



**STAFF REPORT**

**DATE:** 9/3/2024

**Item#:** 17

**Regular Agenda**

**TO:** City Council  
**FROM:** Jason Stopa, Community Development Director  
**AGENDA ITEM:** **Zoning Text Amendment – OP-PUD**  
**REVIEWED BY:** Ashley Monterusso, City Planner; Nathan Fuerst, Bolton and Menk Planning Consultant; Sophia Jensen, City Planner; Jack Griffin, City Engineer – Focus Engineering; Marty Powers, Public Works Director

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**BACKGROUND:**

Both the City Council and Planning Commission requested the department review the Open Space Planned Unit Development (OP-PUD) code. The Planning Commission’s 2024 work plan includes reviewing the Open Space Planned Unit Development (OP-PUD) Ordinance. After reviewing recent concept plan applications, discussing challenges with developers, and reviewing the language with Engineering and Public Works, staff have identified several areas of the ordinance that could be updated and clarified. The staff presented and made recommendations to amend the OP-PUD code at two City Council Workshops. The staff modified the proposed text amendment based on the comments from City Council. Staff are proposing a general cleanup of the ordinance along with new standards for consideration.

**ISSUE BEFORE THE CITY COUNCIL:**

The City Council is being asked to decide on the proposed text amendment to the City’s Open Space Planned Unit Developments Code.

**DETAILS:**

City Zoning Code Sections under review:

- **1.08.010 (General Provisions - Terms Defined)**
  - **105.12.1120 (Zoning Code – Planned Unit Development Regulations)**
  - **105.12.980-105.12.1110 (Zoning Code – Open Space Planned Unit Developments)**
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**REVIEW AND ANALYSIS**

The full text amendment is attached. The proposed language is underlined. Deleted language is shown with a ~~strikethrough~~. Below is a summary of the amendments with code sections.

**1. 1.08.010 (General Provisions - Terms Defined)**

- Staff is proposing adding a definition for “open space area” as referenced in 105.12.1050 (7)(a) under Open Space and park land adjustments. There currently is not a definition for “open space area” in city code. Adding one is suggested to give clarity to the section.
- Proposed definition:

*Open space area means the measurement of all undeveloped land and natural features within a subdivision or planned unit development. Trails outside of the road rights-of-way and agricultural buildings are included in the open space area. Road rights-of-way and buildable lots are not considered open space area.*

2. **105.12.1120 (Zoning Code – Planned Unit Development Regulations)** Add clarification to the intent of Planned Unit Developments. See attached for proposed update.

3. **105.12.980-105.12.1110 (OPEN SPACE PLANNED UNIT DEVELOPMENTS)**

A. **Add clarity to setbacks for accessory use - (105.12.1040)**

- Staff identified confusing language around setbacks within the OP-PUD for accessory structures. The added language and accompanying table are based on underlying zoning districts. Adding new language to the sections is intended to offer clarity.

B. **Update Open Space PUD Design Standards - 105.12.1050**

1. *Density.*

- Staff is suggesting increasing the density from .45 units per acre to .8 units per acre. The reason for increasing density is two-fold. First, it is intended to preserve more open space and natural resources, which is in line with the primary goals of OP-PUD. Secondly, increasing density makes development in Lake Elmo more economically competitive.

2. *Septic design identification.*

- Based on feedback from the city engineer, staff has added low pressure sewer guidance to sites proposing individual septic tanks.

3. *Identification of required buffers.*

Staff is proposing amending the language in this section for conciseness and clarity.

4. *Placement of streets.*

- Based on feedback from the public works director and city engineer, staff added permissions for 28-foot-wide streets with parking on one side of the road. This language is meant to add flexibility for developers while maintaining high design standards and connectivity for the city.

5. *Lot creation.*

- Staff is suggesting that single-family lots that are served by individual septic tanks utilizing communal drain fields decrease in size from 21,780 square feet to 16,000 square feet. Staff also propose a 100' minimum lot width and a 160' minimum lot depth. These changes are meant to encourage development and have been reviewed by the city engineer as acceptable.

6. *Lot specific buildable areas.*

- Added setbacks for accessory structures.

7. *Open space and park land adjustments.*

- The development is required to construct a stormwater reuse pond for irrigation.

C. **Update Open Space PUD Development Standards – 105.12.1060**

1. *Building standards.*

- Staff is proposing adding an attached garage standard to be more consistent with the city's design standards. Staff is proposing that the

width of the garage shall not exceed 40 percent of the width of the entire building façade that is fronting the primary street.

2. *Landscaping standards.*

- Change tree standard from 10 per lot to 10 per acre of building lot area.

3. *Impervious surface standards.*

- Change to address lot coverage and set the maximum area to 30%.

4. *Trail and sidewalk standards.*

- Staff is proposing adding “sidewalk” to this section of code to encourage both trails and sidewalks in Open Space PUDs. Adding sidewalks to this section allows developers to choose a combination of trails and/or sidewalks for their project.
- Staff proposes changing language in this code to encourage that sidewalks be constructed along the lot frontage on one side of the road.
- Staff also proposes additional language to encourage trail connections to other developments and public places.
  - There is flexibility in the language in this area of code to require more than the sum of the centerline length of all public roads in the development at the discretion of the community development director or the city engineer.

**D. Update Open Space PUD Review Procedure, 105.12.1080**

- Staff is proposing cleaning up language in this section for consistency. See attached language.

**E. 105.12.980-105.12.1110**

- Staff is proposing updates for all mentions of “planning director” to “community development director”.

**ALIGNS WITH THE COMPREHENSIVE PLAN**

Below are sections of the Comprehensive Plan that support the proposed text amendment.

**Character & Governance: CG Goal #3.** Maintain and Enhance connections of all residents to the natural resources and open space amenities throughout the community. **P 2:6**

***Strategies***

- a. Create an interconnected network of open spaces and trails that provide connections between urbanizing and rural areas of the community.
- b. Continue to support open space developments in the rural residential areas that protect important natural resources and provide connections to public parks, open spaces and trails.
- c. Encourage development in the urbanizing areas to create their development plans using a natural resources plan that considers an interconnected network of public parks, natural resources, open spaces and trails.

**Balanced Development, & Growth (BDG) BDG Goal #1.** Encourage developers, landowners, and stakeholder to integrate the value of natural resource systems into new developments in all land use categories.

***Strategies***

- a. Explore ordinance amendments and changes that would require a natural resources inventory as part of a concept plan and preliminary plat process.
- b. Identify important natural features that should be prioritized for protection.

- c. Protect natural areas through encouraging the use of the open space development ordinance.
- d. Explore opportunities to apply tools and techniques contained within the open space development ordinance in the urbanizing areas of the community.

### **2040 Land Use Highlights – What’s to Come p 3:2**

The Existing Land Use Patterns in the Rural Residential areas should be protected through this planning period; some new rural residential neighborhoods, including open space developments, are anticipated to develop consistent with the City’s rural tradition.

### **Rural Patterns p 4:5**

The following sections describe the most common types of neighborhoods and development patterns in the City’s rural areas and it is anticipated that many of the following patterns, particularly Open Space Development neighborhoods, will continue to define the community through this planning period.

### **Open Space Development Neighborhoods p 4:6-7**

The City of Lake Elmo is known for pioneering innovative rural development patterns in the region which contributes positively to the character of the community. These rural developments, commonly referred to as Open Space Developments, embrace the lifestyle of the rural landscape capitalizing on the natural features residents desire. Several Open Space Developments have endured for decades to provide residents with opportunities to live near nature and preserve land for conservation, wildlife, and recreation.

In many ways much of the City’s existing rural residential neighborhood pattern is innovative, and unique from many similarly situated communities in the metropolitan area. There are over a dozen Open Space Development neighborhoods that include clustered residential uses with perpetually protected conservation areas. Neighborhoods such as the Fields of St. Croix, and the more recently developed Discover Crossing, are Open Space Development neighborhoods that are a part of the City’s continuing rural residential land use patterns. The principle characteristics of these neighborhoods is that homes in these neighborhoods are sited closer together (clustered) which allows for surrounding land to be preserved for open space, natural resources protection, recreational and trail opportunities, and natural surface water drainage.

The City will continue to promote the open space development neighborhood pattern of the next planning period and will guide potential developers to preserve areas with natural resource value. Developing with open space neighborhood patterns affords the City the opportunity to identify and protect important natural resources and provide multi-purpose connected greenways.

### **Chapter 6: Parks, Trails & Open Space Introduction p 6:1**

As the community grows, park, trail and open space development and management will continue to be a top priority for existing and incoming residents to ensure the system remains a defining characteristic of the community for future generations.

### **Regional Bicycle Transportation Network, Bikeways and Trails p 7:41**

As the system continues to grow, and key gaps and links are made, their use will likely increase as residents’ and others’ comfort level with the system improves. Focusing on public pedestrian/ bicycle trail planning and development compliments both the private trail development in several Open Space Development neighborhoods and the ‘central place’ philosophy, policy, and planning of the City regarding the Old Village.

## Chapter 10 Implementation: Balanced Development and Growth p 10:8

The City will review and update its Open Space Development ordinance to focus on building the greenway network through connected conservation areas, public trails, and other natural resources.

### HOW PROPOSED CHANGES BENEFIT THE CITY

#### Benefits

Staff is recommending changes that will increase benefits to the city.

*Stormwater irrigation ponds are required.* While encouraged in the past, the proposed text amendment requires them. This will reduce water usage.

*Buffers.* The proposed buffers will be larger than what is typically requested and sets a more realistic standard to follow.

Currently, the buffer requirements are unclear and allow for buffers near the development boundary if the buildable area is not within 200'. A portion of the buildable lot could be a part of the required buffer. This has resulted in developments with smaller buffers. Below is a table from the code of existing OP-PUDs.

