. For non-residential developments, the City requires a payment in lieu of land dedication as established by resolution of the City Council. Such percentage or fee shall be in addition to the property dedicated for streets, alleys, waterways, pedestrian ways or other public use pursuant to this chapter. The following schedule describes the required dedication by zoning district. This schedule is based upon density of the development allowed in each district and is intended to equalize the amount and value of land dedicated for parks per dwelling unit in the various districts.

<i>Zoning Districts</i>	<i>Minimum Required Land Dedication</i>
V-LDR, GCC, LDR, MDR, HDR,	10%
RS, AG, RE, RR (Rural Districts)	5%
C, CC, LC, BP, VMX, MU-BP, MU-C	Fees as set by Council resolution ^a

- a. A 10% charge is applied if a residential component is incorporated into the development/subdivision. However, the 10% charge does not apply to a minor subdivision.

(B) *Land title.* Public land dedications, which are not dedicated to the City on a plat, shall be conveyed to the City by warranty deed free and clear of all liens or encumbrances. The subdivider shall provide proof of title, in a form acceptable to the City, prior to the conveyance of the property.

(C) *Land acceptability.* The City must approve the location and configuration of any park land which is proposed for dedication and shall take into consideration the suitability of the land and for its intended purpose; the future needs of the City for parks, playgrounds, trails, or open space; and the recommendations of the City's Parks Commission. The following properties shall not be accepted for park land dedications:

(1) Land dedicated or obtained as easements for streets, sewer, electrical, gas, storm water drainage and retention areas, or other similar utilities and improvements;

(2) Land which is unusable or of limited use; and/or

(3) Land within a protected wetland or within a flood plain area unless the Council determines that all of the following criteria are satisfied:

(a) Would be in the best interests of the general public;

(b) Would be valuable resource for environmental preservation, educational, or habitat preservation purposes;

(c) Has an exceptional aesthetic value; and

(d) Would not become financially burdensome to the City as a result of maintenance or preservation requirements.

(D) *Trails.* Trails constructed by a subdivider within dedicated public open space having at least 30 feet of width are eligible for park credit. The maximum amount of trail dedication credit shall not exceed 25% of the total required park dedication. To receive credit for a trail, there must be a through public trail connection to the larger Lake Elmo or Washington County trail network. If the proposed trails are not able to connect to existing trails, they must be installed in a way that would provide a connection to future planned trails as additional infrastructure is established.

(E) *Cash contribution in lieu of land dedication - residential subdivisions larger than three lots.* In lieu of the land dedication for major subdivisions, the City may elect to require the subdivider to contribute a cash equivalent payment to the City's Park and Open Space Fund, or may require the developer to satisfy the park land dedication requirement by a combination of land and cash contribution. For all major subdivisions, the required cash equivalent payment shall be an amount equal to the fair market value of the required percentage land dedication for the zoning district in which the subdivided property is located (as shown in the Table in Section 153.15 (A)). The City shall determine the fair market value of the land by reference to current market data, if available, or by obtaining an appraisal from a licensed real estate appraiser; the subdivider shall pay for the cost of the appraisal. The fair market value determination of the appraiser shall be conclusive.

(F) *Cash contribution in lieu of land dedication - minor residential subdivisions, lot divisions and commercial development.* Required cash equivalent payments for minor subdivisions, lot

divisions or for commercial development projects shall be as determined from time to time by Council resolution and as is set in the City's fee schedule.

(G) *Payment of cash contribution.* Cash contribution payments shall be made to the City prior to release of building permits for the project or phase of development.

(H) Previously subdivided property from which a park dedication or cash in lieu contribution has been received, upon resubdivision with the same number of lots, is exempt from park dedication requirements. If, as a result of the resubdivision of the property, the number of lots is increased, the park dedication or cash in lieu contribution shall be applied only to the net increase in the number of lots.

(F) *Park Dedication Fund*

(1) A cash contribution paid to the City shall be placed in a special fund. The money shall be used only for:

(a) The acquisition and development or improvement of parks, recreational facilities, playgrounds, trails, wetlands or open space based on the approved park systems plan;

(b) Redevelopment or rehabilitation of existing park facilities or sites; or

(c) Debt service in connection with land previously acquired or improvements thereto previously constructed.

(2) No funds shall be used for ongoing operation or maintenance of existing parks recreational facilities or sites or City vehicles.

(1997 Code, § 400.15) (Am. Ord. 08-072, passed 3-5-2013) (Am. Ord. 08-205, passed 4-3-2018) Penalty, see § 10.99

§ 153.16 REQUIRED IMPROVEMENTS; FINANCIAL ARRANGEMENTS.

