

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

ORDINANCE NO. 08-239

AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES BY AMENDING THE VARIOUS PORTIONS OF THE OPEN SPACE PLANNED UNIT DEVELOPMENT (OP PUD) REGULATIONS, THE PLANNED UNIT DEVELOPMENT (PUD) REGULATIONS AND THE SUBDIVISION REGULATIONS INCLUDING THE REMOVAL OF THE REQUIREMENT FOR A SKETCH PLAN OR CONCEPT PLAN REVIEW OF A PROPOSED RESIDENTIAL DEVELOPMENT.

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title XV Land Use: Chapter 154 Zoning Code; Article XVII Open Space Planned Unit Developments by amending Sections 154.650 through 154.664 by adding the underlined language and deleting the ~~strikethrough~~ language as follows:

ARTICLE XVII. OPEN SPACE PLANNED UNIT DEVELOPMENTS

§ 154.650 PURPOSE.

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

§ 154.651 INTENT.

It is the intent of the City of Lake Elmo that open space planned unit developments will offer needed development flexibility within the Agricultural, Rural Residential, and Rural Estate zoning districts to provide for:

- A.** A variety of lot configurations and housing styles that may not otherwise exist within the City's rural areas;
- B.** An avenue to provide a development density equal to or greater than what could be achieved via underlying zoning;
- C.** A reduction in the costs to construct and maintain public facilities and infrastructure in a rural setting;
- D.** Protected open space to enhance and preserve the natural character of the community; and
- E.** The creation of distinct neighborhoods that are interconnected within rural areas.

- F. To preserve large contiguous open spaces.

§ 154.652 DEFINITIONS.

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

§ 154.653 INITIATION OF PROCEEDINGS.

The owner of property on which an open space PUD is proposed shall file the applicable application for a PUD by paying the fee(s) set forth in § 11.02 of this Code and submitting a completed application form and supporting documents as set forth on the application form and within this Section. Complete applications shall be reviewed by City Commissions as deemed necessary by the Director of Planning and be acted upon by the City Council. If a proposed open space PUD is denied, any subsequent application for a substantially similar PUD within one (1) year of the date of denial shall fully address all findings which supported the denial prior to being accepted as complete.

§ 154.654 REFLECTION ON THE OFFICIAL ZONING MAP.

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

§ 154.655 PREREQUISITES FOR OPEN SPACE PUDs.

- A. Only land zoned as Agricultural, Rural Residential, or Rural Estate may be considered for establishment of an open space planned unit development.
- B. The minimum land area for establishment of an open space planned unit development is a nominal contiguous twenty (20) acres.
- C. Establishment of an open space planned unit development will be considered only for areas of land in single ownership or control. Alternatively, multiple party ownership, in the sole discretion of the City, is acceptable when legally sufficient written consent from all persons and entities with ownership interest is provided at the time of application.

§ 154.656 USES WITHIN OPEN SPACE PUDs.

- A. **Primary Uses.**
 - 1. **Permitted.**
 - a. Single-family, detached;
 - b. Preserved open space;

- c. Conservation easements;
- d. Agriculture;
- e. Suburban farms;
- f. Private stables;
- g. Single-family, attached;
- h. Townhouses (no more than 25% in any development)
- i. Wayside stand; and
- j. Public parks and trails.

2. Conditionally Permitted.

None

3. Interim Permitted.

None

B. Accessory Uses.

1. Permitted.

Uses deemed by the Director of Planning to be typically accessory to an established permitted use on the property as listed in 154.656(A)(1).

2. Conditionally Permitted.

None

3. Interim Permitted.

None

C. Prohibited Uses.

All other uses not listed in 154.656(A) or 154.656(B) are hereby prohibited.

D. Use Restrictions and Allowances

The final PUD overlay district ordinance for an Open Space PUD may include specific provisions governing uses which supersede underlying zoning and the general PUD regulations herein.

§ 154.657 OPEN SPACE PUD DESIGN.

Open space PUDs shall comply with all of the following minimum design standards unless modifications are authorized for consideration by the City Council via a super-majority vote ~~at the time of PUD Sketch Plan review. Authorization of such modifications resulting from a PUD Sketch Plan review shall not be construed as approvals for the change(s), but rather as an authorization to present such modifications as a component of the plan during the PUD Preliminary Plan review.~~

A. Density

The maximum dwelling unit density within an open space planned unit development shall be 18 units per 40 acres of buildable land (0.45 dwelling units/acre) on the undeveloped parcel; however, the total number of dwelling units shall not exceed the density limitations contained in the Comprehensive Plan for Open Space Preservation Development.

B. Lot Design

Lot locations and configurations within open space planned unit developments shall be derived utilizing the following methodology. An applicant must be able to demonstrate how these steps resulted in the plan being proposed.

1. Soils Analysis Conducted

A certified septic designer or soils scientist shall complete a review of the soils on the site, and categorize all areas as highly suitable for septic systems, moderately suitable for septic systems, or poorly suited for septic systems.

2. Septic Design Identification

Based on the soils analysis, an applicant must identify whether the proposed development will be serviced by individual septic tanks and drain fields, or via a system of individual septic tanks which utilize one or more communal drain fields.

- a. If individual septic tanks and drain fields can be supported by the available soils and is the chosen methodology to serve the development, all proposed lots must be able to provide primary and secondary drain field sites on each lot (outside of drainage and utility easements), and must meet the minimum lot size standards outlined herein.
- b. If individual septic tanks which utilize a communal drain field (or fields) is the chosen methodology to serve the development, then the location(s) for communal drain fields shall be identified within the area(s) deemed the most suitable on the site for supporting septic utilities according to the soils analysis. All such areas shall be clearly denoted on provided plan sets.

3. Identification of Required Buffers

No build zones from each property boundary shall be derived as follows:

- a. A two-hundred (200) foot buffer from all adjacent property lines that abut an existing residential development or a parcel of land not eligible for future development as an open space planned unit development due to insufficient parcel area.
- b. A one-hundred (100) foot buffer from all adjacent property lines that abut land that is eligible for future development as an open space planned unit development.
- c. If the development site is adjacent to an existing or approved OP development, the required buffer shall be equivalent to the buffer that was required of the adjacent development [see § 154.035(B)].

4. Identification of Preferred Building Pad Locations

Building pad locations [up to the maximum number of units permitted by 154.657(A)] which preserve natural topography and drainage ways, minimize tree loss, protect historic sites or structures, and limit the need for soil removal and/or grading shall then be identified. The orientation of individual building sites shall maintain maximum natural topography and ground cover.

- a. Building pads shall be located outside of required buffers, and shall be sited so as to provide ample room for accessory structures on each proposed lot. ~~future lots.~~
- b. If individual septic tanks and drain fields for each lot are to be utilized, locations for primary and secondary facilities for each proposed building pad shall also be identified. ~~Generalized locations for such may be shown during the PUD Sketch Plan phase, but a~~ All such sites must be verified as being viable as a component of PUD Preliminary Plan review.
- c. If individual septic tanks utilizing communal drain fields is intended, the plan must clearly identify which communal drain field will service each of the proposed building pads.

5. Placement of Streets

- a. Streets shall then be designed and located in such a manner as to:
 - i. Maintain and preserve natural topography, groundcover, significant landmarks, and trees;
 - ii. Minimize cut and fill;
 - iii. Preserve and enhance both internal and external views and vistas;
 - iv. Promote road safety;
 - v. Assure adequate access for fire and rescue vehicles; and
 - vi. Assure and promote adequate vehicular circulation both within the development and with adjacent neighborhoods.
- b. The design of streets and the dedication of right-of-way shall be in compliance with the City's current engineering design standards ~~standard plates and specifications~~ as may be amended.
- c. Streets shall not encroach into a required buffer area unless it can be demonstrated that such an alignment is necessary to achieve the goals outlined above, and that no equivalent option exists outside of the buffer. Driving surfaces that cross the buffer area at a 90 degree angle to provide current or future access to an adjacent property or boundary road shall be the only exception.

