



3800 Laverne Avenue North
Lake Elmo, MN 55042

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NOTICE OF MEETING

The City of Lake Elmo
Planning Commission will conduct a meeting on
Monday February 26, 2018
at 7:00 p.m.
AGENDA

1. Pledge of Allegiance
2. Approve Agenda
3. Approve Minutes
 - a. February 12, 2018
4. Public Hearings
 - a. None
5. Business Items
 - a. ZONING TEXT AMENDMENT – SUBDIVISION ORDINANCE. Staff will present proposed updates to the City’s provisions related to the Subdivision Ordinance.
 - b. ZONING TEXT AMENDMENT – OUTDOOR LIGHTING ORDINANCE. Staff will present proposed updates to the City’s provisions related to the Outdoor Lighting Ordinance.
6. Updates
 - a. City Council Updates – 2/20/18 Meeting
 - a. Wyndham Village Subdivision Sketch Plan & CUP - passed
 - b. Legacy at Northstar Preliminary Plat & PUD Plans - passed
 - c. Lake Elmo Inn Parking Lot CUP - passed
 - d. 4564 Kimbro Ave Minor Subdivision & ZMA - passed
 - e. Hammes 3rd Final Plat - passed
 - f. Northport Development Agreement Amendment - passed
 - g. Solar Ordinance – passed
 - b. Staff Updates
 - a. Upcoming Meetings:
 - March 26, 2018
 - April 9, 2018
 - b. MAC CEP Report-none
 - c. Comprehensive Plan Update
 - d. Rossow v. City of Lake Elmo – Supreme Court denied petition by City for review of plat. Issue to be sent back to district court with an order to the City to approve the plat.
 - c. Commission Concerns

7. Adjourn

***Note: Every effort will be made to accommodate person or persons that need special considerations to attend this meeting due to a health condition or disability. Please contact the Lake Elmo City Clerk if you are in need of special accommodations.



**City of Lake Elmo
Planning Commission Meeting
Minutes of February 12, 2018**

Chairman Dodson called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m.

COMMISSIONERS PRESENT: Kreimer, Dodson, Dorschner, Emerson, Pearce, Weeks, Lundquist, Johnson, & Hartley

COMMISSIONERS ABSENT: None

STAFF PRESENT: Planning Director Becker

Approve Agenda:

M/S/P: Dodson/Dorschner, move to add the Todd Williams resolution to item 5b, **Vote: 7-0, motion carried unanimously.**

M/S/P: Dorschner/Johnson, move to approve the agenda as amended, **Vote: 7-0, motion carried unanimously**

Approve Minutes: January 22, 2018

M/S/P: Hartley/Weeks, move to approve the January 22, 2018 minutes as amended, **Vote: 6-0, motion carried with Emerson, Dodson and Dorschner abstaining as not in attendance.**

Public Hearing – Conditional Use Permit – Lake Elmo Inn Parking Lot

Becker started her presentation regarding the Conditional Use Permit for the Lake Elmo Inn Parking lot to be located at 3504 Lake Elmo Ave. Becker stated that this has been used for parking, including valet for some time. The applicant stated that with the downtown street project, parking has become a challenge and he needs to use this parcel to accommodate his customer parking needs. The zoning code states that off-street parking of five or more vehicles requires a paved or durable surface. The parcel is located in the Village Mixed Use – VMX zoning district, and a parking facility is a conditional use within the VMX district.

Becker stated that right now they are focusing more on the use vs. the design. The plans submitted show 54 parking spaces, but with all of the city requirements, this might not be possible. No engineering review has been completed, as construction

plans have not yet been submitted. These will be submitted with a parking lot permit application. This will also require a VBWD permit because there is over 6000 sf of impervious surface. The City would also like Washington County to review and would like to ensure that anyone parking there is not going over pedestrian facilities. Becker went through the 12 recommended findings. There are 6 recommended conditions of approval including submitting an application for a parking lot that meets all zoning engineering and other applicable requirements and will be reviewed by the City and Washington County. The applicant must also submit an application to VBWD, meet lighting and landscaping requirements, not extend beyond property lines and not barricade right-of-way for valet parking.

Kreimer asked about the condition that the applicant not use the public area for valet parking. Becker pointed out an area that the Lake Elmo Inn had previously been using for Valet parking that is actually parking for the City. Kreimer asked if this could be done if they obtained a right-of-way permit. Becker stated that potentially they could, but it would need to be vetted and there would probably be conditions just like any other permit.

Johnson asked about the landscaping requirement. Becker clarified that the screening requirement for the street would be on both Lake Elmo Ave and 34th Street.

Dodson asked if there was a sidewalk easement along that section. Becker stated that there is sidewalk along that section. Dodson also asked if the parking easement with the storage facility is in writing. Becker stated that she has not seen anything in writing. Dodson asked about the permit approval process. Becker stated that the permit application would be approved administratively. Dodson stated that having the trees in the middle of the parking lot might be cumbersome for snow plowing and such. Becker stated that requirement is only applicable if there are 30 or more parking spaces which is code. Becker is not sure that they will be able to fit that many with buffer requirements.

John Schiltz, Owner of property, stated that he has a contract with Steve Johnson for parking next to the storage facility. Schiltz stated that snow removal is handled privately. Schiltz stated that if this passes, he will bring the plans forward.

Dorschner is wondering if this parking lot would only be for Lake Elmo Inn or if it would be for public Parking. Schiltz stated that he offered this property to the City to purchase for a public parking lot and that did not go through. Johnson is wondering if Schiltz would be open to some sort of contract with the City to share the parking lot and Schiltz stated that he would be open to that.

Public Hearing opened at 7:30 pm

John Eisley, 11094 35th Street, owns property to the NW of the proposed parking lot. He is not opposed to the parking lot, but is concerned about the lighting as two of their bedrooms face this property.

Elizabeth Everson, 11075 34th Street N, directly behind Lake Elmo Inn. Everson is totally in favor of the parking lot going in. The traffic on 34th Street, which is a dead end street, has dramatically increased after the utility project. This would hopefully alleviate some of that.

There was an email comment that was in the packet that in summary would like this to be a City parking lot.

Public Hearing closed at 7:33 pm

Kreimer is in favor of the project and the concern regarding the lighting should be addressed with the City lighting ordinance. Dodson asked if this would be private lighting or public lighting. Becker stated that it would be private lighting on private property.

M/S/P: Lundquist/Kreimer, move to recommend approval of the request for a Conditional Use Permit to allow the use of a parking facility on the property located at 3504 Lake Elmo Ave N subject to recommended conditions of approval as amended, ***Vote: 7-0, motion carried unanimously.***

Johnson is concerned about the required screening from a safety stand point. Johnson feels there should be a cross walk from the parking at the storage facility. Johnson would like the City to look at how they could make pedestrian access safer downtown in general. Weeks stated that she does not see the screening as a hazard because there are cars parked on the street, then the sidewalk and then the screening. The code requirement is not as tall as a person in a car or a pedestrian standing. Someone walking between parked cars would be a hazard, but there is nothing that can be done to deter that.

Weeks stated that there used to be a specific cross walk at that corner prior to the street project and it should be there.

Dorschner stated that he feels the screening really isn't screening if it is only three feet tall. He doesn't see the benefit on the street sides. He can see the benefit on the residential side if it is tall enough to help with the lighting.

Dodson is wondering if the Planning Commission has the option to be flexible with the landscaping if it is in the ordinance. Becker stated that since this is not a variance and it is not a set amount it is something that could be a bit flexible because it is a conditional use permit. Becker would caution that if the landscaping is not adhered to here, it

would be difficult to enforce others to follow the same standards. Dorschner stated that the Christ Lutheran parking lot does not have screening on the street sides. Becker stated that that was an existing parking lot prior to the ordinance. Kreimer doesn't feel it is required to be a berm, but could be a hedge or a fence or something like that that doesn't completely block but partially screens the parking lot.

M/S/P: Dorschner/Lundquist, move to amend the motion to change condition #2 to add that landscape screening would not be required along Lake Elmo Ave and 34th Street,
Vote: 6-1, motion carried with Kreimer voting no.

Public Hearing – Zoning Map Amendment and Minor Subdivision 4564 Kimbro Ave

Becker started her presentation regarding the Zoning Map Amendment and Minor Subdivision at 4564 Kimbro Ave. The parcel is currently zoned agricultural and is 73.51 acres. This minor subdivision would divide this parcel into 2 new parcels of 27.94, 10.03 and 35.54 acres. The two parcels that are less than 40 acres will need to be rezoned to rural residential to meet the minimum lot size requirements. Parkland dedication of \$7200 would be required for the 2 new lots created.

The recommended conditions of approval include that the property be rezoned from AG to RR, Parkland dedication of \$7200 be paid, all engineer comments be addressed, and all necessary permits must be obtained.

Tim Freeman, representing the applicant, did not think there would be impact of creating 3 new lots vs 2 lots. Freeman is wondering if there could be just one new lot created, leaving the rest of the property on both sides of the road as one parcel. Freeman feels the Park Dedication is steep for a 10 acre lot, let alone paying \$3600 for a vacant lot. Becker stated that she doesn't believe that would be a problem as long as the City would get the right-of-way dedication.

Public Hearing opened at 8:05 pm

Bob Horsenell, 520 Commens Drive, concerned with changing the zoning from AG to Rural Residential and the loss of farmland.

Bev Reiks, 4564 Kimbro Ave, property owner, there will be no loss of agricultural land. The property being subdivided is not currently farmed.

Jane Chars, PO Box 769, asked why the zoning is changing from AG to RR. Becker stated that the minimum lot size is 40 acres, so it needs to be rezoned to RR.

Public Hearing closed at 8:11 pm

Dorschner asked if this is only being divided into two lots would there still be parkland dedication. Becker stated if it is only two lots, the fee would only be required on the newly created 10 acre lot. Dorschner doesn't feel that we should be charging for a single family home to go in.

Hartley stated that when a developer gets charged for parkland dedication, that fee is technically passed on in the purchase price of the lot. If you look at it in aggregate, it is a new dwelling. Weeks would be interested in having the parkland dedication ordinance being put on the work plan to look at. Dodson suggested that it be talked about under Commission concerns. Dodson stated that he thinks the only way he thinks this could be applied differently would be to look at how different parcels are guided.

Johnson considers this a modest change and people should have the freedom to develop as they are allowed by the zoning ordinance. Dodson stated that rezoning this 10 acres actually locks down that 10 acres to Rural Residential when the rest of the Agricultural land could be developed as an open space development.

M/S/P: Dorschner/Lundquist, move to recommend approval of the Minor Subdivision request for the property located at 4564 Kimbro Avenue N, subject to the 5 outlined conditions of approval, **Vote: 7-0, motion carried unanimously.**

M/S/P: Lundquist/Dodson, move to recommend approval of the Zoning Map Amendment to rezone the property located at 4564 Kimbro Avenue North to RR- Rural Residential, subject to one condition of approval, **Vote: 7-0, motion carried unanimously.**

Public Hearing – Easement Vacation – Final Plat Hammes 3rd Addition

Becker started her presentation regarding the easement vacation for the Hammes Estates drainage and Utility easement over Outlot B. The 3rd Addition is the final phase of Hammes Estates or Lake Ridge Crossing. The last phase is 69 units on approximately 39 acres. The Easement vacation is required in order to plat the 3rd Addition.

Some final plat comments are that the street names need to be included on the final plat. The fire chief commented that the fire hydrants on James Circle appear to exceed the 500 foot required spacing. Landscaping plans will need to be updated to include 25% coniferous trees, include irrigation plans and provide the required buffering per the comp plan.

Becker went through the conditions of approval for the easement vacation and final plat. There are 2 conditions for the easement vacation and 9 conditions for the final plat.

Hartley wanted clarification regarding who is responsible for the tot lot. Becker stated that the HOA is responsible for the tot lot.

Kreimer is wondering when the silt fence is removed from a project. Becker stated that per City Code, the silt fence is required to be removed 30 days after construction activity has ceased for the development. Kreimer asked about the trail that is shown connecting to Jewel Ave N. Kreimer is wondering if the trail can connect to Julep Ave N. Becker stated that it would not be consistent with Preliminary Plat. Becker stated that it is something that could be negotiated with the developer.

Dodson asked about a preliminary plat condition about landscape islands being platted. Becker stated that would be addressed in the landscape license agreement.