(A) *Improvements.* All sanitary sewer, water main and storm sewer facilities, streets, concrete curb, gutters, sidewalks, sodding, drainage swales, and other public utilities ("improvements") shall be made and constructed on or within the subdivided lands or where otherwise required. ~~and dedicated~~ The developer must either dedicate easements to the City ~~and shall in the plat or grant the City an easement by separate instrument for the improvements. The improvements must be~~ designed in compliance with City standards by a registered professional engineer.

(B) *Plans and specifications approval.* Plans and specifications shall be submitted to the City Engineer for approval prior to construction. All of the improvements shall be completed by the developer and acceptable to the City Engineer and shall be free and clear of any lien, claim, charge, or encumbrance, including any for work, labor, or services rendered in connection therewith or material or equipment supplied therefor.

(C) *Improvement ~~warrantees~~ warranties and guarantees.* The Ddeveloper shall warrant and guarantee ~~the~~ all public sewer and water improvements against any defect in materials or

workmanship and warrant that they will continue to meet all technical specifications and standards for a period of 2 years ~~following completion and acceptance~~ from the date of final written city acceptance of the work. The developer shall warrant and guarantee all public street construction, including concrete curb and gutter, sidewalks, and trails for a period of one year from the date of final written city acceptance of the work. The developer shall warrant and guarantee all sod, trees, and landscaping for a period of two years from the date of final written city acceptance of the installation. In the event of the discovery of any defect in materials or workmanship within the ~~2-year~~ warranty period, the defect shall be promptly repaired or corrected, ~~and the warranty and guarantee for the entire project shall be extended for 1 additional year beyond the original 2-year period, for a period of 3 years following the completion and acceptance. Defects in material or workmanship shall be determined by the City Engineer. If the developer fails to repair or replace a defective improvement during the warranty period, the city may repair or replace the defective improvement and may use the financial security posted by the developer to reimburse itself for such costs. The developer shall reimburse the city fully for the cost of the repair or replacement if the cost exceeds the remaining amount of the financial security. In the event that the developer does not reimburse the city for the costs that exceed the amount of the financial security, the city may specially assess any unreimbursed costs against any of the unsold lots in the subdivision.~~

(D) *Required inspections of improvements.* Improvements that are to be installed shall be inspected during the course of construction by the ~~City Engineer~~ developer's field inspection personnel to assure an acceptable level of quality control to the extent that the developer's engineer will be able to certify that the works meets the approved plans and applicable regulations and standards. The City, at the developer's expense, ~~Notice shall be given to the City Engineer a minimum of 24 hours prior to the required inspection. Failure to provide City Engineer with required notice shall result in a stop order issued to the project. If developer proceeds with work within the development without required inspection, City Engineer shall~~ may have the discretion to accept or reject all or part of the improvement, by giving appropriate written notice to the developer one or more City inspectors or a soil engineer inspect the developer's work. The developer must notify the City at such times as the City requires for inspection purposes.

(E) *Acceptance of improvements.* Acceptance of improvements by the City Engineer may be subject to the reasonable conditions as Engineer may impose at the time of acceptance. ~~Developer, through his or her engineer, shall provide for competent daily inspection during the construction of all improvements. As-built drawing, Whitehall include service and valve ties, on reproducible mylar shall be delivered to the Engineer within 60 days of completion of the improvements together with a written certification from a registered engineer that all improvements have been completed, inspected, and tested in accordance with City approved plans and specifications.~~

(F) *Changes to construction plans and specifications.* All changes to the construction plans and specifications must be approved by the City Engineer.

(G) *Clean-up obligations; street signs.*

(1) ~~D~~ The developer shall ~~remove all soil and debris from and clean all~~ be responsible for keeping streets within and throughout the ~~the lands developed in accordance with § 150.277(B)(2)(d) of this code~~ subdivision clean and free of dirt and debris that may spill, track, or wash onto the street from the developer's operations. The developer must contract for street cleaning for streets within and immediately adjacent to the subdivision.

(2) In the event there are or will be constructed on the property, 2 or more streets, and if permanent street signs have not been installed, the developer shall install temporary street signs in accordance with recommendations of the ~~Maintenance~~ Public Works Department, prior to the issuance of any permit to build upon the property.

(H) *Erosion control.* Erosion control shall be provided ~~with the installation of utilities and street curbs~~ in accordance with the *City of Lake Elmo Engineering Design Standards*.