<i>Buffer Setbacks in OP Developments (in feet)</i>					
	<i>North Edge</i>	<i>South Edge</i>	<i>West Edge</i>	<i>East Edge</i>	<i>Exception Parcels</i>
St. Croix's Sanctuary	200	50	50	100	
Discover Crossing	200	100	50	100	
Whistling Valley I	25	200	N/A	N/A	
Whistling Valley II	25	100	85	N/A	
Whistling Valley III	50	100	100	N/A	
Farms of Lake Elmo	100	50	100	25	
Prairie Hamlet	200	50	50	100	
Fields of St. Croix I	50	N/A	200	100	
Fields of St. Croix II	N/A	200	200	N/A	N/A
The Homestead	50	50	200	50	

Tapestry at Charlotte's Grove	50	50	200	50	100
Tamarack Farm Estates	100	100	100	100	
Sunfish Ponds	100	100	100	200	
Hamlet on Sunfish Lake	50	100	50	50	
Cardinal Ridge	100	200	50	50	
Wildflower Shoves	100	200	100	200	
Heritage Farms	50	N/A	N/A	50	N/A
Tana Ridge (Res. 2009-033)	N/A	N/A	50	50	
Parkview Estates (Res. 2009-033)	50; except lot 9, block five use 20 ft	N/A	N/A	50	

As shown above, many of the buffers are less than 200 feet and some as small as 25 feet. Staff is proposing reducing required buffers to 100 feet or 200 feet from a dwelling in an adjacent development, whichever is greater. The buffer cannot be a part of a buildable lot.

*Communal septic/drain fields.* According to a recent presentation by a developer's septic designer, new communal septic performs better than individual septic and has higher standards from the Minnesota Pollution Control Agency (MPCA). The proposed text amendment promotes communal septic since changes promote lots less than 1 acre. One acre is the minimum required lot area for individual septic.

*Density.* The current density at .45 is designed for 1 acre lots with 50% open space. While the code allows half acre lots, if built at the current density, the site would result in almost 75% open space. With the increase in land values and construction cost, this requirement may make projects unfeasible.

*Lot width and area.* Currently, lot width is not specified. The 100-foot minimum aligns with a few existing OP PUDs and exceeds the lot width of the single-family homes in Prairie Hamlet. Smaller lots should result in more open space.

*Trails.* The text amendment promotes trail construction and, in the future, connectivity to the Village from developments in the northern part of the city.

*Impervious coverage.* The text amendment creates a per lot standard that clarifies how it will be applied both before and after the house is constructed.

*Identification of preferred building pad locations.* Building pad locations, up to the maximum number of units permitted by LEC 105.12.1050(a), which preserve natural topography and

drainageways, minimize tree loss, protect historic sites or structures, and limit the need for soil removal and/or grading shall then be identified. The orientation of individual building sites shall maintain maximum natural topography and ground cover.

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**PUBLIC HEARING:**

A notice of public hearing was published in the City’s official newspaper on August 2, 2024, and the Planning Commission public hearing was held on August 12, 2024. Below is a summary of the public comment received:

Written Public Comment:

1. Karin Schubert: 5222 Keats Ave N (Opposed): *My concern is for changes to the property mentioned as far as “buildable land” is concerned.*
2. Jane Chars: PO Box 769, Stillwater (Opposed): *Please add established old growth hardwood tree stands to open space areas required to be protected and preserved. Attention should also be given to existing homeowners abutting new developments. Their views of existing natural resources should not be obstructed. The increase in buildable lots and decrease in setbacks are not recommended.*

Spoken Public Comment:

1. Tony Manzara: 5050 Kirkwood Avenue N, is opposed, due to it being contrary to the Comprehensive Plan.
2. Joan Ziertman: 5761 Keats Avenue N, is opposed, due to the density increase, lot size reduction, buffer set back reduction, impervious surface change, and the changes on the calculations from buildable land to total land area, no communications from the Met-Council, is contrary to the Comprehensive Plan.
3. Jane Chars, PO Box 769, Stillwater: is opposed, due to the increased density, lot sizes changes and mentioned that the traffic study should not be removed.
4. John Burban: 9612 57th Street N, is opposed due to lot size, population, water, traffic, sewer, infrastructure increases.
5. George Crocker: 5093 Keats Avenue N, is opposed due to this change being driven by developers.

**PLANNING COMMISSION:**

On August 12, 2024, the Planning Commission moved to recommend denial of the text amendment to the Open Space Planned Unit Developments and Planned Unit Development Regulations with a 4-0 vote. They felt that this is not the time for this change due to the existing Comprehensive Plan. It is inconsistent with the OP and rural district intent. They had concerns with infrastructure impacts/demand related increasing the density. They were supportive of changing the code conflicting language and grammatical errors.

**FISCAL IMPACT:**

None.

**OPTIONS:**

- Approve the proposed amendments.
- Amend the proposed amendments.

- Deny the proposed amendments.

**RECOMMENDATION:**

Staff recommends the City Council approve the proposed text amendments as presented by Staff.

*“Move to adopt Ordinance 2024-14 approving the zoning text amendments to the Open Space Planned Unit Development code as presented by Staff”*

*And*

*“Move to adopt summary of publication of Ordinance 2024-14 with approval of Resolution 2024-094*

**ATTACHMENTS:**

- Proposed Text Amendment
- Ordinance 2024-14 Zoning Text Amendment
- Resolution 2024-094 Summary of Publication



Red underlined text is new language. ~~Strikethrough text~~ is removed existing language.

## **CHAPTER 1.08 DEFINITIONS**

### **1.08.010 Terms Defined**

Open space area means the measurement of all undeveloped land and natural features within a subdivision or planned unit development. Trails outside of the road rights-of-way and agricultural buildings are included in the open space area. Road rights-of-way and buildable lots are not considered open space areas.

## **ARTICLE XVII OPEN SPACE PLANNED UNIT DEVELOPMENTS**

### **105.12.980 Purpose**

The purpose of open space planned unit developments is to provide greater development flexibility within rural portions of the community while maintaining the rural character by preserving agricultural land, woodlands, wildlife or natural corridors, pollinator and wildlife habitat, and other significant natural features consistent with the goals and objectives of the city's comprehensive plan. The city reserves the right to deny establishment of an open space PUD overlay district and direct a developer to re-apply under standard zoning provisions if it is determined that proposed benefits of the open space PUD do not justify the requested flexibilities.

### **105.12.990 Intent**

It is the intent of the city that open space planned unit developments will offer needed development flexibility within the agricultural, rural residential, and rural estate zoning districts to provide for:

- a) A variety of lot configurations and housing styles that may not otherwise exist within the city's rural areas;
- b) An avenue to provide a development density equal to or greater than what could be achieved via underlying zoning;
- c) A reduction in the costs to construct and maintain public facilities and infrastructure in a rural setting;
- d) Protected open space to enhance and preserve the natural character of the community;
- e) The creation of distinct neighborhoods that are interconnected within rural areas;
- f) To preserve large contiguous open spaces.

### **105.12.1000 Definitions**

Unless specifically defined in LEC 105.12, art. II, common definitions, words, and phrases used in this article shall be interpreted so as to give them the same meaning as they have in common usage throughout this Code and as may be found in LEC 1.08.

### **105.12.1010 Initiation Of Proceedings**

The owner of property on which an open space PUD is proposed shall file the applicable application for a PUD by paying the fees set forth in LEC 1.12.010 and submitting a completed application form and supporting documents as set forth on the application form and within this section. Complete applications shall be reviewed by city commissions as deemed necessary by the ~~director of planning~~ community development director and be acted upon by the city council. If a proposed open space PUD is denied, any subsequent application for a substantially similar PUD within one year of the date of denial shall fully address all findings which supported the denial prior to being accepted as complete.

#### **105.12.1020 Reflection On The Official Zoning Map**

- a) PUD provisions provide an optional method of regulating land use which permits flexibility from standard regulating provisions. Establishment of a PUD shall require adoption of an ordinance creating an overlay zoning district atop the boundaries of the development area. For each PUD district, a specific ordinance shall be adopted establishing all rules which shall supersede underlying zoning. Issues not specifically addressed by the PUD overlay district shall be governed by the underlying zoning district regulations.
- b) All open space preservation developments approved prior to October 4, 2016 shall be allowed to continue per the original conditions of approval.

#### **105.12.1030 Prerequisites For Open Space PUDs**

- a) Only land zoned as agricultural, rural residential, or rural estate may be considered for establishment of an open space planned unit development.
- b) The minimum land area for establishment of an open space planned unit development is a nominal contiguous 20 acres.
- c) Establishment of an open space planned unit development will be considered only for areas of land in single ownership or control. Alternatively, multiple party ownership, in the sole discretion of the city, is acceptable when legally sufficient written consent from all persons and entities with ownership interest is provided at the time of application.

#### **105.12.1040 Uses Within Open Space PUDs**

- a) *Primary uses.*
  - 1) *Permitted.*
    - a. Single-family, detached;
    - b. Preserved open space;
    - c. Conservation easements;
    - d. Agriculture;
    - e. Suburban farms;
    - f. Private stables;
    - g. Single-family, attached and Townhouses (no more than 25 percent in any development);

- h. ~~Townhouses (no more than 25 percent in any development);~~
        - h. Wayside stand; and
        - i. Public parks and trails.
      - 2) *Conditionally permitted.* None.
      - 3) *Interim permitted.* None.
    - b) *Accessory uses.*
      - 1) *Permitted.* Uses deemed by the director of planning ~~community development director~~ to be typically accessory to an established permitted use on the property as listed in subsection (a)(1) of this section. Setbacks are established in LEC 105.12.1050 subsection (b)(6) and other standards shall conform with the requirements in LEC 105.12.660-690.
      - 2) *Conditionally permitted.* None.
      - 3) *Interim permitted.* None.
    - c) *Prohibited uses.* All other uses not listed in subsection (a) or (b) of this section are hereby prohibited.
    - d) *Use restrictions and allowances.* The final PUD overlay district ordinance for an open space PUD may include specific provisions governing uses which supersede underlying zoning and the general PUD regulations herein.

#### **105.12.1050 Open Space PUD Design**

Open space PUDs shall comply with all of the following minimum design standards unless modifications are authorized for consideration by the city council via a super-majority vote.

- a) *Density.* The maximum dwelling unit density within an open space planned unit development shall be ~~18~~ **32** units per 40 acres of ~~buildable~~ **total** land ~~area~~ **area** (~~0.45~~ **0.8** dwelling units/acre) on the undeveloped parcel; however, the total number of dwelling units shall not exceed the density limitations contained in the comprehensive plan for open space preservation development. In addition, the applicant shall submit the proposed density based on buildable land area for comprehensive planning purposes.
- b) *Lot design.* Lot locations and configurations within open space planned unit developments shall be derived utilizing the following methodology. An applicant must be able to demonstrate how these steps resulted in the plan being proposed.
  - 1) *Soils analysis conducted.* A certified septic designer or soils scientist shall complete a review of the soils on the site, and categorize all areas as highly suitable for septic systems, moderately suitable for septic systems, or poorly suited for septic systems.
  - 2) *Septic design identification.* Based on the soils analysis, an applicant must identify whether the proposed development will be serviced by individual septic tanks and drain fields, or via a system of individual septic tanks which utilize one or more communal drain fields.
    - a. If individual septic tanks and drain fields can be supported by the available soils and is the chosen methodology to serve the development, all proposed lots must be able to provide primary and

secondary drain field sites on each lot (outside of drainage and utility easements), and must meet the minimum lot size standards outlined herein.