Public Hearing opened at 8:37 pm

No one spoke and there were no written comments

Public Hearing closed at 8:38 pm

M/S/P: Dorschner/Lundquist, move to recommend approval of the Hammes Estates 3rd Addition Final Plat with the 9 conditions of approval based on the findings of fact listed in the staff report, **Vote: 7-0, motion passed unanimously.**

M/S/P: Dorschner/Kreimer, move to recommend approval of the request to vacate the easement over Outlot, Hammes Estates 3rd Addition, subject to one condition of approval, **Vote: 7-0, motion passed unanimously.**

Business Item – Todd Williams Resolution

M/S/P: Lundquist/Dodson, move to adopt Resolution 2018-001PZ recognizing Todd Williams for his years of service on the Planning Commission and his contribution to the Comprehensive Plan update, **Vote: 7-0, motion passed unanimously.**

City Council Updates – February 8, 2018 Meeting

- i) Wyndham Village Sketch Plan and Comp Plan Amendment – tabled
- ii) Legacy at North Star Prelim Plat and PUD – tabled
- iii) Fairfield Inn Final PUD and CUP – passed
- iv) Solar Ordinance – passed
- v) Wind Power Ordinance – passed
- vi) Short-Term Rentals - passed

Staff Updates

1. Upcoming Meetings
 - a. February 26, 2018

- b. March 12, 2018
2. Comprehensive Plan Update

Commission Concerns

Dorschner would like to ask the City Council to look at the Parkland Dedication, particularly for minor subdivision. Becker asked if they wanted the commercial minor subdivision included as well. The fee for commercial is \$4500 for a new lot created. Dorschner thinks it should be looked at as a whole.

Johnson also feels that a homeowner in a new development might get a greater amenity than a single lot in the rural development area. Weeks feels that a 10 acre parcel might not use parks like smaller lots. Hartley stated he does not feel that the fee is related to the size of lot. Dorschner stated he is just requesting a review of the purpose of the Parkland dedication fund.

Becker stated that the subdivision ordinance is on the work plan and part of that discussion could be the Parkland Dedication fees which is part of the ordinance.

Johnson brought up the cross walk issue by the storage building and Lake Elmo Inn. Hartley is wondering if staff can talk to the County and see if that is part of their plan. Becker stated that staff has talked to the County and the County feels that there is not a need for a cross walk.

M/S/P: Lundquist/Johnson, move to request that the City Council ask Washington County Department of Transportation to re-evaluate the stretch of Lake Elmo Avenue from the railroad tracks to highway 5 for both speed limit and cross walks, ***Vote: 7-0, motion passed unanimously.***

There was discussion about the trail system. There is concern about the connectivity and that some trails are public and some are private.

Meeting adjourned at 9:00 pm

Respectfully submitted,

Joan Ziertman
Planning Program Assistant



STAFF REPORT

DATE: 2/26/2018

REGULAR

ITEM #:5a

MOTION

TO: Planning Commission
FROM: Emily Becker, Planning Director
AGENDA ITEM: Subdivisions Regulations Update
REVIEWED BY: Ben Prchal, City Planner

BACKGROUND:

An update to the City's Subdivision Regulations Ordinance is an item on the Planning Commission's 2018 Work Plan. Specific areas of focus as per the Work Plan include platting for minor subdivisions, updating subdivision submission requirements, and preparing an update to incorporate engineering standards.

ISSUE BEFORE COMMISSION:

The Planning Commission is being asked to review proposed amendments to the City's subdivision regulations and provide feedback.

PROPOSAL DETAILS/ANALYSIS:

The following provides explanation of the proposed amendments:

Scope. Minn. State Statute 462.352 Subd. 12 excepts the following separations from subdivision regulations. This has been added to the Section 153.02: Generally, Subd. B in order to align with State Statute.

(1) where all the resulting parcels, tracts, lots, or interests will be 20 acres or larger in size and 500 feet in width for residential uses and five acres or larger in size for commercial and industrial uses;

(2) creating cemetery lots;

(3) resulting from court orders, or the adjustment of a lot line by the relocation of a common boundary.

(4) Lot consolidation

Metes and Bounds. The purpose of this Section is to delineate properties that have been subdivided or platted in the past and those that may be subdivided in the future that did not receive or are not required to receive City approval. This means that if a property was subdivided prior to the time frames outlined below, the city could not go back now and say that because under the City's current regulations, the subdivision

approval would have been required that it must be approved by the City. This does not mean that if the property is further subdivided in the future (or now) that subdivision approval is not required. It would still be required if it fell under other exceptions as outlined below.

- **Current Subdivision Regulations.** The current subdivision regulations place the following restrictions on filing and recording conveyances of land which is described by metes and bounds:

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

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

- (1) Was a separate parcel of record 10-3-1968, or as to lands within the jurisdictional boundaries of the Old Village prior to its consolidation with the Town of East Oakdale if the land was a separate parcel of record 6-4-1974;*
- (2) Was the subject of a written agreement to convey, entered into prior to the time;*
- (3) Has been divided in accordance with § 153.10(B); is a single parcel of land having not less than 5 acres and having a width of not less than 300 feet and its conveyance does not result in the division of a parcel into 2 or more lots or parcels any 1 of which is less than 5 acres in area or 300 feet in width; and/or*
- (4) Has been approved as an exception to platting pursuant to § 153.09.”*

- **Minnesota Statute Regulations.** State Statute 462.358 Subd. 4b. states the following:

Subd. 4b. Restrictions on filing and recording conveyances.

(a) In a municipality in which subdivision regulations are in force and have been filed or recorded as provided in this section, no conveyance of land to which the regulations are applicable shall be filed or recorded, if the land is described in the conveyance by metes and bounds or by reference to an unapproved registered land survey made after April 21, 1961 or to an unapproved plat made after such regulations become effective.

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

- (1) was a separate parcel of record April 1, 1945 or the date of adoption of subdivision regulations under Laws 1945, chapter 287, whichever is the later, or of the adoption of subdivision regulations pursuant to a home rule charter, or*
- (2) was the subject of a written agreement to convey entered into prior to such time, or*
- (3) was a separate parcel of not less than 2-1/2 acres in area and 150 feet in width on January 1, 1966, or*
- (4) was a separate parcel of not less than five acres in area and 300 feet in width on July 1, 1980, or*
- (5) is a single parcel of commercial or industrial land of not less than five acres and having a width of not less than 300 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than five acres in area or 300 feet in width, or*

- (6) is a single parcel of residential or agricultural land of not less than 20 acres and having a width of not less than 500 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than 20 acres in area or 500 feet in width.
- (c) In any case in which compliance with the foregoing restrictions will create an unnecessary hardship and failure to comply does not interfere with the purpose of the subdivision regulations, the platting authority may waive such compliance by adoption of a resolution to that effect and the conveyance may then be filed or recorded.
- (d) Any owner or agent of the owner of land who conveys a lot or parcel in violation of the provisions of this subdivision shall forfeit and pay to the municipality a penalty of not less than \$100 for each lot or parcel so conveyed.
- (e) A municipality may enjoin such conveyance or may recover such penalty by a civil action in any court of competent jurisdiction.
- **Staff Analysis.** Staff proposes the following:
 - With respect to the conflict with the dates, the statute says that no conveyance that has not been approved by a city is allowed if the land described in the conveyance by metes and bounds or by reference to an unapproved registered land survey made after April 21, 1961 or to an unapproved plat *made after such regulations became effective*. It appears from reading the City's ordinance (paragraph (A)), that its subdivision regulations must have been effective on October 3, 1968, and so this is why this date was used instead of April 21, 1961. Since the statute contemplates using the date that the City's regulations became effective if that date is later, the October 3, 1968 date should remain.
 - This is also true with paragraph (B)(1) of the ordinance ("was a separate parcel of record 10-3-1968, or as to lands within the jurisdictional boundaries of the Old Village prior to its consolidation with the Town of East Oakdale if the land was as separate parcel of record 6-4-1974") and this paragraph should remain as is.
 - Paragraph (B)(2) of the ordinance is consistent with the statute, so it should remain.
 - Paragraph (B)(3) should be broken into two paragraphs so that it is consistent with the statute (the statute has different exceptions applicable to commercial/industrial parcels and residential/agricultural parcels). The statute is actually stricter than the City's code.
 - Paragraph (B) (4) should be removed because it technically states that no city approval is needed if the parcel qualifies as exception to platting under Section 153.09. Staff believes it was not the intention of the City to make properties that are not required to be platted not require any City approval, as Section 153.09 still requires minor subdivision or lot line adjustment approval by the City in those cases.

Building Permits. Because the City's development agreement template is amended from time and time, especially as it pertains to requirements required to be completed prior to the issuance of building permits and certificates of occupancy. Because of this, the proposed amendment refers the release of these items as set forth by the development agreement.

Consistency with the Comprehensive Plan and Zoning District. There is currently no language that explicitly requires that subdivisions be executed in accordance with the City's Comprehensive Plan and Zoning District. The proposed amendment specifies this requirement.

Preliminary and Final Plat Submission Requirements. There are a number of items that are required within the checklist of the City's Preliminary and Final Plat applications that Staff require to thoroughly review applications that are proposed to be codified within this ordinance.

Exceptions to Platting. The current ordinance allows the following exceptions to platting:

- **Minor Subdivision.** The division of land which result in no more than 4 parcels that comply with minimum lot dimension and public frontage requirements.
 - *Proposed Change.* The proposed change aligns exceptions to platting with State Statute, which requires platting for subdivision of property in to five or more lots which are 2.5 acres in size or less. The current ordinance is stricter than State Statute in that it requires platting for subdivision of property in to four parcels or less.
 - *Topic for Discussion.* The Planning Commission should discuss whether the City should be stricter in requirements for platting. The attached table provides a comparison of other cities and when it is required to plat. The Planning Commission should consider that allowing for minor subdivisions is less expensive and less time consuming for an applicant, as submission requirements typically only require submission of a survey by a registered land surveyor showing the original lot and proposed subdivision. However, the County typically prefers platting, and platting may minimize property line disputes.
- **Lot Line Adjustment.** The division of land which results in no more than 4 parcels which do not comply with the city's minimum lot dimension and/or public road frontage requirements for the zoning district in which the land is located.
 - *Proposed Change.* A lot line adjustment should be just that – an adjustment of a lot line, not a division of land. The proposed amendment amends language to specify this. The proposed amendment explicitly explains that lot line adjustments shall not create a new lot or outlot.

Application Requirements. The proposed ordinance amendment codifies additional application requirements that are currently set forth within the Preliminary and Final Plat applications.

Time Restriction for Recording of Minor Subdivision. The proposed amendment sets forth the requirement that the minor subdivision be recorded within 120 days of approval. This is already a requirement for final plats, but there currently is no such requirement for a minor subdivision.

Design Standards, Required Improvements. The addition of language that the design of required improvements must meet plan sheet requirements set forth by the City Engineering Design and Construction Standards Manual will refer the applicant to those standards. Because those standards are constantly evolving, it would not make sense to codify the particular requirements. The only other change proposed for design standards is that lot remnants may be used as outlots for city, landscaping or trail purposes as approved by the City. The Commission may wish to make recommendation to changes to these standards.

Park Land Dedication Requirements. The two tables that outline park dedication requirements for specific zoning districts for residential subdivisions that result in 3 or more parcels and commercial development have been consolidated. Additionally, a policy regarding the dedication of trails for parkland

dedication is outlined. The City has generally used this as a policy, but the proposed amendment outlines this policy.

The Commission had wished to review the fees associated with required fees for subdivisions which result in subdivisions of less than three parcels and commercial subdivisions. The City requires such fees in order to create a sufficient supply of public recreational space to accommodate the reasonable needs of the public.

The current fee for residential subdivision resulting in 3 or fewer parcels is \$3600 per new lot created, and the current fee for commercial subdivisions is \$4500 per acre. The required dedication for residential subdivision of more than three lots is within the ordinance.

The attached table provides a comparison of Lake Elmo's parkland dedication requirements to those of other cities.

FISCAL IMPACT:

None.