6. Lot Creation

Based on the street location(s), building pad locations, and septic system location(s); lines to delineate individual lots shall then be identified in accordance with the

following:

a. Lots

- i. Single-family lots being served by individual septic tanks and drain fields shall be a minimum of one (1) acre in size;
- ii. Single-family lots being served by individual septic tanks utilizing communal drain fields shall be a minimum of 1/2 acre (21,780 square feet) in size;
- iii. All land reserved for ~~C~~ommunal septic system use shall be located within a dedicated ~~O~~utlot to be owned by the homeowners' association (HOA) of the development; and
- iv. Base lots for townhomes shall be large enough such that individual unit lots can meet all required structure setbacks contained herein.

b. Lot Specific Buildable Areas

- i. The buildable area on each proposed lot which remains after consideration of each of the following shall be shown:
 1. Required buffers from adjacent lands [see § 154.035(B)];
 2. Required setbacks from waterbodies and non-buildable land per Shoreland district regulations [see Article XIX] ;
 3. Steep slopes;
 4. Easements; and
 5. Land within the following setbacks:

	HOUSING TYPE	
	Single Family Homes	Townhomes
Front Yard	30	20
Side Yard	15 feet or 10% of lot width	
Corner Lot Front Yard	30	
Corner Lot Street Side Yard	30	
Rear Yard	20	

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

7. Open Space and Parkland Adjustments

a. Open Space

- i.** The total preserved open space area within an open space planned unit development shall be no less than 50% of the total gross land area, as defined by § 11.01. If this threshold is not achieved after following the first six steps of lot design, the proposed lot areas will need to be adjusted or lots eliminated until this requirement is met.
- ii.** Land needed for storm water facilities as required by other provisions of the Lake Elmo City Code may count towards required open space for the purposes of Open Space PUD design, but must ultimately be placed in Outlots to be dedicated to the City.
- iii.** Excluding land needed for compliant storm water facilities, not less than 60% of the remaining preserved open space shall be in contiguous parcels which are five (5) acres or more in size.
- iv.** Preserved open space parcels shall be contiguous with preserved open space or public park land on adjacent parcels.

b. Parkland

- i.** Parks and recreational facilities shall be provided in the Open Space PUD (or cash-in-lieu contributions must be made) in addition to preserved open space as specified in the Lake Elmo Parks Plan.
- ii.** Determination of whether a land dedication or cash-in-lieu dedication contribution will be required to fulfill parkland requirements will be at the discretion of the City Council after it receives a recommendation from the City Parks Commission. ~~with direction to be provided as a component of PUD Sketch Plan review.~~ If a required parkland dedication causes overall open space to drop below the minimum threshold, the proposed lot areas will need to be adjusted or lots eliminated until the open space requirement is once again met.
- iii.** Any park dedication shall be consistent with the dedication and fee-in-lieu standards specified in Chapter 153.

§ 154.658 OPEN SPACE PUD DEVELOPMENT STANDARDS.

Open space PUDs shall comply with all of the following development standards unless modifications are authorized for consideration by the City Council via a super-majority vote ~~at the time of PUD Sketch Plan review.~~ ~~Authorization of such modifications resulting from a PUD Sketch Plan review shall not be construed as approvals for the change(s), but rather as an authorization to present such modifications as a component of the plan during the PUD Preliminary Plan review.~~

A. Preserved Open Space Standards

1. With the exception of storm water facilities which must be dedicated to the City, all preserved open space within an open space planned unit development shall be subject to a conservation easement and used for the purposes listed in § 154.650.
2. Preserved open space land shall be controlled in one or more of following manners as determined at the sole discretion of the City Council:
 - a. Owned by an individual or legal entity who will use the land for a specific set of purposes ~~outlined which is subject to~~ by a permanent conservation easement (in accordance with M.S. Ch. 84C.01-.05, as it may be amended from time to time), ~~which is conveyed to an acceptable land trust held by a holder as defined by M.S. Chap 84C.01 (2) as approved by the eCity;~~ and/or
 - b. ~~Conveyed by A~~ conservation easement conveyed to the eCity.
 - c. Owned as an ~~Outlot~~ by the City (this option may only be used for land being dedicated to the City for stormwater maintenance and conveyance purposes).
3. Preserved open space land shall be maintained for the purposes for which it was set aside. If preserved open space was set aside for agricultural purposes or for natural habitat, a plan shall be submitted which will indicate how the land will be maintained or returned to a natural state and who will be responsible for plan implementation. Developers shall provide copies of ~~common interest community (CIC) proposed homeowners' association declarations and conservation easements to the City to prospective purchasers, and conservation easements to the city,~~ describing land management practices to be followed by the party or parties responsible for maintaining the preserved open space for the City's review prior to recording of these documents.
4. Where applicable, a ~~Common Interest Community homeowners' association~~ shall be established to permanently maintain all residual open space and recreational facilities. The ~~Common Interest Community homeowners' association's agreements, declaration must guaranteeing guaranty continuing maintenance, and giving lien give assessment rights to the eCity if there is lack of the maintenance. The homeowners' association declaration shall be submitted to the eCity as part of the documentation requirements of § 154.661(3) for an open space PUD Final Plan.~~

B. Septic System Design Standards

1. In General

The placement and design of all septic systems shall conform to the requirements of Washington County.

2. Individual Septic Drain fields

Sites for individual septic drain fields, both primary and secondary, must be located entirely within each lot and cannot be located within any easement.

3. Communal Drain Fields.

- a. Communal drain fields may be partially or completely located in an area designated as preserved open space provided the ground cover is restored to its natural condition after installation, and recreational uses are prohibited above or within 50 feet of communal drain fields or as approved by the City Engineer.
- b. Communal drain fields, if installed, shall be professionally maintained, and are acceptable once legally sufficient documentation has been provided by the developer to ensure such maintenance will continue in perpetuity.

C. Building Standards

1. Principal structures within open space planned unit developments shall not exceed 2 and ½ stories or 35 feet in height.
2. It is desired that the structures within neighborhoods convey a particular architectural style with similar building components, materials, and roof pitches. The PUD Overlay ordinance crafted for each individual open space planned unit development should establish minimum architectural standards for the neighborhood.
3. All wells shall be located a minimum of fifty (50) feet from septic tanks and septic drain fields.

D. Landscaping Standards

1. A landscape plan for the entire site is required and shall consist of at least 10 trees per building site; and trees shall not be not less than 1.5 inch in caliper measured at 54 inches above grade level.
2. Boulevard landscaping is required along all streets to consist of at least 1 tree per every 30 feet or placed in clusters at the same ratio.

E. Impervious Surface Standards

The maximum impervious surface allowable within an open space planned unit development shall be ~~20%~~ 25 % of the land area not dedicated as preserved open space subject to the following:

1. Impervious surfaces created by roads, trails, and other planned impervious improvements shall count against the maximum allowed impervious coverage.
2. Remaining allowed impervious surface acreage may be distributed between the planned building sites, and maximums for each lot shall be clearly documented within the overlay district ordinance governing the development.
3. ~~On individual lots, areas covered by pervious pavers or comparable systems may receive a 25% credit against the lot's hardcover if the system is installed consistent with the City of Lake Elmo Engineering Standards Manual, and adequate storm water mitigation measures (as may be necessary) are installed to mitigate potential runoff created by the additional coverage above the allowed impervious surface threshold. All such credits shall be at the discretion of the City Engineer.~~

F. Trail Standards

A trail system or sidewalks shall be established within open space planned unit developments in accordance with the following:

1. The linear footage of trails provided shall be at least equal in length to the sum of the centerline length of all public roads within the development.
2. All trails shall be constructed of asphalt or concrete in compliance with the standard eCity design plate for trails.
3. Proposed trails shall provide connections between and access to the buildable land areas and preserved open space land being created by the development.
4. Proposed trails shall connect to existing, planned, or anticipated trails or roads adjacent to the development site and on adjacent parcels.
5. If applicable, trails shall be linked (or be designed to provide a future link) to the “Old Village” to emphasize the connection between existing and new development.

§ 154.659 RESERVED.