- b. If individual septic tanks which utilize a communal drain field (or fields) is the chosen methodology to serve the development, then the locations for communal drain fields shall be identified within the areas deemed the most suitable on the site for supporting septic utilities according to the soils analysis. All such areas shall be clearly denoted on provided plan sets.
  - c. Low pressure sewer should only be allowed in special circumstances as deemed necessary by the city engineer. When low pressure sewer is deemed necessary by the city engineer, it must be installed outside of the street pavement such that street excavation is not required for repairs or replacement.
- 3) *Identification of required buffers.* ~~No build zones from each property boundary shall be derived as follows:~~ A no build zone (buffer) between the proposed buildable lots and the PUD boundary shall be derived as follows:
- ~~a. A 200-foot buffer from all adjacent property lines that abut an existing residential development or a parcel of land not eligible for future development as an open space planned unit development due to insufficient parcel area.~~
  - ~~b. A 100-foot buffer from all adjacent property lines that abut land that is eligible for future development as an open space planned unit development.~~
  - ~~c. If the development site is adjacent to an existing or approved OP development, the required buffer shall be equivalent to the buffer that was required of the adjacent development (See LEC 105.12.170(b)).~~
- a. A 100-foot buffer from all adjacent property lines; or
  - b. A 200-foot buffer from all existing residential dwellings within an abutting residential development, whichever is greater.
  - c. The buffer shall not be a part of a buildable lot.
- 4) *Identification of preferred building pad locations.* Building pad locations, up to the maximum number of units permitted by LEC 105.12.1050(a), which preserve natural topography and drainageways, minimize tree loss, protect historic sites or structures, and limit the need for soil removal and/or grading shall then be identified. The orientation of individual building sites shall maintain maximum natural topography and ground cover.
- a. Building pads shall be located outside of required buffers; and shall be sited so as to provide ample room for accessory structures on each proposed lot.
  - b. If individual septic tanks and drain fields for each lot are to be utilized, locations for primary and secondary facilities for each proposed

building pad shall also be identified. All such sites must be verified as being viable as a component of PUD preliminary plan review.

- c. If individual septic tanks utilizing communal drain fields is intended, the plan must clearly identify which communal drain field will service each of the proposed building pads.

5) *Placement of streets.*

- a. Streets shall then be designed and located in such a manner as to:
  1. Maintain and preserve natural topography, groundcover, significant landmarks, historic barns, and trees;
  2. Minimize cut and fill;
  3. Preserve and enhance both internal and external views and vistas;
  4. Promote road safety;
  5. Ensure adequate access for fire and rescue vehicles; and
  6. Ensure and promote adequate vehicular circulation both within the development and with adjacent neighborhoods.
- b. The design of streets and the dedication of right-of-way shall be in compliance with the city's current engineering design standards and specifications as may be amended. 28-foot-wide streets with parking on one side are permitted.
- c. Streets shall not encroach into a required buffer area unless it can be demonstrated that such an alignment is necessary to achieve the goals outlined above, and that no equivalent option exists outside of the buffer. Driving surfaces that cross the buffer area at a 90 degree angle to provide current or future access to an adjacent property or boundary road shall be the only exception.

6) *Lot creation.* Based on the street locations, building pad locations, and septic system locations; lines to delineate individual lots shall then be identified in accordance with the following:

a. *Lots.*

1. Single-family lots being served by individual septic tanks and drain fields shall be a minimum of one acre in size;
2. Single-family lots being served by individual septic tanks utilizing communal drain fields shall be a minimum of ~~one-half acre (21,780 square feet)~~ 16,000 square feet in size with a 100' minimum lot width and 160' minimum lot depth. Lots designed with rear-loaded parking through a secondary access (alley), may reduce the required minimum front lot width to 80'.
3. All land reserved for communal septic system use shall be located within a dedicated outlot to be owned by the homeowners' association (HOA) of the development; and

4. Base lots for townhomes shall be large enough such that individual unit lots can meet all required structure setbacks contained herein.
- b. *Lot specific buildable areas.*
  1. The buildable area on each proposed lot which remains after consideration of each of the following shall be shown:
    - i. Required buffers from adjacent lands (See LEC 105.12.170(b));
    - ii. Required setbacks from waterbodies and non-buildable land per shoreland district regulations (See LEC 105.12, art. XIX);
    - iii. Steep slopes;
    - iv. Easements; and
    - v. Land within the following setbacks:

	<i>Housing Type</i>		<u><i>Accessory Structures</i></u>
	<i>Single-Family Homes</i>	<i>Townhomes</i>	
Front yard	30	20	<u>Not permitted</u>
Side yard	15 feet or ten percent of lot width, whichever is greater		<u>10</u>
Corner lot front yard	30		<u>Not permitted</u>
Corner lot street side yard	30		<u>15</u>
Rear yard	20		<u>20</u>

2. Proposed buildable area on each lot shall be sufficient to accommodate primary and accessory structures that are normal and customary to the type of development being proposed.

7) *Open space and park land adjustments.*

a. *Open space.*

1. The total preserved open space area within an open space planned unit development shall be no less than 50 percent of the total gross land area, as defined by LEC 1.08. If this threshold is not achieved after following the first six steps of lot design, the proposed lot areas will need to be adjusted or lots eliminated until this requirement is met.
2. Land needed for stormwater facilities as required by other provisions of this Code may count towards required open space for the purposes of open space PUD design, but must ultimately

be placed in outlots to be dedicated to the city. The development is required to construct a stormwater reuse pond for irrigation.

3. Excluding land needed for compliant stormwater facilities, not less than 60 percent of the remaining preserved open space shall be in contiguous parcels which are five acres or more in size.
  4. Preserved open space parcels shall be contiguous with preserved open space or public park land on adjacent parcels.
- b. *Park land.*
1. Parks and recreational facilities shall be provided in the open space PUD (or cash-in-lieu contributions must be made) in addition to preserved open space as specified in the city parks plan.
  2. Determination of whether a land dedication or cash-in-lieu contribution will be required to fulfill park land requirements will be at the discretion of the city council after it receives a recommendation from the city parks commission. If a required park land dedication causes overall open space to drop below the minimum threshold, the proposed lot areas will need to be adjusted or lots eliminated until the open space requirement is once again met.
  3. Any park dedication shall be consistent with the dedication and fee-in-lieu standards specified in LEC title 103.

#### **105.12.1060 Open Space PUD Development Standards**

Open space PUDs shall comply with all of the following development standards unless modifications are authorized for consideration by the city council via a super-majority vote.

- a) *Preserved open space standards.*
- 1) With the exception of stormwater facilities which must be dedicated to the city, all preserved open space within an open space planned unit development shall be subject to a conservation easement and used for the purposes listed in LEC 105.12.980.
  - 2) Preserved open space land shall be controlled in one or more of following manners as determined at the sole discretion of the city council:
    - a. Owned by an individual or legal entity who will use the land for a specific set of purposes which is subject to a permanent conservation easement (in accordance with M.S.A. ch. 84C.01-.05, as it may be amended from time to time), which is held by a holder as defined by M.S.A. ch. 84C.01(2) as approved by the city; and/or
    - b. A conservation easement conveyed to the city;
    - c. Owned as an outlot by the city (this option may only be used for land being dedicated to the city for stormwater maintenance and conveyance purposes).

- 3) Preserved open space land shall be maintained for the purposes for which it was set aside. If preserved open space was set aside for agricultural purposes or for natural habitat, a plan shall be submitted which will indicate how the land will be maintained or returned to a natural state and who will be responsible for plan implementation. Developers shall provide copies of proposed homeowners' association declarations and conservation easements to the city describing land management practices to be followed by the party or parties responsible for maintaining the preserved open space for the city's review prior to recording of these documents.
  - 4) Where applicable, a homeowners' association shall be established to permanently maintain all residual open space and recreational facilities. The homeowners' association's declaration must guaranty continuing maintenance and give assessment rights to the city if there is lack of the maintenance. The homeowners' association declaration shall be submitted to the city as part of the documentation requirements of LEC 105.12.1080(c) for an open space PUD final plan.
- b) *Septic system design standards.*
- 1) *In general.* The placement and design of all septic systems shall conform to the requirements of the county.
  - 2) *Individual septic drain fields.* Sites for individual septic drain fields, both primary and secondary, must be located entirely within each lot and cannot be located within any easement.
  - 3) *Communal drain fields.*
    - a. Communal drain fields may be partially or completely located in an area designated as preserved open space, provided the ground cover is restored to its natural condition after installation, and recreational uses are prohibited above or within 50 feet of communal drain fields or as approved by the city engineer.
    - b. Communal drain fields, if installed, shall be professionally maintained, and are acceptable once legally sufficient documentation has been provided by the developer to ensure such maintenance will continue in perpetuity.
- c) *Building standards.*
- 1) Principal structures within open space PUDs shall not exceed 2 1/2 stories or 35 feet in height.
  - 2) It is desired that the structures within neighborhoods convey a particular architectural style with similar building components, materials, and roof pitches. The PUD overlay ordinance crafted for each individual open space PUD should establish minimum architectural standards for the neighborhood.
  - 3) All wells shall be located a minimum of 50 feet from septic tanks and septic drain fields.