OPTIONS:

The Commission may wish to:

- Recommend approval of the proposed amendments to the City's Subdivision Regulations Ordinance
- Specify desired amendments, deletions or additions to the proposed amendments to the City's Subdivision Regulations Ordinance
- Recommend no changes be made to the City's Subdivision Regulations Ordinance

ATTACHMENTS:

- Comparison Table – Exceptions to Platting Requirements within other Cities
- Comparison Table – Parkland Dedication Fees
- Draft Ord. 08-

City	Exceptions to Platting
Ham Lake	Allows for Minor Plats where a plat will contain one or two lots and expedite the plan approval process
Little Canada	Allows simple subdivision where division of land is to permit the adding of a parcel of land to an abutting lot or create three or less lots and the newly created property line will not cause the other remaining portion of the lots, or any structures within the subdivision, to be in violation of this ordinance or zoning ordinance
Mound	Allows a waiver or platting requirements if it is determined to be in compliance with all city codes. A request for waiver of platting requirements must be granted by Council.
Mounds View	Allows minor subdivisions for subdivision of a parcel or parcels of property less than two acres in size in which no more than one additional parcel or lot is created.
Vadnais Heights	<p>Allows minor subdivisions if all of the following conditions are met (1) The land involved has been previously platted into lots and blocks and is designated in a subdivision plat filed in the office of the county recorder or registrar of titles;</p> <p>(2) The subdivision involves no more than three previously platted lots and results in no more than three revised lots;</p> <p>(3) The subdivision will not cause the land or any structure on the land to be in violation of any City Code provision;</p> <p>(4) The subdivision will not involve any new street, road, or public improvement, or extension of existing public improvements;</p> <p>(5) The purpose of the subdivision is to divide up to three parcels in to not more than three new parcels or revise lot lines or correct surveyor errors for up to three parcels which does not create any new buildable lots.</p>
Rogers	<p>Allows platting requirements to be waived or modified for the following: (1) Simple lot split. When parcel of record is divided in two lots or parcels, submission of topographic maps, soil tests and other data may be waived if approved by the Council. Also, City Council grants authority to have simple lot splits where no public infrastructure, easements, or rights-of-way are being dedicated to be administratively approved by the Zoning Administrator. (2) Creation of three to five lots shall allow for waiving of requirement of soil tests and topography information. Transfer of title is still required for filing a final plat</p>

Victoria	Allows for minor subdivisions in cases where subdivision is of a small size and minor importance situated in a locality where conditions are well defined. In the case of a request to divide a lot which is a part of a recorded plat, where the division is to permit the adding of a parcel of land to an abutting lot, reconfiguration or to create two lots and the newly created lots and lines will not cause the other remaining portion of the lot to be in violation of this chapter or chapter 109, the division may be approved by the city after submission of a survey by a registered land surveyor showing the original lot and the proposed division.
Orono	Waives platting requirements for subdivisions resulting in no more than two buildable lots where each resulting lot meets or exceeds five acres and has at least 300 feet of frontage on a public roadway accepted and opened by the City. Requires platting, but with limited review for the previously mentioned situation that would require vacation or dedication of public roadways or extension of utilities.
Mahtomedi	Allows minor subdivision for division of land divided in to three parcels or less
Albertville	Allows minor subdivision when creating no more than two new lots (cannot have been part of a subdivision within the last five years).
Waconia	Allows minor subdivisions when subdivision results in three or less parcels

City	Parkland Dedication Requirements
Lake Elmo	\$3600 for new lots created within subdivisions that create 3 or fewer lots and \$4500 per acre for commercial subdivisions. Percentage of land (based on zoning district) required for residential subdivisions of more than 3 lots.
Victoria	Requires one acre of land for every 75 residents the subdivision could house (3.5 for single family, 2 for townhomes, 1.5 per multi family dwelling, and 0.75 for senior housing). Commercial or industrial projects exceeding one acre shall require dedication calculated at 5% of cost of each acre of land. Fee is \$100,000 per acre.
Ham Lake	\$25,000 per acre at one acre of public park or trail space created for every ten acres of residential land developed. No dedication fees for commercial development.
Mounds View	Up to ten percent (10%) of the buildable land of the proposed subdivision or its equivalent in cash based on the fair market value shall constitute a reasonable portion for dedication purposes under this section.
Vadnais Heights	Residential development requires \$1500 per new lot or unit created for up to 20 lots. Over 20 lots requires land dedicated or fees paid for the value of land; percentage required is based on density of the development (9% for 0-2 upa; 11% for 2-4 upa; 13% for 4-6 upa; 15% for 6-8 upa; 17% for 8-10 upa; add 1% for each dwelling upa beyond 10% up to 20%). Commercial development requires \$365.00 for each 1,000 square feet of proposed building. Industrial development requires \$245 for each 1,000 square feet of proposed building. Hotels and motels require \$250 per each unit.
Orono	8% for residential, agricultural, or multiple residential zones (exclusive of lot that includes existing residence) (Minimum of \$3250 and maximum of \$5550 per new dwelling unit). 8% of commercial land being platted or subdivided (minimum of \$8125 per acre and maximum of \$13,875 per acre).
Mound	In the case of minor subdivisions (creation of 3 residential lots or less), park land dedication shall be pursuant to a schedule to be set by resolution of the Council. The cash fee for minor subdivisions 10% of fair market value.
Mahtomedi	Residential: Minimum of 10% of the fair market value of the land prior to subdivision OR a fee equal to \$3,000.00 per new dwelling unit for single family residence and \$2,600.00 per new dwelling unit for multiple family residence, whichever is less, prior to subdivision when the subdivision is too small for practical dedication of public land or if no land is the subdivision is suitable for such use. Commercial: Minimum of 7% of the fair market value of the land prior to subdivision OR a fee equal to \$6,000.00 per acre of the gross area subdivided, whichever is less, shall be dedicated for public recreation space or open space.

Albertville	Cash for Park Dedicaition : Residential \$3,300 per residential unit, Commercial \$8,200 per acre subdivided, Industrial \$2,500 per acre subdivided. Residential divisions of less than 9 acres requires 10% land dedication and 9 or more acres requires 11% land dedicaition plus 1/2 acre for each additional dwelling unit. Divided Land With Same Number Of Lots; Increase In Lot Number: Property being divided with the same number of lots shall be exempt from all park land dedication requirements. If the number of lots is increased or if land outside the previously recorded plat is added, then the park land dedication and/or park cash contributions shall be based on the additional lots and on the additional land being added to the plat. If the additional land does not create additional lots, then each one-third (1/3) acre added shall be considered a new lot for purposes of calculating the dedication requirements.
Waconia	10% of the land shall be dedicated as parkland. Because of lot size, location, or other reasons cash may be substituted; \$6,000 per gross acre in residential subdivisions and \$5,000 per gross acre for each acre of land in commercial, industrial, or other.
Rogers	The city does require park land dedication, the amounts are determiend prior to final plat. Ten percent (10%) of the land shall be dedicated or cash payments of Residential lots \$3,500 per dwelling unit, Commercial lots \$7,000 per acre, Industrial \$5,000 per acre.
Little Canada	The Parks commission shall recommend to the City Council the location of the land and the amount of land to be conveyed or dedicated with in the subdivision. Or Cash contributions may be made \$3,500 per unit 1- unit through 8 units, \$1,950 per unit - 9 units or more

CHAPTER 153: SUBDIVISION REGULATIONS

Section

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§ 153.01 REGULATIONS ESTABLISHED.

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

(1997 Code, § 400.02) Penalty, see § 10.99

§ 153.02 GENERALLY.

(A) *Purpose.* In order to provide for orderly, economic, and safe development of land, necessary urban services and facilities, and to promote the public health, safety, morals as to the urban services and facilities, the following subdivision regulations are adopted by the Council of the city. It is the intent of the city to protect the right of landowners to put their land to its highest and best use and protect each owner's right to full beneficial use of his or her land insofar as the use and enjoyment may be accomplished without detriment to the public interest and within the minimum standards established by this chapter.

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

(1) where all the resulting parcels, tracts, lots, or interests will be 20 acres or larger in size and 500 feet in width for residential uses and five acres or larger in size for commercial and industrial uses;

(2) creating cemetery lots;

(3) resulting from court orders, or the adjustment of a lot line by the relocation of a common boundary.

(4) Lot consolidation

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

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

(1) Building permits may be issued for model homes after approval of the final plat by the council upon receipt of a signed developers agreement which shall include security for improvements, both which shall be in a form approved by the City Attorney. The issuance of building permits for model homes shall be in accordance with the signed development agreement.

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

(3) No certificate of occupancy shall be issued by the city until the first lift of blacktop is completed—until all applicable requirements set forth by the development agreement have been met.

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

(Am. Ord. 9707, passed 5-20-1997)

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

(F) *Flood plain management.*

(1) No land shall be subdivided which is held unsuitable by the Council for reason of flooding, inadequate drainage, water supply, or sewage treatment facilities. All lots within the

flood plain shall contain a building site at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage disposal facilities that comply with the provisions of this chapter, and have road access both to the subdivision and to the individual building sites no lower than 2 feet below the regulatory flood protection elevation.

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

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

(1997 Code, § 400.03) Penalty, see § 10.99

§ 153.03 DEFINITIONS.

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

(1997 Code, § 400.04)

§ 153.04 REGISTERED LAND SURVEY.

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

(1997 Code, § 400.05)

§ 153.05 CONVEYANCE BY METES AND BOUNDS AND OTHER UNAPPROVED

+>DESCRIPTIONS.

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

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

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

(2) Was the subject of a written agreement to convey, entered into prior to the time;

(3) ~~Has been divided in accordance with § 153.10(B);~~ is a single parcel of land having not less than 5 20 acres and having a width of not less than 300 500 feet and its conveyance does not result in the division of a parcel into 2 or more lots or parcels any 1 of which is less than 5 20 acres in area or 300 500 feet in width; and/or

Commented [EB1]: This refers to Planning commission review of Variances

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

Commented [EB2]: This aligns exceptions to platting with State Statute.

~~(4) Has been approved as an exception to platting pursuant to § 153.09;~~

Commented [EB3]: Removed because these exceptions still require city approval

(1997 Code, § 400.06) Penalty, see § 10.99

§ 153.06 PLATTING.

(A) *Platting required.* Except as provided in § 153.09, platting shall be required for the subdivision of a tract of land which is to be divided into 3 or more lots or parcels for the purpose of transfer of ownership, building development, or for tax assessment purposes.

(B) *Pre-application.*

(1) *Sketch plan.* In order to ensure that all applicants are informed of the procedural requirements and minimum standards of this chapter and the requirements or limitations imposed by other city ordinances or plans, prior to the development of a preliminary plat, the subdivider shall meet with the Planning Commission and prepare a sketch plan which explains or illustrates the proposed subdivision and its purpose. The Planning Commission shall accept the information received, but take no formal or informal action which could be construed as approval or denial of the proposed plat.

(2) *Submission requirements.* The owner shall prepare and submit a sketch plan, together with any necessary supplemental information. The plan shall contain the information set forth below.

(C) *General provisions (pre-application).*

(1) Locations of boundary lines in relation to a known section, quarter section, or quarter quarter section line comprising a legal description of the property;

(2) Names and addresses of all persons having property interest, the developer, the designer, and surveyor together with the interested person's registration number;

(3) Graphic scale of not less than 1 inch to 100 feet; and

(4) Data and north point.

(D) *Existing conditions.*

(1) Boundary line of proposed subdivision, clearly indicated;

(2) Existing zoning classification for land within and abutting the subdivision;

(3) A statement on the acreage and dimensions of the lots;

(4) Location widths and names of existing or previously platted streets or other public ways, showing type, width, and conditions of improvements, if any, railroad and utility rights-of-way, parks and other open spaces, permanent buildings and structures, easements in section and corporate lines within the tract and to a distance of ~~350~~ 150 feet beyond the tract;

(5) Location and size of existing sewers, water mains, culverts, or other underground utilities within the tract and to a distance of ~~350~~ 150 feet beyond the tract, the data as grades, invert elevations, and locations of catch basins, and manholes shall also be shown;

(6) Boundary lines of adjoining unsubdivided or subdivided land, within ~~350~~ 150 feet, identified by name and ownership, including all contiguous land owned or controlled by the subdivider;

(7) Topographic data, including contours at vertical intervals of not more than 5 feet; water courses, marshes, rock outcrops, power transmission poles and lines and other significant features shall also be shown; N.G.V.D. shall be used for all topographic mapping; and

(8) The subdivider may be required to file a report prepared by a registered civil engineer or soil scientist on the feasibility of individual on-site sewer and water systems on each lot; the report shall include a soil borings analysis and a percolation test to verify conclusions.

(E) *Proposed design features.*

(1) Layout of proposed streets showing right-of-way widths, center line grade, typical cross-sections, and proposed names of streets in conformance with all applicable city ordinances and policies; the name of any street used in the city or its environs shall not be used unless the proposed street is the logical extension of an already named street, in which event the same name shall be used. The names and number shall comply with the County Uniform Street Numbering System.

(2) Areas other than streets, pedestrian ways, utility easement, intended to be dedicated or reserved for public use, including the size of the areas in acres.

(3) (a) Provision for surface water disposal, drainage, and flood control within the boundaries of the proposed property division consistent with § 150.273 of this code, storm water management and erosion and sediment control.