§ 154.660 OPEN SPACE PUD REVIEW CRITERIA

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

- A. The proposed development is consistent with the goals, objectives, and policies of the Comprehensive Plan.
- B. All prerequisites for an open space PUD as outlined in § 154.655 are met.
- C. All open space PUD design standards (as outlined in § 154.657) and all open space development standards (as outlined in § 154.658) are met; or if deviations are proposed, that all such deviations are supported because they achieve the following three (3) goals:
 1. The deviation(s) allow for higher quality building and site design that will enhance aesthetics of the site;
 2. The deviation(s) help to create a more unified environment within the project boundaries by ensuring one or more of the following: architectural compatibility of all structures, efficient vehicular and pedestrian circulation, enhanced landscaping and site features, and/or efficient use of utilities; and
 3. The overall design provides appropriate solutions to eliminate adverse impacts that proposed deviations may impose on surrounding lands.
- D. If the proposed PUD involves construction over two or more phases, the applicant has demonstrated that each phase is capable of being a stand-alone development independent of other phases.

§ 154.661 OPEN SPACE PUD REVIEW PROCEDURE.

All requests to establish an open space Planned Unit Development shall be initiated by following the steps below.

A. Open Space PUD Sketch Plan

1. Purpose

1. The open space PUD Sketch Plan is the first step in the development process which gives the applicant an opportunity to present their ideas to the City Council and public so as to gain general feedback on areas that will require additional analysis, study, design, changes, etc. Feedback gained during the open space PUD Sketch Plan phase should be addressed within the subsequent PUD Preliminary Plan.

2. Specific open space PUD Sketch Plan Submittal Requirements

Except as may be waived by the Director of Planning, the following information shall constitute a complete application for an open space PUD Sketch Plan.

- a. A listing of contact information including name(s), address(es) and phone number(s) of: the owner of record, authorized agents or representatives, engineer, surveyor, and any other relevant associates;
- b. A listing of the following site data: Address, current zoning, parcel size in acres and square feet and current legal description(s);
- c. A narrative explaining the applicant's proposed objectives for the open space PUD, a listing of the proposed modifications from standard in § 154.657 and § 154.658 as may be applicable, and an explanation of how the proposal addresses the PUD review criteria in § 154.660.
- d. A listing of general information including the following:
 - i. Number of proposed residential units.
 - ii. Calculation of the proposed density of the project showing compliance with § 154.657(A).
 - iii. A listing of all proposed land uses (i.e. preserved open space, buildable sites, parkland, etc).
 - iv. Square footages of land dedicated to each proposed land use.
- e. An existing conditions exhibit, including topography, that identifies the location of the following environmental features along with calculations (in acres) for each:
 - i. Gross site acreage;
 - ii. Existing wetlands;
 - iii. Existing woodlands;
 - iv. Areas with slopes greater than 12%, but less than 25%;
 - v. Areas with slopes of 25% or greater;
 - vi. Woodlands;

~~vii.—Other pertinent land cover(s).~~

~~f.—An open space PUD Sketch Plan illustrating the nature of the proposed development. At a minimum, the plan should show:~~

- ~~i.—Existing zoning district(s) on the subject land and all adjacent parcels;~~
- ~~ii.—Layout of proposed lots and proposed uses denoting Outlots planned for public dedication and/or preserved open space;~~
- ~~iii.—Area calculations for each parcel;~~
- ~~iv.—General location of wetlands and/or watercourses over the property and within 200 feet of the perimeter of the subdivision parcel;~~
- ~~v.—Location of existing and proposed streets within and immediately adjacent to the subdivision parcel;~~
- ~~vi.—Proposed sidewalks and trails;~~
- ~~vii.—Proposed parking areas;~~
- ~~viii.—General location of wooded areas or significant features (environmental, historical, cultural) of the parcel;~~
- ~~ix.—Location of utility systems that will serve the property;~~
- ~~x.—Calculations for the following:~~
 - ~~(a) Gross land area (in acres);~~
 - ~~(b) Number of proposed residential units.~~
 - ~~(c) Proposed density of the project showing compliance with § 154.657(A).~~
 - ~~(d) Acreage & square footage of land dedicated to each proposed land use (i.e. preserved open space, buildable sites, parkland, etc.).~~
 - ~~(e) Acreage & square footage of land proposed for public road right-of-way;~~
 - ~~(f) Acreage & square footage of land dedicated to drainage ways and ponding areas;~~
 - ~~(g) Acreage & square footage of land for Trails and/or sidewalks (if outside of proposed road right-of-way);~~
- ~~xi.—Other: An applicant may submit any additional information that may explain the proposed PUD or support any requests for modifications (i.e. a landscaping plan to support the lessening or elimination of an otherwise required buffer).~~
- ~~xii.—The outline of a conceptual development schedule indicating the approximate date when construction of the project, or stages of the same, can be expected to begin and be completed (including the proposed~~

phasing of construction of public improvements and recreational & common space areas).

xiii. — A statement of intent to establish a Common Interest Community association with bylaws and deed restrictions to include, but not be limited to, the following:

(a) Ownership, management, and maintenance of defined preserved open space;

(b) Maintenance of public and private utilities; and

(c) General architectural guidelines for principal and accessory structures.

xiv. — If applicable, a historic preservation plan for any historic structures on the site shall be submitted.

3. ~~Open Space PUD Sketch Plan Proposal Review~~

a. ~~Planning Commission~~

i. — Upon receiving an open space PUD Sketch Plan proposal, the City shall schedule a date upon which the Planning Commission will review the proposal.

ii. — Upon completing their review, the Planning Commission shall adopt findings and recommendations on the proposed open space PUD as soon as practical.

iii. — The Director of Planning may forward an application to the City Council without a recommendation from the Planning Commission only if it is deemed necessary to ensure compliance with state mandated deadlines for application review.

b. ~~City Council~~

i. — The City Council may listen to comments on the proposed development if they deem such necessary prior to discussing the proposed open space PUD Sketch plan.

ii. — After consideration of the Director of Planning's recommendation, the Planning Commission recommendation, and any public comments received, the City Council may comment on the merit of the request, needed changes, and suggested conditions that the proposer should adhere to with any future application.

iii. — For each of the identified modifications to the minimum standards outlined in

iv. — § 154.657 and § 154.658, the City Council shall take a vote to instruct the applicant as to whether the modification can be pursued as a component of the PUD Preliminary Plan review.

~~4. Effect of a PUD Sketch Plan Review~~

- ~~a. The City Council and Planning Commission's comments during the PUD Sketch Plan review are explicitly not an approval or denial of the project, and are intended only to provide information for the applicant to consider prior to application for an open space PUD Preliminary Plan.~~
- ~~b. Proposed modifications that receive a majority vote of support from Council may be requested as part of the future PUD Preliminary Plan application, but support to pursue the modification as part of the PUD Sketch Plan in no way guarantees that the modification will be approved as part of the PUD Preliminary Plan.~~

~~5. Limitation of Approval~~

~~The City Council's review of an open space PUD Sketch Plan shall remain valid for a period of six (6) months. The City Council, in its sole discretion, may extend the validity of their findings for an additional year.~~

B. A. PUD Preliminary Plan

1. **Prerequisite.** Pre-application Conference. Before filing of an application for OP planned unit development with the City, the applicant of the proposed OP planned unit development shall arrange for and attend a conference with the Planning Director, City Engineer and other City staff. The primary purpose of the conference shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of his or her proposal for the area for which it is proposed and its conformity to the provisions of this subchapter before incurring substantial expense in the preparation of plans, surveys and other data.

No application for an open space PUD Preliminary Plan will be accepted by the City unless an applicant's proposal is distinctly similar to one reviewed by City staff in the required pre-application conference. ~~in the completed the open space PUD Sketch Plan review process which is valid upon the date of application.~~

2. PUD Preliminary Plan Submittal Requirements

Except as may be waived by the Director of Planning, the following information shall constitute a complete application for an open space PUD Preliminary Plan.

