

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

ORDINANCE NO. 08-072

**AN ORDINANCE TO AMEND THE SUBDIVISION ORDINANCE RELATED TO
PLANNED UNIT DEVELOPMENTS AND PUBLIC LAND
DEDICATION REQUIREMENTS**

Section 1. The City Council of the City of Lake Elmo hereby ordains that Chapter 153: Subdivision Regulations, of the City Code is hereby amended in the following manner:

§ 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 Section 154.801.

§ 153.14 PUBLIC LAND DEDICATION.

(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, LDR, MDR, HDR	10%
RE	7%
RR and AG	4%
GB, LB, HB, BP, CB,	Fee as set by Council resolution
C, CC, LC, VMX	Fee as set by Council resolution

<i>Zoning Districts</i>	<i>Minimum Required Land Dedication</i>
RR and AG with OP Conditional Use Permit	7%
RR and AG with OP-A Conditional Use Permit	10%

(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) *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.

(E) *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.

(F) *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 three 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.

(G) 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.

(H) 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. 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.

Section 2. Adoption Date

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

This Ordinance No. 08-072 was adopted on this 5th day of March 2013, by a vote of ___ Ayes and ___ Nays.

ATTEST:

Adam Bell
City Clerk

This Ordinance No. 08-072 was published on the _____ day of _____, 2013.