- 4) The width of an attached garage shall not exceed 40 percent of the width of the entire principal building facade (including garage) fronting the primary street.
- d) *Landscaping standards.*
  - 1) A landscape plan for the entire site is required and shall consist of at least ten trees per acre of building site lot area; and trees shall not be not less than 1.5 inches in caliper measured at 54 inches above grade level.
  - 2) Boulevard landscaping is required along all streets to consist of at least one tree per every 30 feet or placed in clusters at the same ratio.
- e) *Impervious surface standards.* The maximum impervious surface allowable within an open space planned unit development shall be not exceed 25 30 percent of the lot. ~~land area not dedicated as preserved open space subject to the following:~~
  - ~~1) Impervious surfaces created by roads, trails, and other planned impervious improvements shall count against the maximum allowed impervious coverage.~~
  - ~~2) Remaining allowed impervious surface acreage may be distributed between the planned building sites, and maximums for each lot shall be clearly documented within the overlay district ordinance governing the development.~~
- f) *Trail and sidewalk standards.* A trail system ~~or~~ with sidewalks shall be established within open space planned unit developments in accordance with the following:
  - 1) The linear footage of trails provided shall be at least equal in length to the sum of the centerline length of all public roads within the development.
    - a. A sidewalk shall be constructed along the lot frontage on one (1) side of the road.
    - b. A required trail shall be provided on the other side of the road or within the open space of the development. Additional asphalt trails shall be required to create connections to other developments and public places. Trails may be required to exceed the sum of the centerline length at the discretion of the community development director or city engineer.
  - 2) All trails shall be constructed of asphalt or concrete in compliance with the standard city design for trails.
  - 3) Proposed trails shall provide connections between and access to the buildable land areas and preserved open space land being created by the development.
  - 4) Proposed trails shall connect to existing, planned, or anticipated trails or roads adjacent to the development site and on adjacent parcels.
  - 5) If applicable, trails shall be linked (or be designed to provide a future link) to the Old Village to emphasize the connection between existing and new development.

**105.12.1070 Open Space PUD Review Criteria**

The following findings shall be made by the city council prior to approval of a new or amended open space planned unit development:

- a) The proposed development is consistent with the goals, objectives, and policies of the comprehensive plan.
- b) All prerequisites for an open space PUD as outlined in LEC 105.12.1030 are met.
- c) All open space PUD design standards (as outlined in LEC 105.12.1050) and all open space development standards (as outlined in LEC 105.12.1060) are met; or if deviations are proposed, that all such deviations are supported because they achieve the following three goals:
  - 1) The deviations allow for higher quality building and site design that will enhance aesthetics of the site;
  - 2) The deviations help to create a more unified environment within the project boundaries by ensuring one or more of the following: architectural compatibility of all structures, efficient vehicular and pedestrian circulation, enhanced landscaping and site features, and/or efficient use of utilities; and
  - 3) The overall design provides appropriate solutions to eliminate adverse impacts that proposed deviations may impose on surrounding lands.
- d) If the proposed PUD involves construction over two or more phases, the applicant has demonstrated that each phase is capable of being a stand-alone development independent of other phases.

#### HISTORY

Adopted by Ord. [08-253](#) on 11/3/2021

#### **105.12.1080 Open Space PUD Review Procedure**

All requests to establish an open space planned unit development shall be initiated by following the steps below:

- a) *PUD preliminary plan.*
  - 1) *Pre-application conference.* Before filing of an application for OP planned unit development with the city, the applicant of the proposed OP planned unit development shall arrange for and attend a conference with the ~~planning~~ [community development director](#), city engineer and other city staff. The primary purpose of the conference shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of his proposal for the area for which it is proposed and its conformity to the provisions of this subchapter before incurring substantial expense in the preparation of plans, surveys and other data. No application for an open space PUD preliminary plan will be accepted by the city unless an applicant's proposal is distinctly similar to one reviewed by city staff in the required pre-application conference.
  - 2) *PUD preliminary plan submittal requirements.* Except as may be waived by the ~~director of planning~~ [community development director](#), the following

information shall constitute a complete application for an open space PUD preliminary plan.

- a. All required information for a preliminary plat per LEC 105.12.1200(c) and LEC 105.12.1210.
- b. A separate open space PUD preliminary plan which includes the following information:
  1. Administrative information including identification of the drawing as an open space PUD preliminary plan, the proposed name of the project, contact information for the developer and individual preparing the plan, signature of the surveyor and civil engineer certifying the document, date of plan preparation or revision, and a graphic scale and north arrow;
  2. Area calculations for gross land area, wetland areas, right-of-way dedications, and proposed public and private parks or open space and net land area for calculating project residential density;
  3. Existing zoning districts on the subject land and all adjacent parcels;
  4. Layout of proposed lots with future lot and block numbers. The perimeter boundary line of the subdivision should be distinguishable from the other property lines. Denote outlots planned for public dedication and/or open space schools, parks, etc.;
  5. The location of proposed septic disposal areas;
  6. Area calculations for each parcel;
  7. Proposed setbacks on each lot forming the building pad. and calculated buildable area;
  8. Proposed gross hardcover allowance per lot if applicable.;
  9. Existing contours at intervals of two feet. Contours must extend a minimum of 200 feet beyond the boundary of the parcels in question;
  10. Delineation of wetlands, **wetland buffers**, and/or watercourses over the property;
  11. Delineation of the ordinary high water levels of all water bodies;
  12. Location, width, and names of existing and proposed streets within and immediately adjacent to the subdivision parcel;
  13. Easements and rights-of-way within or adjacent to the subdivision parcels;
  14. The location and orientation of proposed buildings;
  15. Proposed sidewalks and trails;
  16. Vehicular circulation system showing location and dimension for all driveways, parking spaces, parking lot aisles, service roads, loading areas, fire lanes, emergency access, if necessary,

- public and private streets, alleys, sidewalks, bike paths, direction of traffic flow and traffic control devices;
  - 17. Lighting location, style and mounting and light distribution plan;
  - 18. Proposed parks, common areas, and conservation easements (indicate public vs. private if applicable); and
  - 19. Location, access and screening detail of large trash handling and recycling collection areas.
- c. Proposed architectural theming and performance standards for the development;
  - d. A grading drainage and erosion control plan prepared by a registered professional engineer providing all information as required by the City Engineering Design Standards; ~~by public works, the city engineer, and/or the director of planning~~
  - e. A utility plan providing all information as required by the City Engineering Design Standards; ~~public works, the city engineer, and/or the director of planning~~
  - f. Results of deep soil test pits and percolation tests, at the rate of no fewer than two successful test results for each proposed septic disposal area;
  - g. The location and detail of signage providing all pertinent information necessary to determine compliance with LEC 105.12.430;
  - h. A tree preservation plan as required by LEC 105.12.470;
  - i. A landscape plan, including preliminary sketches of how the landscaping will look, prepared by a qualified professional providing all information outlined in LEC 105.12.480;
  - ~~j. A traffic study containing, at a minimum, the total and peak hour trip generation from the site at full development, and the effect of such traffic on the level of service of nearby and adjacent streets, intersections, and total parking requirements;~~
  - j. A plan sheet or narrative clearly delineating all features being modified from standard open space PUD regulations;
  - k. Homeowners' association documents including declarations, covenants, articles of incorporation, and bylaws;
  - l. Proposed conservation easement documents; and
  - m. Any other information as directed by the ~~director of planning~~ community development director.
- 3) *PUD preliminary plan review.*
- a. As part of the review process for an open space PUD preliminary plan, the ~~director of planning~~ community development director shall generate an analysis of the proposal against the expectations for PUDs, and make a recommendation regarding the proposed overlay district for planning commission and city council consideration.

- b. The ~~director of planning~~ community development director shall prepare a draft ordinance to establish the potential overlay district to be established as a component of the PUD final plan.
  - c. The planning commission shall hold a public hearing and consider the application's consistency with the goals for PUDs, the PUD review criteria, and applicable comprehensive plan goals. The planning commission shall make recommendations to the city council on the merit, needed changes, and suggested conditions to impose on the PUD.
  - d. In approving or denying the PUD preliminary plan, the city council shall make findings on the PUD review criteria outlined in LEC 105.12.1070.
  - e. As a condition of PUD preliminary plan approval; finalization, adoption, and publication of an overlay district ordinance shall need to occur prior to the filing of any future final plat.
- 4) *Effect of a PUD preliminary plan review.* Preliminary plan approval governs the preparation of the PUD final plan which must be submitted for final approval in accordance with the requirements of this section.
- 5) *Limitation of approval.* The city council's review of an open space PUD preliminary plan shall remain valid for a period of one year. The city council, in its sole discretion, may extend the validity of its findings for an additional year.
- b) *PUD final plan.*
- 1) *Application deadline.* Application for an open space PUD final plan shall be submitted for approval within 180 days of city council approval of the open space PUD preliminary plan unless a written request for a time extension is submitted by the applicant and approved by the city council.
  - 2) *PUD final plan submittal requirements.* Except as may be waived by the ~~director of planning~~ community development director, the following information shall constitute a complete application for an open space PUD final plan.
    - a. All required information for a final plat per LEC 103.00.080.
    - b. All required PUD preliminary plan documents, other than the preliminary plat, shall be updated to incorporate and address all conditions of PUD preliminary plan approval.
    - c. Any deed restrictions, covenants, agreements, and articles of incorporation and bylaws of any proposed homeowners' association or other documents or contracts which control the use or maintenance of property covered by the PUD.
    - d. A final staging plan, if staging is proposed, indicating the geographical sequence and timing of development, including the estimated start and completion date for each stage.
    - e. Up-to-date title evidence for the subject property in a form acceptable to the ~~director of planning~~ community development director and the city attorney.

- f. Warranty deeds for property being deeded to the city for all parks, stormwater ponds, open space, etc., free from all mortgages, liens and encumbrances.
  - g. All easement documents for easements not being dedicated on the final plat including those for trails, ingress/egress, etc., together with all necessary consents to the easements by existing encumbrancers of the property.
  - h. Any other information deemed necessary by the ~~director of planning~~ community development director to fully present the intention and character of the open space PUD.
  - i. If certain land areas or structures within the open space PUD are designated for recreational use, public plazas, open areas or service facilities, the owner of such land and buildings shall provide a plan to the city that ensures the continued operation and maintenance of such areas or facilities in a manner suitable to the city.
- 3) *PUD final plan review.*
- a. The ~~director of planning~~ community development director shall generate an analysis of the final documents against the conditions of the open space PUD preliminary plan approval, and make a recommendation as to whether all conditions have been met or if additional changes are needed.
  - b. Staff should once again identify any information submittals that were waived so the city council may determine if such is needed prior to making a final decision.
  - c. The ~~director of planning~~ community development director shall finalize the ordinance to establish the proposed overlay district for consideration by the planning commission and the city council.
  - d. The planning commission shall hold a public hearing on the proposed overlay district ordinance and open space final PUD plans, and shall submit a recommendation to the city council for consideration. Because an open space PUD preliminary plan was previously approved, the planning commission's recommendation shall only focus on whether the ordinance and open space PUD final plan are in substantial compliance with the open space PUD preliminary plan and the required conditions of approval.
  - e. The city council shall then consider the recommendations of the ~~director of planning~~ community development director, the public, and the planning commission; and make a decision of approval or denial, in whole or in part, on the open space PUD final plan. A denial shall only be based on findings that an open space PUD final plan is not in substantial compliance with the approved open space PUD preliminary plan and/or the required conditions of approval.