- a. All required information for a preliminary plat per Chapter 1102, § 1102.01(C) and § 1102.02.
- b. A separate open space PUD Preliminary Plan which includes the following information:
 - i. Administrative information (including identification of the drawing as an "Open Space PUD Preliminary Plan," the proposed name of the project, contact information for the developer and individual preparing the plan, signature of the surveyor and civil engineer certifying the document, date of plan preparation or revision, and a graphic scale and north arrow);

- ii. Area calculations for gross land area, wetland areas, right-of-way dedications, and proposed public and private parks or open space and net land area for calculating project residential density;
 - iii. Existing zoning district(s) on the subject land and all adjacent parcels;
 - iv. Layout of proposed lots with future lot and block numbers. The perimeter boundary line of the subdivision should be distinguishable from the other property lines. Denote outlots planned for public dedication and/or open space (schools, parks, etc.);
 - v. The location of proposed septic disposal area(s);
 - vi. Area calculations for each parcel;
 - vii. Proposed setbacks on each lot (forming the building pad) and calculated buildable area;
 - viii. Proposed gross hardcover allowance per lot (if applicable);
 - ix. Existing contours at intervals of two feet. Contours must extend a minimum of 200 feet beyond the boundary of the parcel(s) in question;
 - x. Delineation of wetlands and/or watercourses over the property;
 - xi. Delineation of the ordinary high water levels of all water bodies;
 - xii. Location, width, and names of existing and proposed streets within and immediately adjacent to the subdivision parcel;
 - xiii. Easements and rights-of-way within or adjacent to the subdivision parcel(s);
 - xiv. The location and orientation of proposed buildings;
 - xv. Proposed sidewalks and trails;
 - xvi. Vehicular circulation system showing location and dimension for all driveways, parking spaces, parking lot aisles, service roads, loading areas, fire lanes, emergency access, if necessary, public and private streets, alleys, sidewalks, bike paths, direction of traffic flow and traffic control devices;
 - xvii. Lighting location, style and mounting and light distribution plan;
 - xviii. Proposed parks, common areas, and ~~preservation~~ conservation easements (indicate public vs. private if applicable); and
 - xix. Location, access and screening detail of large trash handling and recycling collection areas.
- c. Proposed architectural theming and performance standards for the development;
 - d. A grading drainage and erosion control plan prepared by a registered professional engineer providing all information as required by Public Works, the City Engineer, and/or the Director of Planning;

- e. A utility plan providing all information as required by Public Works, the City Engineer, and/or the Director of Planning;
- f. Results of deep soil test pits and percolation tests, at the rate of no fewer than 2 successful test results for each proposed septic disposal area;
- g. The location and detail of signage providing all pertinent information necessary to determine compliance with § 154.212;
- h. A tree preservation plan as required by § 154.257;
- i. A landscape plan, including preliminary sketches of how the landscaping will look, prepared by a qualified professional providing all information outlined in § 154.258;
- j. A traffic study containing, at a minimum, the total and peak hour trip generation from the site at full development, and the effect of such traffic on the level of service of nearby and adjacent streets, intersections, and total parking requirements;
- k. A plan sheet or narrative clearly delineating all features being modified from standard open space PUD regulations;
- l. ~~Common Interest Community Homeowners' Association documents including declarations, covenants, articles of incorporation, and bylaws, deed restrictions, covenants, and proposed conservation easements;~~
- m. Proposed conservation easement documents; and
- n. Any other information as directed by the Director of Planning.

3. PUD Preliminary Plan Review

- a. As part of the review process for an open space PUD Preliminary Plan, the Director of Planning shall generate an analysis of the proposal against the expectations for PUDs, and make a recommendation regarding the proposed overlay district for Planning Commission and City Council consideration.
- b. The Director of Planning shall prepare a draft ordinance to establish the potential overlay district to be established as a component of the PUD Final Plan.
- c. The Planning Commission shall hold a public hearing and consider the application's consistency with the goals for PUDs, the PUD review criteria, and applicable comprehensive plan goals. The Planning Commission shall make recommendations to the City Council on the merit, needed changes, and suggested conditions to impose on the PUD.
- d. In approving or denying the PUD Preliminary Plan, the City Council shall make findings on the PUD review criteria outlined in § 154.660.
- e. As a condition of PUD Preliminary Plan approval; finalization, adoption, and publication of an overlay district ordinance shall need to occur prior to the

filing of any future final plat.

4. Effect of a PUD Preliminary Plan Review

Preliminary Plan approval governs the preparation of the PUD Final Plan which must be submitted for final approval in accordance with the requirements of this Article.

5. Limitation of Approval

The City Council's review of an open space PUD Preliminary Plan shall remain valid for a period of one (1) year. The City Council, in its sole discretion, may extend the validity of ~~their~~ its findings for an additional year.

C. B. PUD Final Plan

1. Application Deadline

Application for an open space PUD Final Plan shall be submitted for approval within ~~ninety (90)~~ 180 days of City Council approval of the open space PUD Preliminary Plan unless a written request for a time extension is submitted by the applicant and approved by the City Council.

2. PUD Final Plan Submittal Requirements

Except as may be waived by the Director of Planning, the following information shall constitute a complete application for an open space PUD Final Plan.

- a. All required information for a final plat per City Code § 153.08;
- b. All required PUD Preliminary Plan documents, other than the preliminary plat, shall be updated to incorporate and address all conditions of PUD Preliminary Plan approval.
- c. Any deed restrictions, covenants, agreements, and articles of incorporation and bylaws of any proposed homeowners' association or other documents or contracts which control the use or maintenance of property covered by the PUD.
- d. A final staging plan, if staging is proposed, indicating the geographical sequence and timing of development, including the estimated start and completion date for each stage.
- e. Up-to-date title evidence for the subject property in a form acceptable to the Director of Planning and the City Attorney.
- f. Warranty deeds for ~~P~~property being ~~dedicated~~ deeded to the City for all parks, ~~Outlets~~ stormwater ponds, open space, etc., free from all mortgages, liens and encumbrances.
- g. All easement ~~dedication~~ documents for easements not being dedicated ~~shown~~ on the final plat including those for trails, ingress/egress, etc., together with all necessary consents to the easements by existing encumbrancers of the

property.

- h.** Any other information deemed necessary by the Director of Planning to fully present the intention and character of the open space PUD.
- i.** If certain land areas or structures within the open space PUD are designated for recreational use, public plazas, open areas or service facilities, the owner of such land and buildings shall provide a plan to the eCity that ensures the continued operation and maintenance of such areas or facilities in a manner suitable to the eCity.

3. PUD Final Plan Review

- a.** The Director of Planning shall generate an analysis of the final documents against the conditions of the open space PUD Preliminary Plan approval, and make a recommendation as to whether all conditions have been met or if additional changes are needed.
- b.** Staff should once again identify any information submittals that were waived so the City Council may determine if such is needed prior to making a final decision.
- c.** The Director of Planning shall finalize the ordinance to establish the proposed overlay district for consideration by the Planning Commission and the City Council.
- d.** The Planning Commission shall hold a public hearing on the proposed Overlay District ordinance and open space Final PUD Plans, and shall submit a recommendation to the City Council for consideration. Because an open space PUD Preliminary Plan was previously approved, the Planning Commission's recommendation shall only focus on whether the Ordinance and open space PUD Final Plan are in substantial compliance with the open space PUD Preliminary Plan and the required conditions of approval.
- e.** The City Council shall then consider the recommendations of the Director of Planning, the public, and the Planning Commission; and make a decision of approval or denial, in whole or in part, on the open space PUD Final Plan. A denial shall only be based on findings that an open space PUD Final Plan is not in substantial compliance with the approved open space PUD Preliminary Plan and/or the required conditions of approval.
- f.** As a condition of PUD Final Plan approval, publication of the overlay district ordinance or a summary thereof shall be required prior to filing of the approved final plat.
- g.** Planned Unit Development Agreement.
 - i.** At its sole discretion, the City may as a condition of approval, require the owner and the developer of the proposed open space PUD to execute

a development agreement which may include but not be limited to all requirements of the open space PUD Final Plan.

- ii. The development agreement may require the developers to provide an irrevocable letter of credit in favor of the City. The letter of credit shall be provided by a financial institution licensed in the state and acceptable to the City. The City may require that certain provisions and conditions of the development agreement be stated in the letter of credit. The letter of credit shall be in an amount sufficient to ensure the provision or development of improvement called for by the development agreement.

- h. As directed by the City, documents related to the PUD shall be recorded against the property.