(I) *Developers agreement/security.* Subsequent to approval by the City Council of a final plat and before execution by the City of the final plat or other appropriate forms of City approval, the developer shall:

(1) Enter into a developer's agreement whereby the developer shall undertake performance of the obligations imposed by this chapter, or by City Council condition, and containing the other terms and provisions and in the form as shall be acceptable to the City Attorney, including, but not limited to, provisions for default ~~including fines and penalties~~; and

(2) Submit a letter of credit or cash deposit ("security") which guarantees completion of all improvements within the times specified by the City Engineer. The amount of the security shall be 125% of the estimated construction cost of the improvements, ~~subject to reduction as outlined by the development agreement after acceptance thereof by the City Engineer, and receipt of as-built drawings.~~ The security shall be in the form and contain the other provisions and terms as may be required by the City Engineer and ~~for~~ City Attorney. The developer's registered engineer shall make and submit for approval to the City Engineer, a written estimate of the costs of the improvements in order for the City to determine the amount of the security required. Reduction of security shall be as outlined per the development agreement.

(J) *Petitions for improvements by City.* With the approval of the City Council, and instead of the obligations imposed by ~~divisions~~ paragraphs (A) through (I) above, the developer may enter into an agreement signed by 100% of all owners of the land to be developed, requesting the City to install some or all of the improvements, request all of the costs be assessed against the property, and waiving the rights to appeal from the levied special assessments. Upon approval by the City Council, the City may cause the improvements to be made and special assessments for all costs of the improvements to be levied on the land, except any land that is or shall be dedicated to the public. The special assessment shall be payable ~~over a term of 5 years unless otherwise authorized~~ as determined by the City Council. Prior to the award of any contract by the City for the construction of any improvement, developer shall have entered into a contract for

rough grading of streets included in the improvement to a finished subgrade elevation, and including the other terms as required by City Council. Developer's obligation with respect to the rough grading work shall be secured by letter of credit, or the deposit which shall guarantee completion, and payment for all labor and materials expended in connection with the rough grading. The amount of the security shall be 125% of the cost of the rough grading and shall be in the form and contain the further terms as may be required by the City Engineer and/or City Attorney.

(K) *City Attorney approval.* No final plat shall be approved by the City Council without first receiving an ~~report~~ opinion signed by the City Attorney certifying that the plat, title evidence, and all agreements and documents required under this chapter meet the requirements of the City. ~~The City Treasurer shall also certify that all fees required to be paid to the City in connection with the plat have been paid.~~

(1997 Code, § 400.16) (Am. Ord. 08-024, passed 4-20-2010) (Am. Ord. 08-205, passed 4-3-2018) Penalty, see § 10.99

§ 153.17 FEES.

(A) The ~~City~~ Council shall by ordinance, adopted from time to time, establish fees to be paid by the applicant to defray the administrative costs and expenses incurred by the City in processing land use and subdivision ~~development~~ applications, ~~applications for variance or appeals~~ under the provisions of this chapter.

(B) Fees to be paid by the applicant shall include all administrative, engineering, legal, and consulting fees and materials costs reasonably incurred in the review of the proposed subdivision and the processing of the applications or appeals.

(1997 Code, § 400.17) (Am. Ord. 08-205, passed 4-3-2018)

§ 153.18 VIOLATIONS.

(A) *Sale of lots from unrecorded plats.* It shall be a violation of this chapter to sell, trade, offer to sell, trade, or otherwise convey a lot or parcel of land as part of, or in conformity with any plan, plat, or replat of any subdivision or area located within the City unless the plan, plat, or replat shall first have been approved by the City in writing as provided by this chapter and in the case of a plat, replat, or registered land survey unless the survey is recorded in the office of the County Recorder or Registrar of Titles.

(B) *Misrepresentation as to construction, supervision, or inspection of improvements.* It shall be unlawful for any person to represent that any improvement upon any of the streets, alleys, or

avenue of the addition or subdivision or any sewer in the addition or subdivision has been constructed according to the plans and specifications approved by the Council, or has been supervised or inspected by the City, when the improvements have not been so constructed, supervised, or inspected.

(1997 Code, § 400.18) (Am. Ord. 08-205, passed 4-3-2018) Penalty, see § 10.99

SECTION 2. Effective Date. This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 3. Adoption Date. This Ordinance 08- was adopted on this _____ day of ____ 2019, by a vote of ____ Ayes and ____ Nays.

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk

This Ordinance 08-205 was published on the _____ day of _____, 2019.