- f. As a condition of PUD final plan approval, publication of the overlay district ordinance or a summary thereof shall be required prior to filing of the approved final plat.
  - g. Planned unit development agreement.
    - 1. At its sole discretion, the city may as a condition of approval, require the owner and the developer of the proposed open space PUD to execute a development agreement which may include, but not be limited to, all requirements of the open space PUD final plan.
    - 2. The development agreement may require the developers to provide an irrevocable letter of credit in favor of the city. The letter of credit shall be provided by a financial institution licensed in the state and acceptable to the city. The city may require that certain provisions and conditions of the development agreement be stated in the letter of credit. The letter of credit shall be in an amount sufficient to ensure the provision or development of improvement called for by the development agreement.
  - h. As directed by the city, documents related to the PUD shall be recorded against the property.
- 4) *Time limit.*
- a. A planned unit development shall be validated by the applicant through the commencement of construction or establishment of the authorized uses, subject to the permit requirements of this Code, in support of the planned unit development within one year of the date of open space PUD final plan approval by the city council. Failure to meet this deadline shall render the open space PUD final plan approval void. The city council may approve extensions for validation of the PUD of up to one year if requested in writing by the applicant; extension requests shall be submitted to the ~~director of planning~~ community development director and shall identify the reasons why the extension is necessary along with an anticipated timeline for validation of the planned unit development.
  - b. An application to reinstate an open space PUD that was voided for not meeting the required time limit shall be administered in the same manner as a new open space PUD beginning at open space PUD preliminary plan.

#### **105.12.1090 Open Space PUD Amendments**

Approved open space PUDs may be amended from time to time as a result of unforeseen circumstances, overlooked opportunities, or requests from a developer or neighborhood. At such a time, the applicant shall make an application to the city for an open space PUD amendment.

- a) *Amendments to existing open space PUD overlay districts.* Amendments to an approved open space PUD overlay district shall be processed as one of the following:
- 1) *Administrative amendment.* The ~~director of planning~~ community development director may administratively approve minor changes to an approved open space PUD if such changes are required by engineering or other circumstances, provided the changes conform to the approved overlay district intent and are consistent with all requirements of the open space PUD ordinance. Under no circumstances shall an administrative amendment allow additional lots, or changes to designated uses established as part of the PUD. An administrative amendment shall be memorialized via letter signed by the ~~planning~~ community development director.
  - 2) *Ordinance amendment.* A PUD change requiring a text update to the adopted open space PUD overlay district language shall be administered in accordance with adopted regulations for zoning code changes in LEC 105.12.280. Ordinance amendments shall be limited to changes that are deemed by the ~~director of planning~~ community development director to be consistent with the intent of the original open space PUD approval, but are technically necessary due to construction of the adopted overlay district language.
  - 3) *PUD amendment.* Any change not qualifying for an administrative amendment or an ordinance amendment shall require an open space PUD amendment. An application to amend an open space PUD shall be administered in the same manner as that required for a new PUD beginning at open space PUD preliminary plan.
- b) *Pre-existing OP developments.*
- 1) Pre-existing OP developments authorized prior to October 4, 2016 shall continue to be governed per the original conditions of approval until the OP development is cancelled by the city, or the OP development is converted to an open space PUD overlay district.
  - 2) An application to amend an existing OP development shall require the development to be converted into an open space PUD beginning at open space PUD preliminary plan.
    - a. Replatting of lots will only be required if the ~~director of planning~~ community development director determines such is necessary to implement the requested change.
    - b. The resulting overlay zoning district shall be applied to all properties within the OP development being amended.

#### **105.12.1100 PUD Cancellation**

An open space PUD shall only be cancelled and revoked upon the city council adopting an ordinance rescinding the overlay district establishing the PUD. Cancellation of a PUD shall include findings that demonstrate that the PUD is no longer necessary due to changes in local regulations over time; is inconsistent with the comprehensive plan or other



application land use regulations; threatens public safety, health, or welfare; or other applicable findings in accordance with law.

#### **105.12.1110 Administration**

In general, the following rules shall apply to all open space PUDs:

- a) *Rules and regulations.* No requirement outlined in the open space PUD review process shall restrict the city council from taking action on an application if necessary to meet state mandated time deadlines.
- b) *Preconstruction.* The city shall not grant a building permit for any building on land for which an open space PUD plan is in the process of review, unless the proposed building is allowed under the existing zoning and will not impact, influence, or interfere with the proposed open space PUD plan.
- c) *Effect on conveyed property.* In the event that any real property in an approved open space PUD is conveyed in total, or in part, the new owners thereof shall be bound by the provisions of the approved overlay district.

### **ARTICLE XVIII PLANNED UNIT DEVELOPMENT (PUD) REGULATIONS**

#### **105.12.1120 Intent**

The intent of the Planned Unit Development (PUD) overlay zoning district is to provide greater flexibility in the use of land and the placement and size of buildings within the development of residential and nonresidential areas in order to achieve more creative development outcomes while remaining economically viable and marketable and to better utilize site features and obtain a higher quality of development. Approval of a planned unit development shall result in a zoning change to a specific PUD overlay district, with specific requirements and standards that are unique to that development. The City reserves the right to deny establishment of a PUD overlay district and direct a developer to re-apply for City approval under the standard applicable zoning district if the City determines the proposed benefits do not justify requested flexibilities. [A Planned Unit Development \(Article XVIII\) shall be within the Metropolitan Urban Service Areas \(MUSA\). Planned Unit Developments, outside of the MUSA and within certain rural zoning districts, shall follow standards in Open Space Planned Unit Developments \(Article XVII\).](#)

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

**ORDINANCE NO. 2024-14**

**AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE BY  
AMENDING CHAPTER 1.08 DEFINITIONS; ARTICLE XVII OPEN SPACE PLANNED UNIT  
DEVELOPMENTS; AND ARTICLE XVIII PLANNED UNIT DEVELOPMENT (PUD)  
REGULATIONS**

**SECTION 1. The City Council of the City of Lake Elmo hereby amends Chapter 1.08 Definitions; Article XVII Open Space Planned Unit Developments; and Article XVIII Planned Unit Development (PUD) Regulations. The City Code is hereby amended by changing the following sections (Proposed language is underlined, deleted language is shown with ~~strikethrough~~):**

**CHAPTER 1.08 DEFINITIONS**

**1.08.010 Terms Defined**

Open space area means the measurement of all undeveloped land and natural features within a subdivision or planned unit development. Trails outside of the road rights-of-way and agricultural buildings are included in the open space area. Road rights-of-way and buildable lots are not considered open space areas.

**ARTICLE XVII OPEN SPACE PLANNED UNIT DEVELOPMENTS**

**105.12.980 Purpose**

The purpose of open space planned unit developments is to provide greater development flexibility within rural portions of the community while maintaining the rural character by preserving agricultural land, woodlands, wildlife or natural corridors, pollinator and wildlife habitat, and other significant natural features consistent with the goals and objectives of the city's comprehensive plan. The city reserves the right to deny establishment of an open space PUD overlay district and direct a developer to re-apply under standard zoning provisions if it is determined that proposed benefits of the open space PUD do not justify the requested flexibilities.

**105.12.990 Intent**

It is the intent of the city that open space planned unit developments will offer needed development flexibility within the agricultural, rural residential, and rural estate zoning districts to provide for:

- a) A variety of lot configurations and housing styles that may not otherwise exist within the city's rural areas;
- b) An avenue to provide a development density equal to or greater than what could be achieved via underlying zoning;
- c) A reduction in the costs to construct and maintain public facilities and infrastructure in a rural setting;
- d) Protected open space to enhance and preserve the natural character of the community;
- e) The creation of distinct neighborhoods that are interconnected within rural areas;
- f) To preserve large contiguous open spaces.

**105.12.1000 Definitions**

Unless specifically defined in LEC 105.12, art. II, common definitions, words, and phrases used in this article shall be interpreted so as to give them the same meaning as they have in common usage throughout this Code and as may be found in LEC 1.08.

### **105.12.1010 Initiation Of Proceedings**

The owner of property on which an open space PUD is proposed shall file the applicable application for a PUD by paying the fees set forth in LEC 1.12.010 and submitting a completed application form and supporting documents as set forth on the application form and within this section. Complete applications shall be reviewed by city commissions as deemed necessary by the ~~director of planning~~ community development director and be acted upon by the city council. If a proposed open space PUD is denied, any subsequent application for a substantially similar PUD within one year of the date of denial shall fully address all findings which supported the denial prior to being accepted as complete.

### **105.12.1020 Reflection On The Official Zoning Map**

- a) PUD provisions provide an optional method of regulating land use which permits flexibility from standard regulating provisions. Establishment of a PUD shall require adoption of an ordinance creating an overlay zoning district atop the boundaries of the development area. For each PUD district, a specific ordinance shall be adopted establishing all rules which shall supersede underlying zoning. Issues not specifically addressed by the PUD overlay district shall be governed by the underlying zoning district regulations.
- b) All open space preservation developments approved prior to October 4, 2016 shall be allowed to continue per the original conditions of approval.

### **105.12.1030 Prerequisites For Open Space PUDs**

- a) Only land zoned as agricultural, rural residential, or rural estate may be considered for establishment of an open space planned unit development.
- b) The minimum land area for establishment of an open space planned unit development is a nominal contiguous 20 acres.
- c) Establishment of an open space planned unit development will be considered only for areas of land in single ownership or control. Alternatively, multiple party ownership, in the sole discretion of the city, is acceptable when legally sufficient written consent from all persons and entities with ownership interest is provided at the time of application.