4. Time Limit

- a. A Planned Unit Development shall be validated by the applicant through the commencement of construction or establishment of the authorized use(s), subject to the permit requirements of this Code, in support of the Planned Unit Development within one (1) year of the date of open space PUD Final Plan approval by the City Council. Failure to meet this deadline shall render the open space PUD Final Plan approval void. ~~Notwithstanding this time limitation,~~ The City Council may approve extensions for validation of the PUD of up to one (1) year if requested in writing by the applicant; extension requests shall be submitted to the Director of Planning and shall identify the reason(s) why the extension is necessary along with an anticipated timeline for validation of the Planned Unit Development.
- b. An application to reinstate an open space PUD that was voided for not meeting the required time limit shall be administered in the same manner as a new open space PUD beginning at open space PUD Preliminary Plan.

§ 154.662 OPEN SPACE PUD AMENDMENTS.

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

A. Amendments to Existing Open Space PUD Overlay District(s)

Amendments to an approved open space PUD Overlay district shall be processed as one of the following:

1. Administrative Amendment

The Director of Planning may administratively approve minor changes to an approved Open Space PUD if such changes are required by engineering or other circumstances, provided the changes conform to the approved overlay district intent and are consistent with all requirements of the open space PUD ordinance. Under no circumstances shall an administrative amendment allow additional lots, or changes to designated uses established as part of the PUD. ~~An Administrative Amendment shall be~~

memorialized via letter signed by the Planning Director and recorded against the PUD property.

2. Ordinance Amendment

A PUD change requiring a text update to the adopted open space PUD overlay district language shall be administered in accordance with adopted regulations for zoning code changes in § 154.105. Ordinance amendments shall be limited to changes that are deemed by the Director of Planning to be consistent with the intent of the original open space PUD approval, but are technically necessary due to construction of the adopted overlay district language.

3. PUD Amendment

Any change not qualifying for an administrative amendment or an Ordinance amendment shall require an open space PUD amendment. An application to amend an open space PUD shall be administered in the same manner as that required for a new PUD beginning at open space PUD Preliminary Plan.

B. Pre-existing OP Developments

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

§ 154.663 PUD CANCELLATION.

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

§ 154.664 ADMINISTRATION.

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

A. Rules and regulations

No requirement outlined in the open space PUD review process shall restrict the City Council from taking action on an application if necessary to meet state mandated time deadlines;

B. Preconstruction

The City shall not grant a building permit ~~No building permit shall be granted~~ for any building on land for which an open space PUD plan is in the process of review, unless the proposed building is allowed under the existing zoning and will not impact, influence, or interfere with the proposed open space PUD plan.

C. Effect on Conveyed Property

In the event that any real property in an approved open space PUD is conveyed in total, or in part, the new owners thereof shall be bound by the provisions of the approved overlay district.

SECTION 2. The City Council of the City of Lake Elmo hereby amends Title XV Land Use: Chapter 154 Zoning Code; Article XIX Planned Unit Development: by amending Sections 154.750 through Section 154.760 Planned Unit Development (PUD) Standards; by adding the underlined language and deleting the ~~strikethrough~~ language as follows:

ARTICLE XIX. PLANNED UNIT DEVELOPMENT (PUD) REGULATIONS.

§ 154.750 INTENT.

This article establishes the procedures and standards for the development of areas as unified, planned developments in accordance with the intent and purpose of this zoning ordinance and the applicable policies of the Comprehensive Plan. Because of the larger size of PUDs and to help achieve the identified objectives for planned unit development sites, this article provides for flexibility in the use of land and the placement and size of buildings in order to better utilize site features and obtain a higher quality of development. Approval of a planned unit development shall result in a zoning change to a specific PUD district, with specific requirements and standards that are unique to that development.

§ 154.751 IDENTIFIED OBJECTIVES.

When reviewing requests for approval of a planned unit development, the eCity shall consider whether one or more of the objectives listed below will be served or achieved. It is the responsibility of the applicant to provide a narrative of how the proposed planned development meets one or more of the eCity's identified objectives ((A) through (J)). Planned unit developments should not be allowed simply for the purpose of increasing overall density or allowing development that otherwise could not be approved.

- A. Innovation in land development techniques that may be more suitable for a given parcel than conventional approaches.
- B. Promotion of integrated land uses, allowing for a mixture of residential, commercial, and public facilities.
- C. Provision of more adequate, usable, and suitably located open space, recreational amenities and other public facilities than would otherwise be provided under conventional land development techniques.
- D. Accommodation of housing of all types with convenient access to employment opportunities and/or commercial facilities; and especially to create additional opportunities for senior and affordable housing.
- E. Preservation and enhancement of important environmental features through careful and sensitive placement of buildings and facilities.
- F. Preservation of historic buildings, structures or landscape features.
- G. Coordination of architectural styles and building forms to achieve greater compatibility within the development and surrounding land uses.
- H. Creation of more efficient provision of public utilities and services, lessened demand on transportation, and the promotion of energy resource conservation.

- I. Allowing the development to operate in concert with a redevelopment plan in certain areas of the City and to ensure the redevelopment goals and objectives will be achieved.
- J. Higher standards of site and building design than would otherwise be provided under conventional land development technique.

§ 154.752 ALLOWED DEVELOPMENT.

Uses within the PUD may include only those uses generally considered associated with the general land use category shown for the area on the official Comprehensive Land Use Plan. Specific allowed uses and performance standards for each PUD shall be delineated in an ordinance and development plan. The PUD development plan shall identify all the proposed land uses and those uses shall become permitted uses with the acceptance of the development plan. Any change in the list of uses approved in the development plan will be considered an amendment to the PUD, and will follow the procedures specified in Article 5, Section 154.105 for zoning amendments.

- A. *Permitted Uses.* The PUD application shall identify all proposed land uses and those uses shall become permitted uses upon the approval of the planned unit development.
- B. *Placement of Structures.* More than one principal building may be placed on a platted lot within a planned unit development. The appearance and compatibility of buildings in relation to one another, other site elements, and surrounding development shall be considered in the review process.
- C. *Development Intensity.* The PUD may provide for an increase in the maximum gross floor area or floor area ratio by up to 20% of that allowed in the base zoning district, for the purpose of promoting project integration and additional site amenities.
- D. *Density.* The PUD may provide for an increase in density of residential development by up to 20% of that allowed in the base zoning district, for the purpose of promoting diversity of housing types and additional site amenities. Increased residential densities of varying levels will be awarded based upon the provision of a combination of various site amenities outlined in § 154.209. In addition, the eCity retains the right to evaluate all proposals for bonus density in accordance with the overall goals of the eCity's Land Use Element of the Comprehensive Plan.
- E. *Building Setbacks.* The PUD may provide for a reduction in or elimination of required setbacks in the base zoning district, provided that a landscaped setback area of the minimum width established for the base zoning district is maintained along the periphery of the adjacent zoning district(s).
- F. *Lot Requirements.* The City Council may authorize reductions in the area and width of individual lots within a PUD from that required for the base zoning district, provided that such reductions are compensated for by an equivalent amount of open space or other public amenities elsewhere in the planned unit development. Any open space shall not include areas designated as public or private streets. The plan may increase the maximum density beyond that permitted in the base zoning district for the purpose of promoting an integrated project with a variety of housing types and additional site amenities.
- G. *Other Exceptions.* As part of PUD approval, the City Council is authorized to approve other exceptions to the zoning controls applicable to the base zoning district, such as the maximum height of structures or the minimum off-street parking requirements. Such

exceptions shall only be granted when they are clearly warranted to achieve the objectives identified in § 154.751.

§ 154.753 MINIMUM REQUIREMENTS.