(F) *Supplementary information.*

(1) The supplementary information as shall reasonably be deemed necessary by the Planning Commission or the Council;

(2) Proposed protective covenants;

(3) Statement of the proposed use of lots stating type of residential buildings with number of proposed dwellings and type of business or industry, so as to review the effect of the development on traffic, fire hazards, and congestion of population;

(4) If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions, shall be shown. The proposed zoning plans shall be for information only and not vest any rights in the application for use other than residential;

(5) Where the subdivider owns property adjacent to that which is being proposed for division, the Planning Commission may require that the subdivider submit a sketch plan of the remainder of the property so as to show the possible relationship between the proposed division and a future subdivision. All subdivisions shall be reasonably consistent with the existing or potential adjacent subdivisions; and

(6) Where structures are to be placed on large or excessively deep lots, which are subject to replat, the development subdivision plans shall indicate placement of structures so that lots may be further subdivided, in addition to a sketch plan that illustrates a way in which the lots can possibly be resubdivided.

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

§ 153.07 PRELIMINARY PLAT.

(A) *Filing.* Twenty copies of the preliminary plat and certified list of property owners located within 350 feet of the subject property obtained from and certified by a licensed abstractor, shall be filed with the Administrator. The required filing fee as established by Council resolution shall be paid and any necessary applications for variances from the provisions of this chapter shall be submitted with the required fee. The proposed plat shall be placed on the agenda of the Planning Commission meeting no later than the second regularly scheduled meeting following the date of filing. No application shall be accepted by the Administrator for filing unless all application information required by this chapter is submitted with the application.

(B) *Submission requirements.* The applicant shall prepare and submit a preliminary plat, together with any necessary supplementary information. The preliminary plat shall contain the following information.

(C) *General provision (preliminary plat).*

(1) Proposed name of subdivision; names shall not duplicate or too closely resemble names of existing subdivisions; in any case, the name must be approved by the County Recorder;

(2) Location of boundary lines in relation to a known section, quarter section, or quarter quarter section lines comprising a legal description of the property;

(3) Names and addresses of all persons having any interest in the property, the developer, designer, and surveyor together with the interested person's registration number;

(4) Graphic scale of plat, not less than 1 inch to 100 feet;

(5) Data and north point; and

(6) Date of preparation.

(D) *Existing conditions.*

(1) Boundary line of proposed subdivision, clearly indicated;

(2) Existing zoning classifications for land within and abutting the subdivision;

(3) A general statement on the approximate acreage and dimensions of the lots;

(4) Location, widths, and names of all existing or previously platted streets or other public ways, showing type, width, and condition of improvements if any, railroad and utility rights-of-way, parks and other public open spaces, permanent buildings and structures, easements and section and corporate lines within the tract and to a distance of ~~350~~ 150 feet beyond the tract;

(5) Location and size of existing sewers, water mains, culverts, or other underground facilities within the tract and to a distance of ~~350~~ 150 feet beyond the tract; the data as grades, invert elevations, and locations of catch basins, manholes, shall also be shown;

(6) Boundary lines of adjoining unsubdivided or subdivided land, within ~~350~~ 150 feet, identified by name and ownership, including all contiguous land owned or controlled by the subdivider;

(7) Topographic data, including contours at vertical intervals of not more than 2 feet; water courses, marshes, rock outcrops, power transmission poles and lines, and other significant feature shall also be shown; N.G.V.D. shall be used for all topographic mapping; and

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

(E) *Proposed design features.*

(1) Layout of proposed streets showing right-of-way widths, center line grade, typical cross-sections, and proposed names of streets in conformance with all applicable city ordinances and policies. The names and number shall comply with the County Uniform Street Naming and Property Numbering System, with the following exceptions:

- a. Unless a newly proposed street directly extends from an existing street, no street name that already exists in the city or its environs shall be used, regardless if it is on the same grid as another street.
 - i. North-south avenues shall follow the grid system, increasing alphabetically from east to west, but must use different names.
 - ii. East-west streets shall follow the grid numbering system as appropriate, but a different suffix such as Lane, Place, Way, etc. or a different prefix such as Upper or Lower shall be used.
- b. The names of deflecting streets shall not vary; names of continual streets shall not change, even if the street changes direction, unless an intersection exists.
 - i. The names of deflecting streets shall be determined according to their relation to an Arterial or Collector Street if appropriate, otherwise such names shall be determined according to their main point of entry in to a development or as deemed appropriate by Council.

c. If appropriate, names with the same theme (i.e. flowers, nature) are permitted for naming streets in an entire subdivision.

d. All street names shall end with the directional suffix of North.

(2) Locations and widths of proposed alleys and pedestrian ways;

(3) Locations and size of proposed sewer lines and water mains;

(4) Layout, numbers, lot areas, and preliminary dimensions of lots and blocks;

(5) Building pads shall be shown to demonstrate a minimum front and side street building setback lines;

(6) When lots are located on a curve, the width of the lot at the building setback line shall be shown;

(7) Areas, other than streets, alleys, pedestrian ways, and utility easements intended to be dedicated or reserved for public use, including the size of the area or areas in acres. This shall include areas planned for trails and parks within the City;

(8) Area calculations of lots, right-of-way, streets, public highways, alleys, parks and public trails, wetland and wetland buffers and other features with accurate dimensions;

(9) Water mains shall be provided to serve the subdivision by extension of any existing community system wherever feasible. Service connections shall be stubbed into the property line and all necessary fire hydrants shall also be provided. Extensions of the public water supply system shall be designed so as to provide public water in accordance with the standards of the city. In areas where public water supply is not available, well plans must comply with applicable state regulations and shall be submitted for the approval of the City Building Official;

(10) Sanitary sewer mains and service connections shall be installed in accordance with the standards established by the city;

(11) All private sewage treatment systems shall be installed in accordance with standards established by the city. Demonstration of two separate and distinct 10,000 square-foot contiguous land areas, suitable for septic drainfields, is required;

(12) Surface water disposal, drainage, and flood control shall be provided within the boundaries of the proposed property division consistent with § 150.273 of this code, storm water management and erosion sediment control.

(13) Location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and

(14) A line or contour representing the ordinary high water level, the “toe” and the “top” of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

(F) *Supplementary information.* The following supplementary information shall be submitted when deemed necessary by the Planning Commission:

(1) Proposed protective covenants;

Commented [EB4]: These were added at the request of the DNR

(2) An accurate soil survey of the subdivision prepared by a qualified person. In areas of questionable soil conditions, percolation tests may be required on a lot-by-lot basis to determine the suitability of any particular site for building; A report indicating results of deep soils tests and percolation tests at the rate of no fewer than two successful test results for each proposed septic disposal area (a total of four tests per proposed lot) may be required.

Commented [EB5]: This was added as a result of incomplete letter requirements in order to clarify.

(3) A statement prepared by a qualified person identifying tree coverage in the proposed subdivision in terms of type, weakness, maturity, potential hazard, infestation, vigor, density, and spacing;

(4) Statement of the proposed use of lots stating type of residential buildings with number of proposed dwelling units and type of business or industry, so as to reveal the effect of the development on traffic, fire hazards, and congestion of population;

(5) If any zoning changes are contemplated, the proposed zoning plat for the areas, including dimensions, shall be shown;

(6) Where the subdivider owns property adjacent to that which is being proposed for the subdivision, the Planning Commission may require that the subdivider submit a sketch plan of the remainder of the property so as to show the possible relationships between the proposed subdivision and the future subdivision. All subdivisions shall be shown to relate well with existing or potential adjacent subdivisions;

(7) Where structures are to be placed on large or excessively deep lots which are subject to potential replat, the subdivider shall provide in the preliminary plat, a sketch plan which indicates minimum building setback lines and future roadway alignments which would not interfere with structural placement at the time of future subdivision; and

(8) A vegetation preservation and protection plan, consistent with Section 154.257 of the Zoning Code, that shows those trees proposed to be removed, those to remain, the types and locations of trees and other vegetation that are to be planted;

(9) Developer shall provide a landscape plan, signed by a licensed landscape architect, which shows ~~how a subdivision will assume a rural character through~~ the placement of ponding, berms, trees, and tree seedlings, shrubs, and shrub seedlings and native grasses.

Commented [EB6]: Not all developments will have rural character.

(10) Landscape plans shall adhere to all requirements of Section 154.258 of the Zoning Code and shall include the City's Landscape Standard Notes.

(11) Irrigation plans shall be submitted and be in compliance with Lake Elmo General Irrigation Standards.

~~(d) Developer shall plant a minimum of 6 trees, 1 inch caliper deciduous, or coniferous trees; 3 feet in height per acre unless a lot within the subdivision is determined by the Zoning Administrator to be naturally wooded which would, at a minimum, consist of the caliper and height of trees required by this chapter; and~~

~~(e) Developer shall provide spaced or clustered plantings of 1 and 1/2 inch caliper deciduous trees at a rate of 2 per 100 lineal feet on both sides of the street, between 0 feet and 5~~

~~feet to the inside of the right-of-way for rural sections and between 5 feet and 10 feet to the inside of right-of-way for urban sections. Four foot conifers may be substituted.~~

Commented [EB7]: These requirements conflict with the Landscape Requirements of the Zoning Code.

(9) If development is an Open Space Preservation development, architectural and performance standards shall be submitted. If applicable, developments within the I-94 corridor and Old Village shall submit architectural renderings in order to ensure compliance with City of Lake Elmo Design Guidelines & Standards.

(G) *Other information.* Other information shall be provided as may be reasonably requested by the city staff, Planning Commission, or Council.

(H) *Review by staff and other commissions or jurisdictions.*

(1) The city shall refer copies of the preliminary plat to the City Engineer, Planner, and Attorney, the Park Commission, and the appropriate county, state, or other public agencies for their review and comment.

(2) Comment must be received within 30 days or it will be assumed there are no objections.

(I) *Hearing.*

(1) The Planning Commission, upon receipt of the application shall instruct Administrator to set a public hearing on the proposed preliminary plat no later than 45 days from the date of filing of the application. The Planning Commission shall conduct the hearing and report its findings and recommendations to the Council. The Administrator shall give notice of the hearing. The notice shall consist of a property description and a description of the request. The notice shall be published in the official newspaper at least 10 days prior to the date of the hearing and written notification of the hearing shall be mailed at least 10 days prior to all owners of land within 350 feet of the boundary of the property in question. The Planning Commission, at its discretion, may direct that notification be sent to property owners at distances of greater than 350 feet.

(2) The failure of any property owner to receive notice shall not invalidate the proceedings.

(J) *Planning Commission action.* The Planning Commission shall make a recommendation to the Council within 30 days following the close of the public hearing. If the recommendations of the Planning Commission are not received within that time, the Council may act on the preliminary plat without the recommendations.

(K) *City Council Action.*

(1) The Council shall act upon the preliminary plat and may impose the conditions and restrictions as are deemed necessary by the Council in view of the purpose of this section and the recommendations of the Planning Commission within 30 days after receiving the recommendations of the Planning Commission or within 60 days after the close of the public hearing on the preliminary plat should the Planning Commission fail to forward recommendations.

(2) If the preliminary plat is not approved by the Council, the reasons for the action shall be recorded in the proceedings of the council and transmitted to the applicant. If the preliminary plat is approved, the approval shall not constitute final acceptance of the layout. Subsequent approval will be required of the engineering proposals and other features and requirements as

specified by this chapter to be indicated on the final plat. The Council may require revisions in the preliminary plat and final plat as it deems necessary for the public health, safety, general welfare, and convenience.

(L) *Submission of final plat; request for extension.* If the preliminary plat is approved by the Council, the subdivider must submit the final plat within 180 days after the approval, or approval of the preliminary plat shall be considered void, unless a request for time extension is submitted in writing and approved by the council.

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

§ 153.08 FINAL PLAT.

(A) After the preliminary plat has been approved, the final plat shall be submitted for approval as follows.

(B) (1) *Submission requirements.* The owner shall submit a final plat signed and acknowledged by each person owning a legal or equitable interest in the lands platted, including contract purchasers or those holding only a security interest such as a mortgagee. The final plat shall be prepared in accordance with the provisions of the Minnesota Statutes and applicable county ordinances. The final plat shall contain the following information:

- (a) Name of the subdivision;
- (b) Location by section, township, range, county, and state, and including descriptive boundaries of the subdivision;
- (c) The location of monuments shall be shown and described on the final plat;
- (d) Location **and area calculations** of lots, **right-of-way**, streets, public highways, alleys, parks **and trails**, **wetland and wetland buffers** and other features with accurate dimensions;
- (e) Lots shall be numbered clearly; blocks are to be numbered, with numbers shown clearly in the center of the block;
- (f) The exact locations, widths, and names of all streets to be dedicated;
- (g) Location width and use of all easements to be dedicated;
- (h) Certification by a registered land surveyor in the form required by M.S. Ch. 505, as it may be amended from time to time, and the name, address, and registration number of the surveyor;
- (i) Scale of plat (the scale to be shown graphically on a bar scale), date, and north point;
- (j) Statement dedicating all easements;
- (k) Statement dedicating all streets, utility easements, and other public areas not previously dedicated; and
- (l) Certificate for approval by the City Planning Commission and the Council. The certificate shall be prepared for the signatures of the Chair and Secretary of the City Planning Commission, and the Mayor and Administrator.