### **105.12.1040 Uses Within Open Space PUDs**

- a) *Primary uses.*
  - 1) *Permitted.*
    - a. Single-family, detached;
    - b. Preserved open space;
    - c. Conservation easements;
    - d. Agriculture;
    - e. Suburban farms;
    - f. Private stables;
    - g. Single-family, attached and Townhouses (no more than 25 percent in any development);
    - ~~h. Townhouses (no more than 25 percent in any development);~~
    - h. Wayside stand; and
    - i. Public parks and trails.
  - 2) *Conditionally permitted.* None.
  - 3) *Interim permitted.* None.
- b) *Accessory uses.*
  - 1) *Permitted.* Uses deemed by the ~~director of planning~~ community development director to be typically accessory to an established permitted use on the property as listed in subsection (a)(1) of this section. Setbacks are established in LEC 105.12.1050 subsection (b)(6) and other standards shall conform with the requirements in LEC 105.12.660-690.
  - 2) *Conditionally permitted.* None.

- 3) *Interim permitted.* None.
- c) *Prohibited uses.* All other uses not listed in subsection (a) or (b) of this section are hereby prohibited.
- d) *Use restrictions and allowances.* The final PUD overlay district ordinance for an open space PUD may include specific provisions governing uses which supersede underlying zoning and the general PUD regulations herein.

### **105.12.1050 Open Space PUD Design**

Open space PUDs shall comply with all of the following minimum design standards unless modifications are authorized for consideration by the city council via a super-majority vote.

- a) *Density.* The maximum dwelling unit density within an open space planned unit development shall be ~~18~~ 32 units per 40 acres of ~~buildable~~ total land area (~~0.45~~ 0.8 dwelling units/acre) on the undeveloped parcel; however, the total number of dwelling units shall not exceed the density limitations contained in the comprehensive plan for open space preservation development. In addition, the applicant shall submit the proposed density based on buildable land area for comprehensive planning purposes.
- b) *Lot design.* Lot locations and configurations within open space planned unit developments shall be derived utilizing the following methodology. An applicant must be able to demonstrate how these steps resulted in the plan being proposed.
- 1) *Soils analysis conducted.* A certified septic designer or soils scientist shall complete a review of the soils on the site, and categorize all areas as highly suitable for septic systems, moderately suitable for septic systems, or poorly suited for septic systems.
  - 2) *Septic design identification.* Based on the soils analysis, an applicant must identify whether the proposed development will be serviced by individual septic tanks and drain fields, or via a system of individual septic tanks which utilize one or more communal drain fields.
    - a. If individual septic tanks and drain fields can be supported by the available soils and is the chosen methodology to serve the development, all proposed lots must be able to provide primary and secondary drain field sites on each lot (outside of drainage and utility easements), and must meet the minimum lot size standards outlined herein.
    - b. If individual septic tanks which utilize a communal drain field (or fields) is the chosen methodology to serve the development, then the locations for communal drain fields shall be identified within the areas deemed the most suitable on the site for supporting septic utilities according to the soils analysis. All such areas shall be clearly denoted on provided plan sets.
    - c. Low pressure sewer should only be allowed in special circumstances as deemed necessary by the city engineer. When low pressure sewer is deemed necessary by the city engineer, it must be installed outside of the street pavement such that street excavation is not required for repairs or replacement.
  - 3) *Identification of required buffers.* ~~No build zones from each property boundary shall be derived as follows:~~ A no build zone (buffer) between the proposed buildable lots and the PUD boundary shall be derived as follows:
    - ~~a. A 200-foot buffer from all adjacent property lines that abut an existing residential development or a parcel of land not eligible for future development as an open space planned unit development due to insufficient parcel area.~~
    - ~~b. A 100-foot buffer from all adjacent property lines that abut land that is eligible for future development as an open space planned unit development.~~
    - ~~c. If the development site is adjacent to an existing or approved OP development, the required buffer shall be equivalent to the buffer that was required of the adjacent development (See LEC 105.12.170(b)).~~
    - a. A 100-foot buffer from all adjacent property lines; or
    - b. A 200-foot buffer from all existing residential dwellings within an abutting residential development, whichever is greater.

- c. The buffer shall not be a part of a buildable lot.
- 4) *Identification of preferred building pad locations.* Building pad locations, up to the maximum number of units permitted by LEC 105.12.1050(a), which preserve natural topography and drainageways, minimize tree loss, protect historic sites or structures, and limit the need for soil removal and/or grading shall then be identified. The orientation of individual building sites shall maintain maximum natural topography and ground cover.
- a. Building pads shall be located outside of required buffers, and shall be sited so as to provide ample room for accessory structures on each proposed lot.
  - b. If individual septic tanks and drain fields for each lot are to be utilized, locations for primary and secondary facilities for each proposed building pad shall also be identified. All such sites must be verified as being viable as a component of PUD preliminary plan review.
  - c. If individual septic tanks utilizing communal drain fields is intended, the plan must clearly identify which communal drain field will service each of the proposed building pads.
- 5) *Placement of streets.*
- a. Streets shall then be designed and located in such a manner as to:
    - 1. Maintain and preserve natural topography, groundcover, significant landmarks, historic barns, and trees;
    - 2. Minimize cut and fill;
    - 3. Preserve and enhance both internal and external views and vistas;
    - 4. Promote road safety;
    - 5. Ensure adequate access for fire and rescue vehicles; and
    - 6. Ensure and promote adequate vehicular circulation both within the development and with adjacent neighborhoods.
  - b. The design of streets and the dedication of right-of-way shall be in compliance with the city's current engineering design standards and specifications as may be amended. 28-foot-wide streets with parking on one side are permitted.
  - c. Streets shall not encroach into a required buffer area unless it can be demonstrated that such an alignment is necessary to achieve the goals outlined above, and that no equivalent option exists outside of the buffer. Driving surfaces that cross the buffer area at a 90 degree angle to provide current or future access to an adjacent property or boundary road shall be the only exception.
- 6) *Lot creation.* Based on the street locations, building pad locations, and septic system locations; lines to delineate individual lots shall then be identified in accordance with the following:
- a. *Lots.*
    - 1. Single-family lots being served by individual septic tanks and drain fields shall be a minimum of one acre in size;
    - 2. Single-family lots being served by individual septic tanks utilizing communal drain fields shall be a minimum of ~~one-half acre (21,780 square feet)~~ 16,000 square feet in size with a 100' minimum lot width and 160' minimum lot depth. Lots designed with rear-loaded parking through a secondary access (alley), may reduce the required minimum front lot width to 80'.
    - 3. All land reserved for communal septic system use shall be located within a dedicated outlot to be owned by the homeowners' association (HOA) of the development; and
    - 4. Base lots for townhomes shall be large enough such that individual unit lots can meet all required structure setbacks contained herein.
  - b. *Lot specific buildable areas.*
    - 1. The buildable area on each proposed lot which remains after consideration of each of the following shall be shown:

- i. Required buffers from adjacent lands (See LEC 105.12.170(b));
- ii. Required setbacks from waterbodies and non-buildable land per shoreland district regulations (See LEC 105.12, art. XIX);
- iii. Steep slopes;
- iv. Easements; and
- v. Land within the following setbacks:

	<i>Housing Type</i>		
	<i>Single-Family Homes</i>	<i>Townhomes</i>	<i>Accessory Structures</i>
Front yard	30	20	<u>Not permitted</u>
Side yard	15 feet <del>or ten percent of lot width, whichever is greater</del>		<u>10</u>
Corner lot front yard	30		<u>Not permitted</u>
Corner lot street side yard	30		<u>15</u>
Rear yard	20		<u>20</u>

- 2. Proposed buildable area on each lot shall be sufficient to accommodate primary and accessory structures that are normal and customary to the type of development being proposed.

7) *Open space and park land adjustments.*

a. *Open space.*

- 1. The total preserved open space area within an open space planned unit development shall be no less than 50 percent of the total gross land area, as defined by LEC 1.08. If this threshold is not achieved after following the first six steps of lot design, the proposed lot areas will need to be adjusted or lots eliminated until this requirement is met.
- 2. Land needed for stormwater facilities as required by other provisions of this Code may count towards required open space for the purposes of open space PUD design, but must ultimately be placed in outlots to be dedicated to the city. The development is required to construct a stormwater reuse pond for irrigation.
- 3. Excluding land needed for compliant stormwater facilities, not less than 60 percent of the remaining preserved open space shall be in contiguous parcels which are five acres or more in size.
- 4. Preserved open space parcels shall be contiguous with preserved open space or public park land on adjacent parcels.

b. *Park land.*

- 1. Parks and recreational facilities shall be provided in the open space PUD (or cash-in-lieu contributions must be made) in addition to preserved open space as specified in the city parks plan.
- 2. Determination of whether a land dedication or cash-in-lieu contribution will be required to fulfill park land requirements will be at the discretion of the city council after it receives a recommendation from the city parks commission. If a required park land dedication causes overall open space to drop below the minimum threshold, the proposed lot areas will need to be adjusted or lots eliminated until the open space requirement is once again met.

3. Any park dedication shall be consistent with the dedication and fee-in-lieu standards specified in LEC title 103.

### **105.12.1060 Open Space PUD Development Standards**

Open space PUDs shall comply with all of the following development standards unless modifications are authorized for consideration by the city council via a super-majority vote.

a) *Preserved open space standards.*

- 1) With the exception of stormwater facilities which must be dedicated to the city, all preserved open space within an open space planned unit development shall be subject to a conservation easement and used for the purposes listed in LEC 105.12.980.
- 2) Preserved open space land shall be controlled in one or more of following manners as determined at the sole discretion of the city council:
  - a. Owned by an individual or legal entity who will use the land for a specific set of purposes which is subject to a permanent conservation easement (in accordance with M.S.A. ch. 84C.01-.05, as it may be amended from time to time), which is held by a holder as defined by M.S.A. ch. 84C.01(2) as approved by the city; and/or
  - b. A conservation easement conveyed to the city;
  - c. Owned as an outlot by the city (this option may only be used for land being dedicated to the city for stormwater maintenance and conveyance purposes).
- 3) Preserved open space land shall be maintained for the purposes for which it was set aside. If preserved open space was set aside for agricultural purposes or for natural habitat, a plan shall be submitted which will indicate how the land will be maintained or returned to a natural state and who will be responsible for plan implementation. Developers shall provide copies of proposed homeowners' association declarations and conservation easements to the city describing land management practices to be followed by the party or parties responsible for maintaining the preserved open space for the city's review prior to recording of these documents.
- 4) Where applicable, a homeowners' association shall be established to permanently maintain all residual open space and recreational facilities. The homeowners' association's declaration must guaranty continuing maintenance and give assessment rights to the city if there is lack of the maintenance. The homeowners' association declaration shall be submitted to the city as part of the documentation requirements of LEC 105.12.1080(c) for an open space PUD final plan.

b) *Septic system design standards.*

- 1) *In general.* The placement and design of all septic systems shall conform to the requirements of the county.
- 2) *Individual septic drain fields.* Sites for individual septic drain fields, both primary and secondary, must be located entirely within each lot and cannot be located within any easement.
- 3) *Communal drain fields.*
  - a. Communal drain fields may be partially or completely located in an area designated as preserved open space, provided the ground cover is restored to its natural condition after installation, and recreational uses are prohibited above or within 50 feet of communal drain fields or as approved by the city engineer.
  - b. Communal drain fields, if installed, shall be professionally maintained, and are acceptable once legally sufficient documentation has been provided by the developer to ensure such maintenance will continue in perpetuity.

c) *Building standards.*

- 1) Principal structures within open space PUDs shall not exceed 2 1/2 stories or 35 feet in height.
- 2) It is desired that the structures within neighborhoods convey a particular architectural style with similar building components, materials, and roof pitches. The PUD overlay ordinance crafted for each individual open space PUD should establish minimum architectural standards for the neighborhood.
- 3) All wells shall be located a minimum of 50 feet from septic tanks and septic drain fields.