- A. *Lot Area.* A PUD must include a minimum of 5 acres for undeveloped land or 2 acres for developed land within the approved development. Tracts of less than 2 acres may be approved only if the applicant can demonstrate that a project of superior design can be achieved to meet one or more of the identified objectives listed in § 154.751, or that compliance with the Comprehensive Plan goals and policies can be attained through the use of the PUD process. ~~The Planning Commission shall authorize submittal of a PUD for a tract of less than 2 acres prior to submittal of a general concept plan application.~~
- B. *Open Space.* For all PUDs, at least 20% of the project area not within street rights-of-way shall be preserved as protected open space. Other public or site amenities may be approved as an alternative to this requirement. Any required open space must be available to the residents, tenants, or customers of the PUD for recreational purposes or similar benefit. Land reserved for storm water detention facilities and other required site improvements may be applied to this requirement. Open space shall be designed to meet the needs of residents of the PUD and the surrounding neighborhoods, to the extent practicable, for parks, playgrounds, playing fields and other recreational facilities.
- C. *Street Layout.* In existing developed areas, the PUD should maintain the existing street grid, where present, and restore the street grid where it has been disrupted. In newly developing areas, streets shall be designed to maximize connectivity in each cardinal direction, except where environmental or physical constraints make this infeasible. All streets shall terminate at other streets, at public land, or at a park or other community facility, except that local streets may terminate in stub streets when those will be connected to other streets in future phases of the development or adjacent developments.

§ 154.754 DENSITY.

The PUD may provide for an increase in density of residential development by up to 20% of that allowed in the base zoning district. Applicants seeking increased residential density through a Planned Unit Development are required to provide at least 1 or a combination of site amenities that equal the required amount of amenity points to achieve the desired density bonus.

- A. *Amenity Points and Equivalent Density Increases.* Increases in density will be awarded through a 1:1 ratio with amenity points. For every increase in amenity points for a Planned Unit Development, the applicant will be allowed an equivalent amount of density increase, up to a maximum increase of 20%. Table 16-1 outlines the required amount of amenity points to achieve various density increases.

Table 16-1: Amenity Points and Equivalent Density Increases

<i>Amenity Points</i>	<i>Density Increase</i>
5	5%
10	10%
15	15%
20	20%

- B. *Site Amenities*. Site amenities that are eligible for amenity points are listed in Table 16-2, including the associated standards of implementation. Some of the amenities may be awarded a range of amenity point based upon the quality and magnitude of the amenity. Where the amenity does not meet all of the standards required in Table 16-2, no points shall be awarded. Partial points for site amenities shall not be awarded, except as otherwise allowed in Table 16-2.
- C. *Site Amenities Not Listed*. The eCity may also consider the allotment of amenity points for site amenities that are not otherwise specified within this ~~ordinance~~ article as part of the preliminary plan phase of the planned unit development.

Table 16-2: Site Amenities

<i>Points</i>	<i>Amenity</i>	<i>Standards</i>
5-10	Underground or Structure Parking	Proposed underground or structured parking must be integrated into the primary structure. The purpose of this amenity is to better integrate parking into the site, reduce the amount of surface parking stalls, and reduce the amount of impervious surface. Proposed underground or structured parking must reduce the amount of surface parking stalls located outside of the footprint of the principal structure by a minimum of 25%. Amenity points will be awarded based upon the amount of surface parking stalls reduced (between 25-50%). For every additional 5% of surface parking stalls reduced above 25%, the applicant will be awarded 1 additional amenity point, up to a maximum of 10 amenity points. The facade of any underground or structure parking areas must match the architectural design of the principal structure.
10	Historic Preservation	Preservation, rehabilitation or restoration of designated historic landmarks in a manner that is consistent with the standards for rehabilitation of the Secretary of the Interior as part of the development.
<i>Points</i>	<i>Amenity</i>	<i>Standards</i>
10	Additional Open Space	A minimum of 50% of the site not occupied by buildings shall be landscaped outdoor open space. A minimum of 50% of the provided open space shall be contiguous. Open space classifications that qualify may include natural habitat, neighborhood recreation, trail corridors or open space buffers.
10	Public Right-of-Way Dedication	Dedication of land and construction of a public road, trail, pathway, or greenway that is part of an approved eCity plan, but outside the scope of the immediate project area. Right-of-way improvements should be designed per the specification of the City Engineer.
5	Fire Sprinkler Systems	The installation of fire sprinkler systems, per NFPA 13, 13D or 13R, in structures that are not currently required to install these systems under state code. Amenity points will only be awarded in situations where there are a significant proportion of structures in the development that are not required to be sprinkled under State Building Code. In addition, the density bonus calculation shall only be applied to the number of structures that do not require fire sprinkler systems.

5	Contained Parking	The purpose of this amenity is to better integrate surface parking into the site and reduce the amount of visible surface parking from the public right-of-way. Parking should be rear-loaded and hidden by the building facade, or integrated into the site in some other fashion that is acceptable to the eCity. This amenity is separate from underground or structure parking.
5	Leadership in Energy and Environmental Design	The proposed development shall meet the minimum standards for LEED Silver certification. The project does not have to achieve actual LEED certification; however, the developer must submit the LEED checklist and documentation to the eCity, approved by a LEED Accredited Professional (LEED-AP), which shows that the project will comply with LEED Silver requirements.
5	Pedestrian Improvements	A site and building design that allows for exceptional and accessible pedestrian and/or bicycle access through and/or around a site. The improvements shall use a combination of trails, landscaping, decorative materials, access control and lighting to create safe, clear and aesthetically pleasing pedestrian facilities through and /or around the site that comply with the Americans with Disabilities Act accessibility requirements.
5	Adaptive Reuse	Significant renovation, rehabilitation and adaptive reuse of an existing building(s), rather than demolition.
5	Plaza	The development shall include some form of plaza or public square that is wholly or partly enclosed by a building or buildings. Plazas are landscaped or paved open areas that shall have a minimum area not less than 1,000 square feet. Plazas for commercial or mixed-use development shall be open to the public during daylight hours.
Points	Amenity	Standards
1-5	Enhanced Landscaping	A Landscaping Plan of exceptional design that has a variety of native tree, shrub and plan types that provide seasonal interest and that exceeds the requirements of the Lake Elmo Design Standards Manual. The landscaped areas should have a resource efficient irrigation system. The Landscaping Plan shall be prepared by a licensed landscape architect. Amenity points shall be awarded based upon the quality and magnitude of the Landscaping Plan.
3	Enhanced Storm Water Management	Provide capacity for infiltrating stormwater generated onsite with artful rain garden design that serves as a visible amenity. Rain garden designs shall be visually compatible with the form and function of the space and shall include long-term maintenance of the design. The design shall conform to the requirements per the Minnesota Stormwater Manual and shall meet the approval of the City Engineer.
1-3	Theming	Significant utilization of various elements of Theming consistent with the 2013 Lake Elmo Theming Project, including but not limited to signage, fencing, landscaping, lighting and site furnishings. Amenity points will be awarded based upon the quality and magnitude of Theming elements integrated into the project.
3	Natural Features	Site planning that preserves significant natural features or restores ecological functions of a previously damaged natural environment.

§ 154.755 COORDINATION WITH OTHER REGULATIONS.

- A. *Coordination with Subdivision Review.* Subdivision review under the subdivision regulations shall be carried out simultaneously with the review of the PUD. The plans required under this subchapter shall be submitted in a form that will satisfy the requirements of the Subdivision Ordinance for the preliminary plat and final plat.
- B. *Coordination with Other Zoning Requirements.* All of the provisions of this chapter applicable to the original district within which the Planned Unit Development District is established shall apply to the PUD District except as otherwise provided in approval of the Final Plan.

§ 154.756 PHASING AND GUARANTEE OF PERFORMANCE.