Commented [EB8]: I added this to clarify the requirements, as it is on the handout, but not all calculations required on the handout were included in the ordinance.

(2) *Approval of the City Council.*

(a) Twenty copies of the final plat shall be submitted to the Administrator at least 10 days prior to the Planning Commission meeting at which consideration is requested. After review of the final plat by the staff, the final plat shall be approved or disapproved within 60 days after the filing of the final plat by resolution and conditioned upon the execution of the development agreement for basic improvements, public dedication, bonding, and other requirements determined necessary or appropriate by the Council. If disapproved, the grounds for any refusal to approve a plat shall be set forth in the proceedings of the Council and reported to the applicant.

(b) The resolution approving the plat shall authorize the Mayor and Administrator to execute an endorsement of approval for the city. The Mayor and Administrator shall not execute the endorsement until any development agreement or bonds required by the resolution of the approval have been approved in writing by the City Attorney.

(Am. Ord. 9705, passed 5-6-1997)

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

(4) *Recording final plat.* If the final plat is approved by the Council, the subdivider shall record it with the County Recorder within 120 days after the approval. If not filed within 120 days, approval of the final plat shall be considered void, unless a request for time extension is submitted in writing and approved by the Council. The subdivider shall, immediately upon recording, furnish Administrator with 2 paper prints and 1 reproducible film positive of the plat showing evidence of the recording. No building permits shall be issued for construction of any structure on any lot in the plat until the city has received evidence of the plat being recorded by the County.

~~(5) *Lot acreage.* The subdivider shall provide the city with a list of all lots, by block, indicating the lot acreage, to the nearest 1/100. The list shall be certified by the surveyor signing the plat.~~

Commented [EB9]: This is already stated above in (1) (b)

(1997 Code, § 400.09) Penalty, see § 10.99

§ 153.09 EXCEPTIONS TO PLATTING.

- (A) *Minor subdivision.* A minor subdivision is a division of land which results in no more than 4 parcels wherein each resultant parcel complies with the city's minimum lot dimension and size requirements and are more than 2.5 acres in size, and public road frontage requirements, and all other applicable requirements for the zoning district in which the land is located, and no new roads or other public infrastructure is needed.
- (B) *Lot line adjustment.* A lot line adjustment is a division of land which results in no more than 4 parcels wherein each resultant parcel does not comply with the city's minimum lot dimension and/or public road frontage requirements for the zoning district in which the land is located. The City Council hereby waives compliance with the city's

Commented [EB10]: The Commission should discuss if it wants to be more restrictive and require platting in more situations.

Commented [EB11]: This language was borrowed from the County's Subdivision Ordinance. This clarifies when subdivision of land in to 3 or less parcels should undergo the full platting process, in case this might happen (as this section states that platting is required for division of land in to 3 or more parcels).

Commented [EB12]: A lot line adjustment does not usually create additional lots or outlots. I am suggesting new language to clarify what is allowed for lot line adjustments.

platting regulations for lot line adjustments which satisfy 1 of the following conditions: Lot line adjustments exempted from platting by Minnesota Statute 462.352, Subd. 12 and shall not require a plat or replat and may be administratively approved, provided all of the following are met:

(1) Each resultant parcel, ~~when combined with an abutting parcel through a Tax Parcel Consolidation Procedure approved by Washington County,~~ equals or exceeds the minimum lot dimension requirements and public road frontage requirements for the zoning district in which the property is located or is made more conforming through the lot line adjustment;

Commented [EB13]: This only applies to lot consolidation, so it is confusing to the reader. Eliminating this language still communicates what is meant by this section.

~~—(2) In those cases where the City Administrator determines that it is not reasonably possible for each resultant parcel to comply with the provisions of division (B)(1) above, each resultant parcel, when combined with an abutting parcel through a Tax Parcel Consolidation Procedure approved by Washington County, is less non-conforming after the lot consolidation than it was before the lot consolidation; or~~

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

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

(4) All resultant parcels shall have frontage and access on an existing improved street ~~(3) In those cases where, in regard to property which is zoned agricultural or rural residential, the City Administrator determines that each resultant parcel will equal or exceed minimum lot dimensions for the zoning district in which the property is located, but that 1 of the resultant parcels cannot satisfy the minimum public road frontage requirements for the zoning district in which the property is located, or access to the noncomplying parcel to an existing improved street is protected by a restrictive covenant approved by the City Attorney which includes the city as a beneficiary.~~

Commented [EB14]: Took this out because a lot line adjustment should not create a parcel

(5) The resulting parcels shall generally conform to the shape, character, and area of existing or anticipated land subdivisions in the surrounding areas.

(6) Any such lot line adjustment shall not require any public improvements.

(C) *Subdivision of Property for Public Purpose.* The subdivision of property resulting from acquisition by governmental agencies for public improvements or uses.

(D) *Application for minor subdivision or lot line adjustment.* An application for a minor subdivision or a lot line adjustment shall be submitted on forms provided by the City Administrator. The applicant will be responsible for all expenses incurred in obtaining the required information, which includes the following:

(1) Name, address, and telephone number of the property owner/applicant and evidence of title;

(2) A legal description of the parcel which is being subdivided and legal descriptions for each of the resulting parcels; and, in regard to lot line adjustments, legal descriptions for the ~~adjusted or consolidated~~ parcels;

(3) A written description stating the reason for the request; and

(4) A land survey prepared by and signed by a registered land surveyor describing the minor subdivision, and/or lot line adjustment and showing all buildings, driveways, easements, setbacks, and other pertinent information including the legal descriptions herein required.

(5) Other information. Other information shall be provided as may be reasonably requested by the city staff, Planning Commission, or Council.

(E) *Review of minor subdivision.*

(1) A completed application shall be submitted to the Planning Commission for its review and recommendation to the City Council.

(2) The City Council may attach reasonable conditions to its approval and shall require the conveyance of necessary street, utility, and drainage easements on forms approved by the City Attorney, ~~and shall require the payment of a public use dedication fee.~~

(3) Recording of the Minor Subdivision. If the minor subdivision is approved by the Council, the subdivider shall record it with the County Recorder within 120 days after the approval. If not filed within 120 days, approval of the minor subdivision shall be considered void, unless a request for time extension is submitted in writing and approved by the Council. The subdivider shall, immediately upon recording, furnish the Administrator with copies of the recorded documents which effectuate the minor subdivision. No building permits shall be issued for construction of any structure on any lot within the approved minor subdivision until the city has received evidence of the plat being recorded by the County.

Commented [EB15]: This may refer to the parkland dedication requirements, but that subsection already addresses the need to pay a parkland dedication when subdividing by minor subdivision.

(F) *Review of lot line adjustment.* A completed application shall be reviewed administratively by the City Administrator who shall make a written finding in regard to the provisions of division (B) above. The City Administrator's approval shall be conditioned upon recording of documents which effectuate the lot line adjustment or tax parcel consolidation. Prior to the issuance of any development permits, and no later than 60 days after administrative review and approval, the applicant shall provide the City Administrator with recorded documents or recorded document numbers for the deeds of conveyance which effectuate the lot line adjustment; and/or with the verifications listed below. Failure to provide the required verifications shall invalidate the City Administrator's approval.:

~~(1) Recorded documents or recorded document numbers for the deeds of conveyance which effectuate the lot line adjustment; and/or~~

~~(2) Proof that the Washington County Assessor has approved a Tax Parcel Consolidation and has assigned a new tax parcel number for the consolidated parcel or parcels;~~

Commented [EB16]: The County does not require City review of lot consolidations

(G) *Review of Subdivision of Property for Public Purpose.* A completed application, accompanied by a fully executed deed that designates a governmental agency as a grantee, shall be reviewed administratively by the City Administrator who shall make a written finding in regard to the provisions of paragraph (C) above and if the conveyance falls within the definition of paragraph (C), the City Administrator shall approve the subdivision. The City Administrator's approval shall be conditioned upon receipt of a copy of the recorded deed. Failure to provide a copy of the recorded deed shall invalidate the City Administrator's approval.

(1997 Code, § 400.10) (Am. Ord. 97-98, passed 12-18-2001)

§ 153.10 VARIANCES; STANDARDS; PLATTING.

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

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

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

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

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

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

(1997 Code, § 400.11)

§ 153.11 VARIANCE PROCEDURES.

(A) *Application.* Requests for a variance or appeal shall be filed with the Zoning Administrator on an official application form. The application shall be accompanied by a fee as established from time to time by resolution of the Council. The application shall also be accompanied by 20 copies of detailed written and graphic materials necessary for the explanation of the request.

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

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

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

(E) *Approval/denial.* Upon receiving the report and recommendation of the Planning Commission, the Council shall decide whether to approve or deny the request for a variance. The Council shall not grant a variance until it has received the report and recommendation from the Planning Commission or until 30 days after the application was

accepted by the city. The Council shall decide whether to approve or deny the request for a variance or an appeal no later than 60 days after the filing of the application.

(F) *Written findings and order.* The Council shall make written finding of fact and order in granting or denying any application for a variance or appeal. In granting any variance or making any order related to a variance or appeal, the Council shall impose any condition it considers necessary to protect the public health, safety, or welfare.

(G) *Notification of decision.* The Administrator shall notify the applicant of the Council's decision in writing.

(1997 Code, § 400.12)

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

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

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

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

§ 153.13 DESIGN STANDARDS; REQUIRED IMPROVEMENTS.

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

(A) *Blocks.*

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

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

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

Commented [EB17]: I think adding in this particular language could better outline that the applicant is to refer to the City Engineering Design and Construction Standards Manual for Private Developments.

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

(B) *Lots.*

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

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

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

(4) *Frontage.* Every lot must have a minimum frontage on a public street accepted for maintenance purposes by the city (or to be accepted upon completion of construction by the applicant), other than an alley, as required in the zoning code. No subdivision shall be permitted which will result in a lot with less than the minimum frontage on a public street s required by the zoning code except where a variance is granted as provided by this chapter. In no case shall a variance to this frontage requirement be granted which would permit access to a lot by means of an easement or private road except as provided in § 153.10.

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

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

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

(8) *Lot remnants.* All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots, rather than allowed to remain as unusable parcels unless these lot remnants are used as outlots for landscaping, stormwater, trail or other purpose as approved by the City.

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

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

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

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

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

(13) *Shoreland.*

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

(b) *Inconsistent plats reviewed Review by Commissioner of Natural Resources.* All plats ~~which are inconsistent with in a shoreland district the Municipal Shoreland Ordinance~~ shall be reviewed by the Commissioner before approval by the city may be granted. Review shall require that the proposed plats be received by the Commissioner at least 10 days before a hearing is called by the city for consideration of approval of a ~~final preliminary~~ plat.

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

(C) *Easements.*

(1) *Width and location.* An easement for utilities at least 10 feet wide, shall be provided along all lot lines. If necessary for the extension of main water or sewer lines or similar utilities, easements of greater width may be required along lot lines or across lots. See § 150.277(A)(2)(e) of this code for other applicable easement regulations.

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

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

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

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

(F) *Monuments for plats.*

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

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

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

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

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

(b) Surveyor's office and to the city within 1 year from the date of recording the plat ~~or prior to the issuance of building permits, whichever event occurs first.~~

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

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

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

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

(4) Telephone, electric, and/or gas service lines are to be placed underground in accordance with the provisions of all applicable city ordinances and standards. Exceptions to this requirement may be granted by action of the Council.