- 4) The width of an attached garage shall not exceed 40 percent of the width of the entire principal building facade (including garage) fronting the primary street.
- d) *Landscaping standards.*
  - 1) A landscape plan for the entire site is required and shall consist of at least ten trees per acre of building site lot area; and trees shall not be not less than 1.5 inches in caliper measured at 54 inches above grade level.
  - 2) Boulevard landscaping is required along all streets to consist of at least one tree per every 30 feet or placed in clusters at the same ratio.
- e) *Impervious surface standards.* The maximum impervious surface allowable within an open space planned unit development shall ~~be not exceed 25~~ 30 percent of the lot. land area not dedicated as preserved open space subject to the following:
  - ~~1) Impervious surfaces created by roads, trails, and other planned impervious improvements shall count against the maximum allowed impervious coverage.~~
  - ~~2) Remaining allowed impervious surface acreage may be distributed between the planned building sites, and maximums for each lot shall be clearly documented within the overlay district ordinance governing the development.~~
- f) *Trail and sidewalk standards.* A trail system ~~or~~ with sidewalks shall be established within open space planned unit developments in accordance with the following:
  - 1) The linear footage of trails provided shall be at least equal in length to the sum of the centerline length of all public roads within the development.
    - a. A sidewalk shall be constructed along the lot frontage on one (1) side of the road.
    - b. A required trail shall be provided on the other side of the road or within the open space of the development. Additional asphalt trails shall be required to create connections to other developments and public places. Trails may be required to exceed the sum of the centerline length at the discretion of the community development director or city engineer.
  - 2) All trails shall be constructed of asphalt or concrete in compliance with the standard city design for trails.
  - 3) Proposed trails shall provide connections between and access to the buildable land areas and preserved open space land being created by the development.
  - 4) Proposed trails shall connect to existing, planned, or anticipated trails or roads adjacent to the development site and on adjacent parcels.
  - 5) If applicable, trails shall be linked (or be designed to provide a future link) to the Old Village to emphasize the connection between existing and new development.

#### **105.12.1070 Open Space PUD Review Criteria**

The following findings shall be made by the city council prior to approval of a new or amended open space planned unit development:

- a) The proposed development is consistent with the goals, objectives, and policies of the comprehensive plan.
- b) All prerequisites for an open space PUD as outlined in LEC 105.12.1030 are met.
- c) All open space PUD design standards (as outlined in LEC 105.12.1050) and all open space development standards (as outlined in LEC 105.12.1060) are met; or if deviations are proposed, that all such deviations are supported because they achieve the following three goals:
  - 1) The deviations allow for higher quality building and site design that will enhance aesthetics of the site;
  - 2) The deviations help to create a more unified environment within the project boundaries by ensuring one or more of the following: architectural compatibility of all structures, efficient vehicular and pedestrian circulation, enhanced landscaping and site features, and/or efficient use of utilities; and
  - 3) The overall design provides appropriate solutions to eliminate adverse impacts that proposed deviations may impose on surrounding lands.



- d) If the proposed PUD involves construction over two or more phases, the applicant has demonstrated that each phase is capable of being a stand-alone development independent of other phases.

### **105.12.1080 Open Space PUD Review Procedure**

All requests to establish an open space planned unit development shall be initiated by following the steps below:

a) *PUD preliminary plan.*

- 1) *Pre-application conference.* Before filing of an application for OP planned unit development with the city, the applicant of the proposed OP planned unit development shall arrange for and attend a conference with the ~~planning~~ community development director, city engineer and other city staff. The primary purpose of the conference shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of his proposal for the area for which it is proposed and its conformity to the provisions of this subchapter before incurring substantial expense in the preparation of plans, surveys and other data. No application for an open space PUD preliminary plan will be accepted by the city unless an applicant's proposal is distinctly similar to one reviewed by city staff in the required pre-application conference.
- 2) *PUD preliminary plan submittal requirements.* Except as may be waived by the ~~director of~~ planning community development director, the following information shall constitute a complete application for an open space PUD preliminary plan.
  - a. All required information for a preliminary plat per LEC 105.12.1200(c) and LEC 105.12.1210.
  - b. A separate open space PUD preliminary plan which includes the following information:
    1. Administrative information including identification of the drawing as an open space PUD preliminary plan, the proposed name of the project, contact information for the developer and individual preparing the plan, signature of the surveyor and civil engineer certifying the document, date of plan preparation or revision, and a graphic scale and north arrow;
    2. Area calculations for gross land area, wetland areas, right-of-way dedications, and proposed public and private parks or open space and net land area for calculating project residential density;
    3. Existing zoning districts on the subject land and all adjacent parcels;
    4. Layout of proposed lots with future lot and block numbers. The perimeter boundary line of the subdivision should be distinguishable from the other property lines. Denote outlots planned for public dedication and/or open space schools, parks, etc.;
    5. The location of proposed septic disposal areas;
    6. Area calculations for each parcel;
    7. Proposed setbacks on each lot forming the building pad. and calculated buildable area;
    8. Proposed gross hardcover allowance per lot if applicable.;
    9. Existing contours at intervals of two feet. Contours must extend a minimum of 200 feet beyond the boundary of the parcels in question;
    10. Delineation of wetlands, wetland buffers, and/or watercourses over the property;
    11. Delineation of the ordinary high water levels of all water bodies;
    12. Location, width, and names of existing and proposed streets within and immediately adjacent to the subdivision parcel;
    13. Easements and rights-of-way within or adjacent to the subdivision parcels;
    14. The location and orientation of proposed buildings;
    15. Proposed sidewalks and trails;
    16. Vehicular circulation system showing location and dimension for all driveways, parking spaces, parking lot aisles, service roads, loading areas, fire lanes, emergency access, if necessary, public and private streets, alleys, sidewalks, bike paths, direction of traffic flow and traffic control devices;

17. Lighting location, style and mounting and light distribution plan;
  18. Proposed parks, common areas, and conservation easements (indicate public vs. private if applicable); and
  19. Location, access and screening detail of large trash handling and recycling collection areas.
- c. Proposed architectural theming and performance standards for the development;
  - d. A grading drainage and erosion control plan prepared by a registered professional engineer providing all information as required by the City Engineering Design Standards; ~~by public works, the city engineer, and/or the director of planning~~
  - e. A utility plan providing all information as required by the City Engineering Design Standards; ~~public works, the city engineer, and/or the director of planning~~
  - f. Results of deep soil test pits and percolation tests, at the rate of no fewer than two successful test results for each proposed septic disposal area;
  - g. The location and detail of signage providing all pertinent information necessary to determine compliance with LEC 105.12.430;
  - h. A tree preservation plan as required by LEC 105.12.470;
  - i. A landscape plan, including preliminary sketches of how the landscaping will look, prepared by a qualified professional providing all information outlined in LEC 105.12.480;
  - ~~j. A traffic study containing, at a minimum, the total and peak hour trip generation from the site at full development, and the effect of such traffic on the level of service of nearby and adjacent streets, intersections, and total parking requirements;~~
  - j. A plan sheet or narrative clearly delineating all features being modified from standard open space PUD regulations;
  - k. Homeowners' association documents including declarations, covenants, articles of incorporation, and bylaws;
  - l. Proposed conservation easement documents; and
  - m. Any other information as directed by the ~~director of planning~~ community development director.
- 3) *PUD preliminary plan review.*
    - a. As part of the review process for an open space PUD preliminary plan, the ~~director of planning~~ community development director shall generate an analysis of the proposal against the expectations for PUDs, and make a recommendation regarding the proposed overlay district for planning commission and city council consideration.
    - b. The ~~director of planning~~ community development director shall prepare a draft ordinance to establish the potential overlay district to be established as a component of the PUD final plan.
    - c. The planning commission shall hold a public hearing and consider the application's consistency with the goals for PUDs, the PUD review criteria, and applicable comprehensive plan goals. The planning commission shall make recommendations to the city council on the merit, needed changes, and suggested conditions to impose on the PUD.
    - d. In approving or denying the PUD preliminary plan, the city council shall make findings on the PUD review criteria outlined in LEC 105.12.1070.
    - e. As a condition of PUD preliminary plan approval; finalization, adoption, and publication of an overlay district ordinance shall need to occur prior to the filing of any future final plat.
  - 4) *Effect of a PUD preliminary plan review.* Preliminary plan approval governs the preparation of the PUD final plan which must be submitted for final approval in accordance with the requirements of this section.
  - 5) *Limitation of approval.* The city council's review of an open space PUD preliminary plan shall remain valid for a period of one year. The city council, in its sole discretion, may extend the validity of its findings for an additional year.
- b) *PUD final plan.*