- A. *Development Schedule.* The City shall compare the actual development accomplished in the various PUD zones with the approved development schedule.
- B. *Schedule Extension.* For good cause shown by the property owner, the City Council may extend the limits of the development schedule.
- C. *Phasing of Amenities.* The construction and provision of all of the common open space, site amenities and public and recreational facilities which are shown on the final development plan must proceed at the same rate as the construction of dwelling units, if any. The Development Review Committee shall review all of the building permits issued for the PUD and examine the construction which has taken place on the site. If ~~they~~ the Committee finds that the rate of construction of dwelling units is greater than the rate at which common open spaces, site amenities and public and recreational facilities have been constructed and provided, ~~they~~ it shall forward this information to the City Council for action.
- D. *Guarantees.* A financial guarantee or letter of credit shall be required to guarantee performance by the developer. The amount of this financial guarantee or letter of credit, and the specific elements of the development program that it is intended to guarantee, will be stipulated in the development agreement.
- E. *Changes During Development Period.*
 - 1. Minor changes in the location, placement and height of structures may be authorized by the Development Review Committee if required by engineering or other circumstances not foreseen at the time the final plan was approved and filed with the Planning Director.
 - 2. Changes in uses, any rearrangement of lots, blocks and building tracts, changes in the provision of common open spaces, and all other changes to the approved final development plan may be made only under the procedures for zoning amendments, §§ 154.105. Any changes shall be recorded as amendments to the recorded copy of the final development plan.
- F. *Rezoning to Original District.* If substantial development has not occurred within a reasonable time after approval of the PUD Zoning District, the City Council may instruct the Planning Commission to initiate rezoning to the original zoning district. It shall not be necessary for the City Council to find that the rezoning was in error.

§ 154.757 CONTROL OF PLANNED UNIT DEVELOPMENT FOLLOWING COMPLETION.

- A. *Final Development Plan Controls Subsequent Use.* After the certificate of occupancy has been issued, the use of the land and the construction, modification or alteration of any buildings or structures within the planned unit development shall be governed by the final development plan.
- B. *Allowed Changes.* After the certificate of occupancy has been issued, no changes shall be made in the approved final development plan except upon application as provided below:
 - 1. Any minor extensions, alterations or modifications of existing buildings or structures may be authorized by the Development Review Committee if they are consistent with the purposes and intent of the final plan. No change authorized by this section may increase the cubic volume of any building or structure by more than 10%; and
 - 2. Any building or structure that is totally or substantially destroyed may be reconstructed only in compliance with the final development plan unless an amendment to the final development plan is approved under this ~~chapter~~ article.
- C. *Amendment Required for Major Changes.* Any other changes in the final development plan, including any changes in the use of common open space, must be authorized by an amendment of the final development plan under the procedures for Zoning Amendments, Article 3.

§ 154.758 PROCEDURES FOR PROCESSING A PLANNED UNIT DEVELOPMENT.

There are three ~~four~~ stages to the PUD process: application conference, ~~general concept plan~~, preliminary plan and final plan, as described below.

- ~~A.~~ *Application Conference.* ~~Upon~~ Before filing of an application for PUD with the City, the applicant of the proposed PUD shall arrange for and attend a conference with the Planning Director, the City Engineer and other City staff. The primary purpose of the conference shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of his or her proposal for the area for which it is proposed and its conformity to the provisions of this subchapter before incurring substantial expense in the preparation of plans, surveys and other data.
- ~~B.~~ *General Concept Plan.* ~~The general concept plan provides an opportunity for the applicant to submit a plan to the city showing his or her basic intent and the general nature of the entire development without incurring substantial cost. The plan should include the following: overall density ranges, general location of residential and nonresidential land uses, their types and intensities, general location of streets, paths and open space, and approximate phasing of the development.~~
- ~~C.~~ *B. Preliminary Plan.* Following the pre-application conference, ~~approval of the general concept plan~~, the applicant may ~~shall~~ submit a preliminary plan application and preliminary plat, in accordance with the requirements described in § 153.07. The application shall proceed and be acted upon in accordance with the procedures in this ~~subchapter~~ article for zoning changes.
- ~~D.~~ *C. Final Plan.* Following approval of the preliminary plan, the applicant shall submit a final plan application and final plat, in accordance with the requirements described in §

153.08. The application shall proceed and be acted upon in accordance with the procedures in this ~~ordinance~~ article for zoning changes. If appropriate because of the limited scale of the proposal, the preliminary plan and final plan may proceed simultaneously.

E. D. Schedule for Plan Approval

- ~~1.~~ 1. Developer has a pre-application conference with City staff for their review and comment of the proposed PUD. ~~Presents the general concept plan to the Planning Commission for their review and comment.~~
- ~~2.~~ After verification by the Planning Director that the required plan and supporting data are adequate, the Planning Commission shall hold a public hearing, with public notice.
- ~~3.~~ The Planning Commission shall conduct the hearing and report its findings and make recommendations to the City Council.
- ~~4.~~ The City may request additional information from the applicant concerning operational factors or retain expert testimony at the expense of the applicant concerning operational factors.
- ~~5.~~ The Council may hold a public hearing after the receipt of the report and recommendations from the Planning Commission. If the Planning Commission fails to make a report within 60 days after receipt of the application, then the City Council may proceed without the report. The Council may approve the general concept plan and attach such conditions as it deems reasonable.
- ~~6.~~ 2. Following the pre-application conference with City staff, ~~approval of the General Concept Plan,~~ the application may proceed to the preliminary plan phase.
- ~~7.~~ 3. ~~The Developer~~ presents the preliminary plan to the Planning Commission for ~~their~~ its review and comment.
- ~~8.~~ 4. After verification by the Planning Director that the required plan and supporting data are adequate, the Planning Commission shall hold a public hearing about the proposed preliminary PUD plan, with public notice.
- ~~9.~~ 5. The Planning Commission shall conduct the hearing and report its findings and make recommendations to the City Council.
- ~~10.~~ 6. The City may request additional information from the applicant concerning operational factors or retain expert testimony at the expense of the applicant concerning operational factors.
- ~~11.~~ 7. The City Council may hold a public hearing after the receipt of the report and recommendations from the Planning Commission. If the Planning Commission fails to make a report within 60 days after receipt of the application, then the City Council may proceed without the report. The City Council may approve the preliminary plan and attach such conditions as it deems reasonable.
- ~~12.~~ 8. Following City Council approval of the Preliminary Plan, the application may proceed to the final plan phase.

- ~~13.~~ 9. The ~~D~~developer must presents the Final Plan to the Planning ~~Commission~~ Director for their his or her review and comment.
- ~~14.~~ 10. After verification by the Planning Director that the required Final pPlan and supporting data are adequate, the Planning Commission shall hold a public hearing, with public notice.
- ~~15.~~ 11. The Planning Commission shall conduct the hearing and report its findings and make recommendations to the City Council.
- ~~16.~~ 12. The City may request additional information from the applicant concerning operational factors or retain expert testimony at the expense of the applicant concerning operational factors.
- ~~17.~~ 13. After the receipt of the report and recommendations from the Planning Commission, the City Council may approve the Final Plan and attach such conditions as it deems reasonable.

§ 154.759 APPLICATION REQUIREMENTS FOR PRE-APPLICATION CONFERENCE, GENERAL CONCEPT PLAN, PRELIMINARY PLAN AND FINAL PLAN.

~~Ten~~ Five copies of the following plans, exhibits and documents shall be submitted to the City before at the pre-application conference, general concept plan stage, and as part of preliminary plan stage and the final plan stage applications.

A. Pre-application conference General Concept Plan Stage

1. General Information
 - a. The landowner's name and address and his/her interest in the subject property.
 - b. The applicant's name and address if different from the landowner.
 - c. The names and addresses of all professional consultants who have contributed to the development of the PUD plan being submitted, including but not limited to attorney, land planner, engineer and surveyor.
2. Present Status
 - a. The address and legal description of the property.
 - b. The existing zoning classification and present use of the subject property and all lands within 350 feet of the subject property.
 - c. A map depicting the existing development of the subject property and all land within 350 feet of the subject property and showing the location of existing streets, property lines, easements, water mains, and storm and sanitary sewers, with invert elevations on and within 100 feet of the subject property.
 - d. Site conditions. Where deemed necessary by the ~~e~~City, graphic reproductions of the existing site conditions at a scale of 1 inch equals 100 feet shall be submitted and contain the following:
 - i. Contours; minimum 5 foot intervals;
 - ii. Location, type and extent of tree cover;

- iii. Slope analysis; and
- iv. Location and extent of water bodies, wetlands, streams, and flood plains within 300 feet of the subject property.
- e. A written statement generally describing the proposed PUD and showing its relationship to the City Comprehensive Plan.
- f. Schematic drawing of the proposed development concept, including but not limited to the general location of major circulation elements, public and common open space, residential and other land uses.
- g. Proposed design features related to proposed streets, showing right-of-way widths, typical cross-sections, and areas other than streets including but not limited to pedestrian ways, utility easements and storm water facilities.
- h. Statement of the estimated total number of dwelling units proposed for the PUD and a tabulation of the proposed approximate allocations of land use expressed in acres and as a percent of the total project area, which shall include at least the following:
 - i. Area devoted to residential use by building type;
 - ii. Area devoted to common open space;
 - iii. Area devoted to public open space and public amenities;
 - iv. Approximate area devoted to, and number of, off-street parking and loading spaces and related access;
 - v. Approximate area, and floor area, devoted to commercial uses; and
 - vi. Approximate area, and floor area, devoted to industrial or office use.
- i. When the PUD is to be constructed in stages during a period of time extending beyond a single construction season, a preliminary schedule for the development of such stages or units shall be submitted stating the approximate beginning and completion date for each such stage and overall chronology of development to be followed from stage to stage.
- j. The City may excuse an applicant from submitting any specific item of information or document required in this stage which it finds to be unnecessary to the consideration of the specific proposal.
- k. The City may require the submission of any additional information or documentation which it may find necessary or appropriate to full consideration of the proposed PUD.