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

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

(2) *Local streets and dead-end streets.* Local streets should be so planned as to discourage their use by non-local traffic. Dead-end streets are prohibited, but cul-de-sacs shall be permitted

Commented [EB18]: Because I proposed removing the language below, this will again specify that an applicant should direct themselves to the City Engineering Standards for design specifications.

where topography or other physical conditions justify their use. Cul-de-sacs shall be designed in conformance with the City of Lake Elmo Engineering Design Standards. ~~include a terminal turn around which shall be provided at the closed end, with a right of way radius of not less than 60 feet.~~

~~(a) Temporary cul-de-sacs shall comply with the following standards:~~

~~1. The plat shall be reviewed after 3 years, by the City Planner, in order to determine if the cul-de-sac shall remain temporary. The City Planner shall review the status of the temporary cul-de-sac every 3 years.~~

~~2. The street shall not exceed 1,000 feet in length in subdivisions in which lots are less than 2.5 acres in size.~~

~~3. The street shall not exceed 2,640 feet in length in subdivisions in which lots are 2.5 acres or greater.~~

~~4. The cul-de-sac shall be designated as "temporary" on the final plat, with an easement shown on the final plat identifying where the road will extend.~~

~~5. The cul-de-sac shall not have landscaped or natural islands within it.~~

~~6. The street shall not serve more than 20 home sites.~~

~~(b) Permanent cul-de-sacs shall comply with the following standards:~~

~~1. The street shall not exceed 600 feet in length in subdivisions in which lots are less than 2.5 acres in size.~~

~~2. The street shall not exceed 1,320 feet in length in subdivisions in which lots are 2.5 acres or greater in size.~~

~~3. The cul-de-sac may have landscaped islands or natural open space areas. Maintenance responsibilities of these areas shall be defined and recorded in the covenants, on the deeds, and in developers agreements.~~

~~(c) Temporary, platted cul-de-sacs which abut land proposed for development shall be removed by the developer.~~

Commented [EB19]: Some of this negates the Design Standards

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

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

~~(5) *Street intersections.* Under normal conditions, streets shall be laid out so as to intersect as nearly as possible at right angles, except where topography or other conditions justify variations. Under normal conditions, the minimum angle of intersection of streets shall be 60~~

~~degrees, with 90 degree intersections preferred. Street intersection jogs with an offset of less than 125 feet 150 shall be avoided.~~

Commented [EB20]: Addressed in Design Standards.

~~(6) (5) Subdivisions abutting collector or minor arterial streets.~~ Wherever a proposed subdivision abuts or contains an existing or planned collector or minor arterial street as designated on the city's thoroughfare plan, the lots shall access onto local streets wherever possible. Local streets may be existing or provided with the subdivision.

~~(7) (6) Alleys.~~ Except in the case of a planned unit development, either a public or private alley may be required in a block where commercially zoned property abuts a major thoroughfare or a major street. Alleys in residential areas other than those zoned for multiple family use shall not be permitted.

~~(8) (7) Half streets.~~ Dedication of half streets shall not be approved, except where it is essential to the reasonable development of the subdivision and in conformity with the other requirements of these regulations, where it is found that it will be practical to require the dedication of the other half when the adjoining property is subdivided, or where it becomes necessary to acquire the remaining half by condemnation so that it may be improved in the public interest.

~~(9) Street grades. Except upon the recommendation of the engineer that the topography warrants a greater maximum, street grades shall not exceed the following:~~

Commented [EB21]: Some of this negates Design Standards

Minor Arterials	5%
Collector Streets	6%
Local, Marginal Access, and Cul-de-Sac Streets	8%
Minimum Grade of Not Less Than	0.5%

~~(10) Curb radius. The minimum curb radii for arterials, collector streets, local streets, and alleys shall be as follows:~~

Arterial Streets	25 feet
Collector Streets	20 feet
Local Streets	15 feet
Alleys	6 feet

~~(11) Reverse curves. Tangents of at least 50 feet in length shall be introduced between reverse curves on collector streets.~~

~~(12) Reserve strips. Reserve strips controlling access to streets shall be prohibited except under conditions accepted by the Council.~~

~~(13) Minimum right-of-way widths.~~

Street	Width
Principal Arterial	150 feet to 300 feet
Intermediate Arterial	100 feet to 300 feet
Minor Arterial	80 feet to 120 feet
Collector Street	80 feet
Commercial or Industrial Service Street	80 feet
Local Street	60 feet
Marginal Access Street	50 feet
Cul-de-Sac	60 feet; turn-around radius of 60 feet

~~(14) (8) Adding width to existing streets.~~ Where a subdivision abuts or contains an existing street of inadequate width, sufficient additional width shall be provided to meet ~~the above standards~~ standards set forth in the City of Lake Elmo Engineering Design Standards and/or other applicable standards.

~~(15) (9) Additional right-of-way and roadway widths.~~ Additional right-of-way and roadway widths may be required to promote public safety and convenience when special conditions require it or to provide parking space in areas of intensive use.

~~(16) (10) Street improvements for plats.~~

(a) The City Engineer shall determine when the full width of the right-of-way shall be graded, including the subgrade in accordance with the provisions for construction as outlined in the design standards.

(b) All streets shall be improved in accordance with the standards and specifications for street construction established by the Council.

~~(17) (11) Curb and gutter.~~ Curb and gutter shall be provided when required in accordance with the City of Lake Elmo Engineering Design Standards.

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

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

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

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

§ 153.14 PARK LAND DEDICATION REQUIREMENTS.

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

<i>Zoning Districts</i>	<i>Minimum Required Land Dedication</i>
R1, R2, R3, and R4	10%
RS, V-LDR, GCC, LDR, MDR, HDR	10%
RE	7%
RR and AG	4%
C, CC, LC, GP, BP, VMX	Fees as set by Council resolution
OP Development	7%

Commented [EB22]: Combined two tables.

<i>Zoning Districts</i>	<i>Minimum Required Land Dedication</i>
GB, LB, HB, BP, CB,	Fee as set by Council resolution
C, CC, LC, GB, BP, VMX	Fee as set by Council resolution
RR and AG with OP Conditional Use Permit OP Development	7%
RR and AG with OP A Conditional Use Permit	10%

Commented [EB23]: Removed OP Conditional Use Permit and added "OP Development". Got rid of OP A Conditional Use Permit.

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

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

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

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

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

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

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

(c) Has an exceptional aesthetic value; and

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

(D) Trails. Trails constructed by a subdivider within dedicated public open space having at least 30 feet of width are eligible for park credit. The maximum amount of trail dedication credit shall not exceed 25% of the total dedication.

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

(F) *Cash contribution in lieu of land dedication - minor residential subdivisions and commercial development.* Required cash equivalent payments for residential subdivisions resulting in 3 or fewer parcels or for commercial development projects shall be as determined from time to time by Council resolution.

(G) *Payment of cash contribution.* Cash contribution payments shall be made to the city prior to final plat approval for commercial developments or residential subdivision of more than 3

parcels, or prior to the city's approval of the deeds of conveyance in those cases where a residential subdivision will result in 3 or fewer lots.

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

(F) (1) Any cash contribution so paid to the city shall be placed in a special fund. The money shall be used only for:

- (a) The acquisition and development or improvement of parks, recreational facilities, playgrounds, trails, wetlands or open space based on the approved park systems plan;
- (b) Redevelopment or rehabilitation of existing park facilities or sites; or
- (c) Debt service in connection with land previously acquired or improvements thereto previously constructed.

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

~~(I) Lands designated for public use on Comprehensive Plan or official maps. Where all or a portion of the area included in a proposed subdivision has been designated as a park, playground, recreational area, proposed school site, or other public ground in the city's Comprehensive Plan or in an official map adopted pursuant to the Comprehensive Plan, the subdivider shall notify the appropriate governmental unit of the proposed subdivision of the property. The notice shall be given prior to submittal of the development application to the city. Prior to the city's review of the preliminary plat, the subdivider shall advise the city in writing of the status of the negotiations regarding the designated area.~~

Commented [EB24]: Need to add language regarding not to be used for city vehicles

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

§ 153.15 REQUIRED IMPROVEMENTS; FINANCIAL ARRANGEMENTS.

(A) *Improvements.* All sanitary sewer, water main and storm sewer facilities, streets, concrete curb, gutters, sidewalks, sodding, drainage swales, and other public utilities ("improvements") shall be made and constructed on or within the subdivided lands or where otherwise required and dedicated to the city and shall be designed in compliance with city standards by a registered professional engineer.

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

(C) *Improvement warranties and guarantees.* Developer shall warrant and guarantee the improvements against any defect in materials or workmanship for a period of 2 years following completion and acceptance. In the event of the discovery of any defect in materials or workmanship within the 2-year period, the defect shall be promptly repaired or corrected, and the

Commented [EB25]: This language doesn't seem necessary. Applicants to talk with City Staff prior to application submission.

warranty and guarantee for the entire project shall be extended for 1 additional year beyond the original 2-year period, for a period of 3 years following the completion and acceptance. Defects in material or workmanship shall be determined by the City Engineer.

(D) *Required inspections of improvements.* Improvements that are to be installed shall be inspected during the course of construction by the City Engineer, at the developer's expense. Notice shall be given to the City Engineer a minimum of 24 hours prior to the required inspection. Failure to provide City Engineer with required notice shall result in a stop-order issued to the project. If developer proceeds with work within the development without required inspection, City Engineer shall have the discretion to accept or reject all or part of the improvement, by giving appropriate written notice to the developer.

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

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

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

(1) Developer shall remove all soil and debris from and clean all streets within the lands developed in accordance with § 150.277(B)(2)(d) of this code.

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

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

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

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

(2) Submit a ~~bond~~, letter of credit, or cash deposit ("security") which guarantees completion of all improvements within the times specified by the City Engineer. The amount of the security shall be 125% of the estimated construction cost of the improvements, subject to reduction ~~thereof to an amount equal to 25% of the cost of the improvements as outlined by the development agreement~~ after acceptance thereof by the City Engineer, and receipt of as-built drawings. The security shall be in the form and contain the other provisions and terms as may be

required by the City Engineer and/or City Attorney. The developer's registered engineer shall make and submit for approval to the City Engineer, a written estimate of the costs of the improvements.

(J) *Petitions for improvements by city.* With the approval of the Council, and instead of the obligations imposed by divisions (A) through (I) above, developer may enter into an agreement signed by 100% of all owners of the land to be developed, requesting the city to install some or all of the improvements, request all of the costs be assessed against the property, and waiving the rights to appeal from the levied special assessments. Upon approval by the Council, the city may cause the improvements to be made and special assessments for all costs of the improvements to be levied on the land, except any land that is or shall be dedicated to the public. The special assessment shall be payable over a term of 5 years unless otherwise authorized by the Council. Prior to the award of any contract by the city for the construction of any improvement, developer shall have entered into a contract for rough grading of streets included in the improvement to a finished subgrade elevation, and including the other terms as required by Council. Developer's obligation with respect to the rough grading work shall be secured by a bond, letter of credit, or the deposit which shall guarantee completion, and payment for all labor and materials expended in connection with the rough grading. The amount of the security shall be 125% of the cost of the rough grading and shall be in the form and contain the further terms as may be required by the City Engineer and/or City Attorney.

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

(L) *Warranty bond.* The city shall require a developer to submit a warranty bond or equivalent in the amount equal to the original cost of the improvements, which shall be in force a minimum of 2 years following final acceptance of any required improvements and shall guarantee satisfactory performance of the improvements, unless waived by the Council.

Commented [EB26]: To be verified against policy.

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

§ 153.16 FEES.

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

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

(1997 Code, § 400.17)

§ 153.17 VIOLATIONS.

(A) *Sale of lots from unrecorded plats.* It shall be a violation of this chapter to sell, trade, offer to sell, trade, or otherwise convey a lot or parcel of land as part of, or in conformity with any plan, plat, or replat of any subdivision or area located within the city unless the plan, plat, or

replat shall first have been approved by the city in writing as provided by this chapter and in the case of a plat, replat, or registered land survey unless the survey is recorded in the office of the County Recorder or Registrar of Titles.

(B) *Misrepresentation as to construction, supervision, or inspection of improvements.* It shall be unlawful for any person to represent that any improvement upon any of the streets, alleys, or avenue of the addition or subdivision or any sewer in the addition or subdivision has been constructed according to the plans and specifications approved by the Council, or has been supervised or inspected by the city, when the improvements have not been so constructed, supervised, or inspected.

(1997 Code, § 400.18) Penalty, see § 10.99

1001. GENERAL PROVISIONS

1001.010. SHORT TITLE. This Ordinance shall be known as the "SUBDIVISION ORDINANCE OF THE CITY OF LITTLE CANADA", and will be referred to herein as "this Ordinance".

1001.020. PURPOSE. In order to safeguard the best interests of the City of Little Canada and to assist the subdivider in harmonizing his interests with those of the City, the following Ordinance is adopted so that the adherence to same will bring results beneficial to both parties. It is the purpose of this Ordinance to make certain regulations and requirements for the platting of land within the City of Little Canada pursuant to the authority contained in Minnesota Statutes Annotated, which regulations the City Council deems necessary for the health, safety and general welfare of this community.