- 1) *Application deadline.* Application for an open space PUD final plan shall be submitted for approval within 180 days of city council approval of the open space PUD preliminary plan unless a written request for a time extension is submitted by the applicant and approved by the city council.
- 2) *PUD final plan submittal requirements.* Except as may be waived by the ~~director of planning~~ community development director, the following information shall constitute a complete application for an open space PUD final plan.
  - a. All required information for a final plat per LEC 103.00.080.
  - b. All required PUD preliminary plan documents, other than the preliminary plat, shall be updated to incorporate and address all conditions of PUD preliminary plan approval.
  - c. Any deed restrictions, covenants, agreements, and articles of incorporation and bylaws of any proposed homeowners' association or other documents or contracts which control the use or maintenance of property covered by the PUD.
  - d. A final staging plan, if staging is proposed, indicating the geographical sequence and timing of development, including the estimated start and completion date for each stage.
  - e. Up-to-date title evidence for the subject property in a form acceptable to the ~~director of planning~~ community development director and the city attorney.
  - f. Warranty deeds for property being deeded to the city for all parks, stormwater ponds, open space, etc., free from all mortgages, liens and encumbrances.
  - g. All easement documents for easements not being dedicated on the final plat including those for trails, ingress/egress, etc., together with all necessary consents to the easements by existing encumbrancers of the property.
  - h. Any other information deemed necessary by the ~~director of planning~~ community development director to fully present the intention and character of the open space PUD.
  - i. If certain land areas or structures within the open space PUD are designated for recreational use, public plazas, open areas or service facilities, the owner of such land and buildings shall provide a plan to the city that ensures the continued operation and maintenance of such areas or facilities in a manner suitable to the city.
- 3) *PUD final plan review.*
  - a. The ~~director of planning~~ community development director shall generate an analysis of the final documents against the conditions of the open space PUD preliminary plan approval, and make a recommendation as to whether all conditions have been met or if additional changes are needed.
  - b. Staff should once again identify any information submittals that were waived so the city council may determine if such is needed prior to making a final decision.
  - c. The ~~director of planning~~ community development director shall finalize the ordinance to establish the proposed overlay district for consideration by the planning commission and the city council.
  - d. The planning commission shall hold a public hearing on the proposed overlay district ordinance and open space final PUD plans, and shall submit a recommendation to the city council for consideration. Because an open space PUD preliminary plan was previously approved, the planning commission's recommendation shall only focus on whether the ordinance and open space PUD final plan are in substantial compliance with the open space PUD preliminary plan and the required conditions of approval.
  - e. The city council shall then consider the recommendations of the ~~director of planning~~ community development director, the public, and the planning commission; and make a decision of approval or denial, in whole or in part, on the open space PUD final plan. A denial shall only be based on findings that an open space PUD final plan is not in substantial compliance with the approved open space PUD preliminary plan and/or the required conditions of approval.
  - f. As a condition of PUD final plan approval, publication of the overlay district ordinance or a summary thereof shall be required prior to filing of the approved final plat.
  - g. Planned unit development agreement.

1. At its sole discretion, the city may as a condition of approval, require the owner and the developer of the proposed open space PUD to execute a development agreement which may include, but not be limited to, all requirements of the open space PUD final plan.
  2. The development agreement may require the developers to provide an irrevocable letter of credit in favor of the city. The letter of credit shall be provided by a financial institution licensed in the state and acceptable to the city. The city may require that certain provisions and conditions of the development agreement be stated in the letter of credit. The letter of credit shall be in an amount sufficient to ensure the provision or development of improvement called for by the development agreement.
  - h. As directed by the city, documents related to the PUD shall be recorded against the property.
- 4) *Time limit.*
- a. A planned unit development shall be validated by the applicant through the commencement of construction or establishment of the authorized uses, subject to the permit requirements of this Code, in support of the planned unit development within one year of the date of open space PUD final plan approval by the city council. Failure to meet this deadline shall render the open space PUD final plan approval void. The city council may approve extensions for validation of the PUD of up to one year if requested in writing by the applicant; extension requests shall be submitted to the ~~director of planning~~ community development director and shall identify the reasons why the extension is necessary along with an anticipated timeline for validation of the planned unit development.
  - b. An application to reinstate an open space PUD that was voided for not meeting the required time limit shall be administered in the same manner as a new open space PUD beginning at open space PUD preliminary plan.

#### **105.12.1090 Open Space PUD Amendments**

Approved open space PUDs may be amended from time to time as a result of unforeseen circumstances, overlooked opportunities, or requests from a developer or neighborhood. At such a time, the applicant shall make an application to the city for an open space PUD amendment.

- a) *Amendments to existing open space PUD overlay districts.* Amendments to an approved open space PUD overlay district shall be processed as one of the following:
  - 1) *Administrative amendment.* The ~~director of planning~~ community development director may administratively approve minor changes to an approved open space PUD if such changes are required by engineering or other circumstances, provided the changes conform to the approved overlay district intent and are consistent with all requirements of the open space PUD ordinance. Under no circumstances shall an administrative amendment allow additional lots, or changes to designated uses established as part of the PUD. An administrative amendment shall be memorialized via letter signed by the planning community development director.
  - 2) *Ordinance amendment.* A PUD change requiring a text update to the adopted open space PUD overlay district language shall be administered in accordance with adopted regulations for zoning code changes in LEC 105.12.280. Ordinance amendments shall be limited to changes that are deemed by the ~~director of planning~~ community development director to be consistent with the intent of the original open space PUD approval, but are technically necessary due to construction of the adopted overlay district language.
  - 3) *PUD amendment.* Any change not qualifying for an administrative amendment or an ordinance amendment shall require an open space PUD amendment. An application to amend an open space PUD shall be administered in the same manner as that required for a new PUD beginning at open space PUD preliminary plan.
- b) *Pre-existing OP developments.*

- 1) Pre-existing OP developments authorized prior to October 4, 2016 shall continue to be governed per the original conditions of approval until the OP development is cancelled by the city, or the OP development is converted to an open space PUD overlay district.
- 2) An application to amend an existing OP development shall require the development to be converted into an open space PUD beginning at open space PUD preliminary plan.
  - a. Replatting of lots will only be required if the ~~director of planning~~ community development director determines such is necessary to implement the requested change.
  - b. The resulting overlay zoning district shall be applied to all properties within the OP development being amended.

#### **105.12.1100 PUD Cancellation**

An open space PUD shall only be cancelled and revoked upon the city council adopting an ordinance rescinding the overlay district establishing the PUD. Cancellation of a PUD shall include findings that demonstrate that the PUD is no longer necessary due to changes in local regulations over time; is inconsistent with the comprehensive plan or other application land use regulations; threatens public safety, health, or welfare; or other applicable findings in accordance with law.

#### **105.12.1110 Administration**

In general, the following rules shall apply to all open space PUDs:

- a) *Rules and regulations.* No requirement outlined in the open space PUD review process shall restrict the city council from taking action on an application if necessary to meet state mandated time deadlines.
- b) *Preconstruction.* The city shall not grant a building permit for any building on land for which an open space PUD plan is in the process of review, unless the proposed building is allowed under the existing zoning and will not impact, influence, or interfere with the proposed open space PUD plan.
- c) *Effect on conveyed property.* In the event that any real property in an approved open space PUD is conveyed in total, or in part, the new owners thereof shall be bound by the provisions of the approved overlay district.

### **ARTICLE XVIII PLANNED UNIT DEVELOPMENT (PUD) REGULATIONS**

#### **105.12.1120 Intent**

The intent of the Planned Unit Development (PUD) overlay zoning district is to provide greater flexibility in the use of land and the placement and size of buildings within the development of residential and nonresidential areas in order to achieve more creative development outcomes while remaining economically viable and marketable and to better utilize site features and obtain a higher quality of development. Approval of a planned unit development shall result in a zoning change to a specific PUD overlay district, with specific requirements and standards that are unique to that development. The City reserves the right to deny establishment of a PUD overlay district and direct a developer to re-apply for City approval under the standard applicable zoning district if the City determines the proposed benefits do not justify requested flexibilities. A Planned Unit Development (Article XVIII) shall be within the Metropolitan Urban Service Areas (MUSA). Planned Unit Developments, outside of the MUSA and within certain rural zoning districts, shall follow standards in Open Space Planned Unit Developments (Article XVII).

**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 2024-14 was adopted on this 3<sup>rd</sup> day of September, 2024 by a vote of \_\_ Ayes and \_\_Nays.

**LAKE ELMO CITY COUNCIL**

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Charles Cadenhead, Mayor

ATTEST:

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Julie Johnson, City Clerk

This Ordinance 2024-14 was published on the \_\_\_\_ day of \_\_\_\_\_, 2024.

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

**RESOLUTION NO. 2024-094**

**RESOLUTION AUTHORIZING PUBLICATION OF A SUMMARY OF ORDINANCE  
2024-14**

**WHEREAS**, the Lake Elmo City Council has adopted Ordinance No. 2024-14, an ordinance that amends Chapter 1.08 Definitions; Article XVII Open Space Planned Unit Developments; and Article XVIII Planned Unit Development (PUD) Regulations.

**WHEREAS**, the ordinance is lengthy; and

**WHEREAS**, Minnesota Statutes, section 412.191, subd. 4, allows publication by title and summary in the case of lengthy ordinances or those containing charts or maps; and

**WHEREAS**, the City Council believes that the following summary would clearly inform the public of the intent and effect of the ordinance.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Lake Elmo that the City Clerk shall cause the following summary of Ordinance No. 2024-14 to be published in the official newspaper in lieu of the entire ordinance:

**Public Notice**

The City Council of the City of Lake Elmo has adopted Ordinance No. 2024-14, an ordinance that amends the City Code language related to the Chapter 1.08 Definitions; Article XVII Open Space Planned Unit Developments; and Article XVIII Planned Unit Development (PUD) Regulations. This ordinance alters language in the City Code to update regulations and correct conflicting or outdated references. The following is a summary of the adopted ordinance language:

**Ordinance 2024-14 includes the following elements to amend Chapter 1.08 Definitions; Article XVII Open Space Planned Unit Developments; and Article XVIII Planned Unit Development (PUD) Regulations.**

- 1. Updates regulations**
- 2. Corrects conflicting or outdated references**

The full text of Ordinance 2024-14 is available for inspection at Lake Elmo City Offices during regular business hours.

**BE IT FURTHER RESOLVED** by the City Council of the City of Lake Elmo that the City Administrator keep a copy of the ordinance at City Hall for public inspection and that a full copy of the ordinance be placed in a public location within the City.

Dated: September 3, 2024

\_\_\_\_\_  
Charles Cadenhead, Mayor

ATTEST:

\_\_\_\_\_  
Julie Johnson, City Clerk

(SEAL)