1001.030. APPROVALS NECESSARY FOR ACCEPTANCE OF SUBDIVISION PLATS. Before any plat shall be recorded or be of any validity, it shall be referred to the City Planning Commission and approved by the City Council of Little Canada as having fulfilled the requirements of this Ordinance.

1001.040. CONDITIONS FOR RECORDING. No plat of any subdivision shall be entitled to be recorded in the Ramsey County Recorder's Office or have any validity until the plat thereof has been prepared, approved, and acknowledged in the manner prescribed by this Ordinance.

1001.050. BUILDING PERMITS. No building permits shall be issued by the City of Little Canada for the construction of any building, structure or improvement to the land or to any lot in a subdivision as defined herein, until all requirements of this Ordinance have been fully complied with.

1001.060. EXCEPTIONS. When requesting a subdivision, if the following condition or conditions exist, the City Administrator shall deem the request to be a "simple subdivision" and exempt the subdivider from certain procedural provisions as directed in this section.

- A. In the case of a request to divide a lot where the division is to permit the adding of a parcel of land to an abutting lot or to create three (3) or less lots and the newly created property line will not cause the other remaining portion of the lots, or any structures within the subdivision, to be in violation with this Ordinance or the Zoning Ordinance, then the City Administrator shall place the request on the agenda of the Planning Commission for recommendation to the City Council, subject to the City's scheduling requirements. Said subdivision may be exempted from other procedural or data requirements as deemed appropriate by the City Administrator.

- B. In the case of a request to combine two or more lots of record, where there exists a total of no more than one (1) building on all lots subject to the request, and which request will not cause other parcels or structures to be in violation of this Ordinance or the Zoning Ordinance, then the City Administrator may certify that the procedural requirements of the subdivision ordinance do not apply to the request, exempting the subdivider from the requirements for Planning Commission recommendation and City Council approval. Such certification shall be made within ten (10) days of the receipt of this request.

1001.070. SEPARABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason found to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

1001.080. CONFLICT.

- A. Whenever there is a difference between minimum standards or dimensions specified herein and those contained in other official regulations, resolutions or ordinances of the City, the most restrictive standards shall apply.
- B. Whenever a design feature, improvement, standard, or technique is proposed in a plat that is not provided for in these regulations, said design feature, standard or technique shall be considered to be a "non-standard improvement." Non-standard improvements are grounds for denial of a plat. The City Council may, at its sole discretion, permit non-standard improvements where such improvements are considered to be in the best interests of the City.

(Source: Ord. 661. Amended: Ord. 682, 686, 815.)

SUBDIVISIONS
Chapter 25

25. Purpose, Administration, and Application

- 25.010 Purpose. Each new subdivision becomes a permanent and integral part of the physical structure of the City; since the design and the development of plats subdividing property establishes a pattern for the future development of the entire community, adherence to this pattern by future developers becomes mandatory. Planning of subdivisions in a piecemeal manner, without proper consideration being given to the overall development of the City of Vadnais Heights, would lead to a chaotic patchwork of community development, making future improvements difficult, if not impossible and certainly very costly. The lack of regulations and mismanagement of subdivision control would have a disastrous effect upon the distribution of population and would actually create areas contrasting so greatly in their environment as to provide for future so-called blighted areas from the start. To provide for the orderly and equitable development of the City, all subdivisions hereafter platted with the corporate limits of the City of Vadnais Heights, shall in all respects, fully comply with the regulations set forth herein which shall be interpreted as minimum requirements adopted for the protection of the public health, safety, and general welfare.
- 25.020 Administration. The chapters on platting shall be administered and enforced by the City Council. The Council shall make all final decisions pertaining to the proposed platting, subdividing, or development of any tract of land.
- 25.030 Application. Except as hereinafter provided, no land shall be platted, subdivided, rearranged, developed or improved in any way which is not in conformity with the regulations and terms herein specified.
- 25.040 Minor Subdivision Regulations. The following land subdivisions shall be considered "minor subdivision" and exempt from Chapters 28 through 30 of the City Zoning Code if all of the following conditions are met:
- (1) The land involved has been previously platted into lots and blocks and is designated in a subdivision plat filed in the office of the county recorder or registrar of titles;
 - (2) The subdivision involves no more than three previously platted lots and results in no more than three revised lots;
 - (3) The subdivision will not cause the land or any structure on the land to be in violation of any City Code provision;
 - (4) The subdivision will not involve any new street, road, or public improvement, or extension of existing public improvements;
 - (5) The purpose of the subdivision is to divide up to three parcels in to not more than three new parcels or revise lot lines or correct surveyor errors for up to three parcels which does not create any new buildable lots.
- 25.050 Procedure to Establish Minor Subdivisions. The owners of proposed lots for a minor subdivision shall file with the city clerk a certificate of survey of the lots to be divided, pay the required fee, plus any required park dedication and storm water fees. The certificate of survey shall show the dimensions of the lots, as measured upon the recorded proposed property lines, all visible encroachments, a wetland delineation, all easements of record, all proposed easements, all public and private utilities, and the proposed lot division. A written description of the separately described tracts which will result from the proposed subdivision shall be included on the survey. If the proposed subdivision complies with all of the requirements of this section, it will be

reviewed by the Development Review Committee with findings prepared for the City Council. The City Council will consider the application at a regular City Council meeting; written notice of the meeting shall be sent to property owners within 350 feet of the proposed subdivision. If the proposed minor subdivision is approved, the City Clerk and Mayor shall sign the minor subdivision and collect all fees. **The applicant shall file the minor subdivision with the Ramsey County Recorder or Registrar Of Titles.**

25.060 Variations from Subdivision Regulations. The Planning Commission may recommend and the City Council may grant a variance from the standards of Chapters 25 through 35 (not procedural provisions) when undue hardship may result from strict compliance. In recommending any variance, the Planning Commission shall prescribe any conditions that it deems necessary or desirable for the public interest. In making its recommendations, the Planning Commission shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. A variance shall only be considered when all of the following exist:

- (1) There are special circumstances or conditions affecting the property resulting from significant physical hardship such as topography, soils, or shape of the property that the strict application of the subdivision provisions would deprive the applicant/owner of the reasonable use of the land or result in inequities.
- (2) The granting of the variance will not be detrimental to the public health, safety and welfare or injurious to other property in the area in which property is situated.
- (3) The variance is not contrary to the intent of the comprehensive plan.

25.070 Procedure for Variance from Subdivision Requirements.

- (1) Request for variance from Chapters 25 through 35 of the City Zoning Code shall be filed with the Community Development Director on an application form provided by the City, accompanied by a fee as established by the City Council, and accompanied by ten copies of detailed written and graphic materials necessary for the explanation of the request. The application shall be filed at the same time as the preliminary plat application is filed. An incomplete application shall be returned to the applicant.
- (2) Upon receiving a properly completed application the Community Development Director shall make a report and recommendation to the Planning Commission.\
- (3) The variance request will be heard by the Planning Commission at the same time and with the same written and published notice as the preliminary plat application.
- (4) The applicant or a representative thereof shall appear at the Planning Commission hearing.
- (5) The Planning Commission and city staff may require additional information from the applicant concerning the variance or retain an expert testimony with the consent and at the expense of the applicant concerning such variance where such information is declared necessary to ensure preservation of health, safety and general welfare.
- (6) At the same time that the Planning Commission makes its recommendation on the preliminary plat application, it shall make findings recommending approval or denial of the variance request, together with any conditions of approval it considers necessary to carry out the intent and purpose of the subdivision regulations and to protect the public health, safety and welfare.
- (7) The City Council shall consider the variance request as part of a hearing on the preliminary plat application and with the same written and published notice.
- (8) If the City Council approves the variance request it shall state the terms thereof as part of the resolution approving the preliminary plat.

(Source: Ord. 60; Ord. 96; Ord. 579, 10-3-2006)



STAFF REPORT

DATE: 2/27/2017

REGULAR

ITEM #:5b

MOTION

TO: Planning Commission
FROM: Emily Becker, Planning Director
AGENDA ITEM: Outdoor Lighting Ordinance
REVIEWED BY: Stephen Wensman, Planning Director

BACKGROUND:

The creation of an outdoor lighting ordinance is an item on the 2018 Planning Commission Work Plan. The Council has expressed concern that the current lighting ordinance is too strict and that there are a number of non-compliant properties.

ISSUE BEFORE COMMISSION:

The Planning Commission is being asked to review other cities' outdoor lighting ordinance and a proposed draft ordinance and provide feedback.

PROPOSAL DETAILS/ANALYSIS:

What's currently in the City Code regarding outdoor lighting?

Definitions. Section 11.01: Definitions of the City Code, defines the following:

- **DIRECT LIGHT.** Light emitted directly from a lamp, off a reflector, or through a refractor of a luminaire.
- **FULL CUTOFF LUMINAIRE.** Luminaire that allows no direct light emissions higher than 15 degrees below a horizontal plane through the luminaire's lowest light-emitting part.
- **GLARE.** Direct light emitted from a luminaire that causes reduced vision or momentary blindness.
- **ILLUMINANCE.** The level of light measured at a surface.
- **LAMP.** The component of a luminaire that produces the light.
- **LIGHT TRESPASS.** Light emitted by a luminaire that shines beyond the boundaries of the property on which the luminaire is located.
- **LUMEN.** A unit of measurement of the light emitted from a source.
- **LUMINAIRE.** The complete lighting system, including the lamp and the fixture.

- **PERMANENT OUTDOOR LUMINAIRE.** Any luminaire or system of luminaries that is outdoors and that is intended to be used for 7 days or longer.

Sections 150.035-150.038 of Chapter 150: General Provisions of Title XV: Land Usage of the Lake Elmo City Code of Ordinances, attached, is analyzed below:

- **Exterior Lighting Plan.** An exterior lighting plan, prepared by a certified architect, landscape architect, or lighting designer, is required at the time any exterior light is installed or modified for projects, an exterior lighting plan shall be submitted to the city. The plan must include:
 - Where the light is located
 - Photometric plan for non-residential development
 - Fixture data sheet for residential lighting

Staff Comment: It is common for cities to require a lighting plan for non-residential (including multi-family dwelling) development. It is not common to require this for single and two-family dwellings.

- **Prohibited Lighting.**
 - Only full cut-off luminaires allowed
 - No direct or sky-reflected glare (from floodlights or high temperature processes) directed towards other properties
 - No bare light bulbs.
 - Light cast cannot exceed one foot candle on to a public street or 4/10 foot candles on to residential properties.

Staff Comment: This is generally consistent with surrounding cities except for the provision that bare light bulbs are prohibited. Staff has proposed striking the requirement that bare light bulbs are prohibited and rather that they should not be visible from a public right-of-way

- **Different Minimum Standards for Lights with Cutoff Angle Greater than and Less Than 90 Degrees.** There are different standards for lighting with lighting with two different cutoff angles. Restrictions are greater for lights with cutoff angles greater than 90 degrees, and this is to ensure that no light is emitted above a horizontal plane parallel to the ground. Lights with cutoff angles less than 90 degrees are less strict because the design ensures that its light source will not be directly visible off-site. There are two maximum standards for both types of lights.
 - **Cutoff Angle Greater than 90 Degrees** – can be exceeded for radius of 20 feet measured from the center point of a light fixture.

<i>Use and District</i>	<i>Maximum Permitted Illumination at a Point 6 Feet Above the Ground (In Foot Candles)</i>	<i>Maximum Permitted Height</i>
All Residential Districts	0.30	15 feet

All Non-Residential Districts	1.50	20 feet
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- **Cutoff Angle Less Than 90 Degrees** - can be exceeded for radius of 20 feet measured from the center point of a light fixture.

<i>Use and District</i>	<i>Maximum Permitted Illumination at a Point 6 Feet Above the Ground (In Foot Candles)</i>	<i>Maximum Permitted Height</i>
All Residential Districts	1.00	15 feet
All Non-Residential Districts	3.00	30 feet

Staff Comment: While it is reasonable to require a different height for light poles, it is confusing and cumbersome to require different standards for two different types of lights. Additionally, the focus should be on light pollution caused to adjacent properties, not concern about maximum illumination on a specific property. Staff has proposed striking this from the Code.

- **Minimum Standards for Lighting on Agricultural Land.** When a permanent outdoor luminaire is placed on agricultural land, only Mercury lamps are to be permitted.

Staff Comment: This is very limiting and should be stricken from the Code. Mercury lamps are declining in popularity. Staff has proposed striking this from the Code.

- **No Standards for Temporary Lighting.** The City’s current Lighting, Glare Control, and Exterior Lighting Standards ordinance does not make exceptions for any kind of lighting. Some exceptions could include the following:
 - Ornamental lighting (low voltage light fixtures of 12 volts or less)
 - Right-of-way lighting
 - Required lighting (required by the Federal Aviation Administration or other State or Federal Agency)
 - Temporary lighting (public sporting events, theatrical or performance areas)
 - Public safety lighting
 - Holiday lights

Other Cities’ Examples. Staff has provided examples and a comparison table to compare Lake Elmo’s Lighting, Glare Control, and Exterior Lighting Standards. A number of cities do not have outdoor lighting standards within their City Code. Staff has presented these examples from cities that do have these standards.

Staff Recommendation, Generally. Staff would recommend that the City adopt a lighting ordinance similar to those of other cities. In general, the City's lighting ordinance is a bit too cumbersome. Staff would recommend that the City amend its lighting ordinance to be similar to those of comparable cities. The proposed ordinance makes the following amendments to the current ordinance:

- Removes requirement that single and two-family dwellings submit a fixture data sheet for residential lighting purposes.
- Requires that light cast on any adjacent property (not just residential) not exceed 4/10 foot candles as measured from said property line.
- Sets forth height requirements from current ordinance, removing different requirements for lights with a cutoff angle greater than or less 90 degrees (maximum 15 feet in height for light poles on residential properties and 30 feet for non-residential properties).
- Sets forth exceptions from requirements for ornamental, right-of-way, temporary, required, and public safety lighting.

No Public Hearing Required. Because the City's Lighting, Glare Control, and Exterior Lighting Standards are not within the Zoning Code, an amendment to the ordinance does not require a public hearing.

FISCAL IMPACT:

None.

OPTIONS:

The Commission may wish to:

- Specify desired amendments, deletions or additions to the City's Lighting, Glare Control, and Exterior Lighting Standards.
- Not recommend any changes to the City's Lighting, Glare Control, and Exterior Lighting Standards.

ATTACHMENTS:

- Other cities' lighting ordinances comparison and summary table
- Draft Ord. 08-

City	Requires Lighting Plan	Require Full Cutoff	Addresses Bare Light Bulbs	Lighting on Streets	Maximum Illumination on Residential Properties	Maximum Illumination on Non-Residential Properties	Maximum Pole Height	Vise
Lake Elmo	For any project - including residential	Yes	No bare light bulbs are permitted	Not to exceed 1 footcandle	Not to exceed 4/10 foot candles at property line (0.3 footcandles for cutoff angles greater than 90 degrees and 1.00 for cutoff angles less than 90 degrees)	Not to exceed 1.5 footcandles for cutoff angles greater than 90 degrees and 3.00 footcandles for cutoff angles less than 90 degrees)	Residential districts: 15 ft and non-residential districts: 20 ft for cutoff angles greater than 90 degrees and 30 ft for cutoff angles less than 90 degrees	
Maplewood	Only for recreational, multiple-dwelling or nonresidential development	Does not address full cutoff	Does not prohibit bare light bulbs	Must be concealed from public street	Not to exceed 4/10 foot candles at property line	Not to exceed 4/10 foot candles at property line	25 ft	

Bloom- ington	Not required for single and two-family dwellings	Yes - 90 degree cutoff needed	Requires lenses, deflectors, shields, louvers, or prismatic control devices to be used to eliminate nuisance and hazardous lighting to facilitate compliance with this requirement	No limit along public street	Not to exceed 5/10 footcandle at property line	Not to exceed 1 footcandle	Residential districts and non-residential uses within 300 ft of residential districts: 28 ft and office/industrial uses and retail and service oriented uses: 33 ft	Have separate standards for signs, flagpoles, building facades, canopy lighting, and parking facilities. Have minimum standards for parking, building entrance and exits, pedestrian access
Clearwater	No	No - but lights must be hooded or controlled in some manner to not direct light into any adjacent property	No	Not to exceed 0.5 footcandle	Not to exceed 5/10 footcandle at property line	Not to exceed 5/10 footcandle at property line	Not mentioned	
Royalton	For any project - including residential	Yes, with exceptions	Light source must be fully shielded	Lighting must not exceed the Illuminating Engineering Society of North America (IES) requirements	Lighting must not exceed the Illuminating Engineering Society of North America (IES) requirements	Lighting must not exceed the Illuminating Engineering Society of North America (IES) requirements	Luminaires to be no higher than 25 feet	uplighting prohibited (except for flags)

Ham Lake	For certain development - not including residential development							Does not have a specific lighting ordinance but restricts lighting emitted from industrial uses to exceed 4 footcandles on residential properties
Little Canada	For certain development - not including residential development	Must be hooded or controlled in some manner to deflect light away	Not to be viewable from adjacent property or public right-of-way	Not to exceed 1 footcandle	Not to exceed 4 footcandles as measured from said property	Not to exceed 4 footcandles as measured from residential property	Not mentioned	
Mounds View	For certain development - not including residential development	Must be hooded or controlled in some manner to deflect light away	Not to be viewable from adjacent property or public right-of-way	Not to exceed 1 footcandle	Not to exceed 4/10 footcandles as measured from said property	Not mentioned	Not mentioned	
Rogers	City may require submission of a light distribution plan if deemed necessary to ensure compliance	No	Only approved in conjunction with a site building plan	Mitigative measures must be employed to limit glare and spill light	Not to exceed 5/10 footcandle at property line	Not to exceed 1 footcandle		City may limit hours of operation of outdoor lighting if deemed necessary
Orono	Does not specify	Yes - 90 degree cutoff needed	No	Not to exceed 1 footcandle	Not to exceed 4/10 footcandles as measured from said property	Not mentioned	30 feet	Light source to be setback a minimum of 10 ft from ROW and 5 ft from side or rear lot line, parking lot lights to be turned off one hour after closing

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-___

AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES BY
AMENDING REGULATIONS PERTAINING TO LIGHTING, GLARE CONTROL,
AND EXTERIOR LIGHTING STANDARDS

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title XV: Land Use; Chapter 150: General Provisions, by amending the following:

**LIGHTING, GLARE CONTROL, AND EXTERIOR LIGHTING
STANDARDS**

§ 150.035 PURPOSE.

The purpose of §§ 150.035 *et seq.* is to promote the public health, safety, and general welfare of the community while protecting motor vehicle operators, pedestrians, and adjacent land uses from glare. regulate the spillover of light and glare on rural areas of the community, pedestrians, and land uses in the proximity of the light source to evaluate the impact of light source on the safety of adjacent traffic.

(1997 Code, § 1350.01) (Am. Ord. 97-17, passed 9-16-1997)

§ 150.036 EXTERIOR LIGHTING PLAN.

(A) (1) ~~Except for single and two-family dwellings, At the time any exterior light is installed or modified for projects,~~ an exterior lighting plan shall be submitted to the city in order to determine whether the purpose and requirements of §§ 150.035 *et seq.* have been met prior to installation or modification of exterior lighting.

(2) This plan will be prepared by a certified architect, landscape architect, or lighting designer.

(B) (1) The applicant must provide a plan that identifies the location, size, and type of luminaire, and show how the applicant intends to comply with §§ 150.035 *et seq.*

(2) A photometric plan of the site and fixture data sheet must be submitted with a site plan for office, commercial, or any type of industrial project in order to determine the effect of the luminaire on surrounding properties.

~~—(3) The applicant shall provide the fixture data sheet for residential lighting proposals.~~

(1997 Code, § 1350.03) (Am. Ord. 97-17, passed 9-16-1997) Penalty, see § 10.99

§ 150.037 PROHIBITED LIGHTING.

(A) *Public roadway or street.* No lights shall be placed in view of any public roadway or street so that its beams or rays are directed at any portion of the roadway when light is of the brilliance and so positioned as to impair the vision of the driver of any motor vehicle.

~~—(B) Luminaires.~~

~~—(1) Except for "full cutoff luminaires" as defined in §§ 150.035 et seq., no luminaires are allowed which do not meet the standards outlined in §§ 150.035 et seq.~~

~~—(2) See illustration below.~~

(~~E~~B) *Lighting in all zoning districts.* No direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding, shall be directed into any adjoining property.

(~~D~~C) *Bare light bulbs.* Bare light bulbs shall not be permitted in view of adjacent property or public right-of-way.

(~~E~~D) *Light cast.* No light or combination of lights, which cast light on a public street, shall exceed 1 foot-candle. Meter reading as measured from the centerline of the street, nor shall any light or combination of lights, which cast light on an adjacent residential property, exceed 4/10 foot-candles as measured from said property line.

(E) Maximum Height. The maximum permitted height for any light pole, as measured from at grade from the base of the pole to the top of the luminaire, shall be 15 feet in all residential districts and 30 feet in all non-residential districts.

(F) Exceptions. The requirements of § 150.035 et seq. do not apply to the following types of exterior lighting:

(1) Ornamental lighting. Low voltage lighting (12 volts or less), low wattage ornamental landscape lighting fixtures, and solar operated light fixtures having self-contained rechargeable batterieis, where any single light fixture does not exceed 200 initial light output lumens;

(2) Right-of-way lighting. Public lighting located within and intended for the right-of-way;

(3) Temporary lighting. Temporary lighting for public events (including but not limited to public sporting events, theatrical, television or performance areas) with an approved special event permit or held by the City;

(4) Required lighting. Lighting required by the Federal Aviation Administration or other State and Federal Agency; and

(5) Public safety lighting. Temporary lighting for police, fire or public safety construction and repair personnel.

(1997 Code, § 1350.04) (Am. Ord. 97-17, passed 9-16-1997) Penalty, see § 10.99

§ 150.038 MINIMUM STANDARDS.

~~—(A) Minimum standards for lighting with a total cutoff angle of greater than 90 degrees.~~

~~—(1) When a luminaire has a total cutoff of an angle greater than 90 degrees (see illustration below), the maximum illumination and the maximum permitted luminaire height is designated below. This standard is designed to ensure that no light is emitted above a horizontal plane parallel to the ground. In order to achieve a total cutoff at 90 degrees, the luminaire will emit maximum (peak) candle power at an angle not exceeding 75 degrees. This angel is formed by~~

the line at which maximum candlepower is emitted for the light source and a line perpendicular to the ground from the light source.

—(2) Illumination may exceed the stated maximums for a radius of 20 feet measured from the center point of the light fixture, but shall not exceed those maximums beyond the exterior property line of the site upon which the fixture is located.

(Am. Ord. 97-104, passed 3-19-2002)

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<i>Use and District</i>	<i>Maximum Permitted Illumination at a Point 6 Feet Above the Ground (In Foot Candles)</i>	<i>Maximum Permitted Height</i>
All Residential Districts	0.30	15 feet
All Non-Residential Districts	1.50	20 feet

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—(B) *Minimum standards for lighting with a total cutoff angle of less than 90 degrees.*

—(1) When a luminaire has a total cutoff of light at an angle less than 90 degrees and is located so that the bare light bulb, lamp, or light source is completely shielded from the direct view of an observer 5 feet above the ground at the point where the cutoff angle intersects the ground, the maximum permitted illumination and the maximum permitted height is illustrated below. This type of light fixture may be taller and provide greater illumination at the property line than the 1 specified above, because the design of this fixture ensures that its light source will not be directly visible off site.

—(2) Illumination may exceed the stated maximums for a radius of 20 feet measured from the center point of the light fixture, but shall not exceed those maximums beyond the exterior property line of the site upon which the fixture is located.

(Am. Ord. 97-104, passed 3-19-2002)

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<i>Use and District</i>	<i>Maximum Permitted Illumination at a Point 6 Feet Above the Ground (In Foot Candles)</i>	<i>Maximum Permitted Height</i>
All Residential Districts	1.00	15 feet
All Non-Residential Districts	3.00	30 feet

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—(C) *Minimum standards for lighting on agricultural lands.* When a permanent outdoor luminaire is placed on agricultural land, only Mercury lamps shall be permitted.

~~—(D) Attachments. Attachment entitled "Good Neighbor Outdoor Lighting" is on file in the Building Official's office, and can be found in Appendix A of this code. This is the guide to be used for residential lighting.~~

(1997 Code, § 1350.05) (Am. Ord. 97-17, passed 9-16-1997) Penalty, see § 10.99

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

SECTION 3. Adoption Date. This Ordinance 08-____ was adopted on this _____ day of ____ 2018, by a vote of ____ Ayes and ____ Nays.

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk

This Ordinance 08-____ was published on the ____ day of _____, 2018.