B. Preliminary Plan Stage

- 1. Preliminary plat and information required by § 153.07.
- 2. General Information
 - a. The landowner's name and address ~~and his interest in the subject property.~~
 - b. The applicant's name and address if different from the landowner and the applicant's interest in the subject property.

- c. The names and addresses of all professional consultants who have contributed to the development of the PUD plan being submitted, including but not limited to attorney, land planner, engineer and surveyor.
- d. Evidence that the applicant has sufficient control over the subject property to effectuate the proposed PUD, including a statement of all legal, beneficial, tenancy and contractual interests held in or affecting the subject property and including an up-to-date ~~certified abstract of title~~ commitment or registered property report certificate of title, and such other evidence as the City Attorney may require to show the status of title or control of the subject property.

3. Present Status

- a. The address and legal description of the property.
- b. The existing zoning classification and present use of the subject property and all lands within 350 feet of the property.
- c. A map depicting the existing development of the property and all land within 350 feet thereof and indicating the location of existing streets, property lines, easements, water mains and storm and sanitary sewers, with invert elevations on and within one hundred feet of the property.
- d. A written statement generally describing the proposed PUD and the market which it is intended to serve and its demand showing its relationship to the city's Comprehensive Plan and how the proposed PUD is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable regulations of the eCity.
- e. A statement of the proposed financing of the PUD.
- f. Site conditions. Graphic reproductions of the existing site conditions at a scale of one 1 inch equals 100 feet. All of the graphics should be at the same scale as the final plan to allow easy cross-reference. The use of overlays is recommended for ease of analysis.
 - i. Contours; minimum two 2 foot intervals.
 - ii. Location, type and extent of tree cover.
 - iii. Slope analysis.
 - iv. Location and extent of water bodies, wetlands and streams and flood plains within 300 feet of the property.
 - v. Significant rock outcroppings.
 - vi. Existing drainage patterns
 - vii. Vistas and significant views.
 - viii. Soil conditions as they affect development.

- g. Schematic drawing of the proposed development concept, including but not limited to the general location of major circulation elements, public and common open space, residential and other land uses.
- h. A statement of the estimated total number of dwelling units proposed for the PUD and a tabulation of the proposed approximate allocations of land use expressed in acres and as a percent of the total project area, which shall include at least the following:
 - i. Area devoted to residential use by building type;
 - ii. Area devoted to common open space;
 - iii. Area devoted to public open space and public amenities;
 - iv. Approximate area devoted to streets;
 - v. Approximate area devoted to, and number of, off-street parking and loading spaces and related access;
 - vi. Approximate area, and floor area, devoted to commercial uses; and
 - vii. Approximate area, and floor area, devoted to industrial or office use.
- i. When the proposed PUD includes increases in density of residential development above the base zoning district, a statement describing the site amenities to be included within the PUD, and demonstrating that the proposed site amenities sufficiently achieve the desired density bonus. The Applicant is required to demonstrate that all site amenity standards have been met in order to be awarded increased density for residential development.
- j. When the PUD is to be constructed in stages during a period of time extending beyond a single construction season, a schedule for the development of such stages or units shall be submitted stating the approximate beginning and completion date for each such stage or unit and the proportion of the total PUD public or common open space and dwelling units to be provided or constructed during each such state and overall chronology of development to be followed from stage to stage.
- k. When the proposed PUD includes provisions for public or common open space or service facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or service facilities.
- l. Any restrictive covenants that are to be recorded with respect to property included in the proposed PUD.
- m. Schematic utilities plans indicating placement of water, sanitary and storm sewers.
- n. The City may excuse an applicant from submitting any specific item of information or document required in this stage which it finds to be unnecessary to the consideration of the specific proposal.
- o. The City may require the submission of any additional information or documentation which it may find necessary or appropriate to full consideration of the proposed PUD.

C. *Final Plan Stage.* Development stage submissions should depict and outline the proposed implementations of the Preliminary Plan stage for the PUD. Information from the pre-application conference ~~general concept~~ and preliminary plan stages may be included for background and to provide a basis for the submitted plan. The development stage submissions shall include but not be limited to:

1. A final plat and information required by § 153.08;
2. Final plans drawn to a scale of not less than 1 inch equals 100 feet (or a scale requested by the ~~Zoning Administrator~~ Planning Director) containing at least the following information:
 - a. Proposed name of the development (which shall not duplicate nor be similar in pronunciation to the name of any plat heretofore recorded in the county where the subject property is situated);
 - b. Property boundary lines and dimensions of the property and any significant topographical or physical features of the property;
 - c. The location, size, use and arrangement including height in stories and feet and total square feet of ground area coverage and floor area of proposed buildings, including manufactured homes, and existing buildings which will remain, if any;
 - d. Location, dimensions of all driveways, entrances, curb cuts, parking stalls, loading spaces and access aisles, and all other circulation elements including bike and pedestrian; and the total site coverage of all circulation elements;
 - e. Location, designation and total area of all common open space;
 - f. Location, designation and total area proposed to be conveyed or dedicated for public open space, including parks, playgrounds, school sites and recreational facilities;
 - g. The location of applicable site amenities, if any;
 - h. Proposed lots and blocks, if any and numbering system;
 - i. The location, use and size of structures and other land uses on adjacent properties;
 - j. Detailed sketches and provisions of proposed landscaping;
 - k. General grading and drainage plans for the developed PUD; and
 - l. Any other information that may have been required by the Planning Commission or City Council in conjunction with the approval of the Preliminary Plan;
3. An accurate legal description of the entire area within the PUD for which final development plan approval is sought;
4. A tabulation indicating the number of residential dwelling units and expected population;
5. Density calculations, including proposed density bonuses above the base zoning district. To be granted increased density of residential development, the applicant

must submit a schedule of site amenities with proposed designs and standards. The applicant must demonstrate that site amenity standards in Table 15-2 have been met to be rewarded additional density;

6. A tabulation indicating the gross square footage, if any, of commercial and industrial floor space by type of activity (e.g. retail or office);
7. Preliminary architectural "typical" plans indicating use, floor plan, elevations and exterior wall finishes of proposed building, including manufactured homes;
8. A detailed site plan, suitable for recording, showing the physical layout, design and purpose of all streets, easements, rights of way, utility lines and facilities, lots, block, public and common open space, general landscaping plan, structure, including mobile homes, and uses;
9. Preliminary grading and site alteration plan illustrating changes to existing topography and natural site vegetation. The plan should clearly reflect the site treatment and its conformance with the approved ~~concept~~ preliminary plan; and
10. A soil erosion control plan acceptable to watershed districts, the Department of Natural Resources, ~~Natural Resources Conservation Service~~, or any other agency with review authority, clearly illustrating erosion control measures to be used during construction and as permanent measures.

§ 154.760 CITY COSTS.

The applicant shall make a deposit of a fee escrow with the City for the purpose of reimbursing any costs directly related to a given development. Such costs include but are not limited to professional fees and expenses incurred by the City for consultants (including but not limited to planners, engineers, architects, landscape architects and attorneys) who the City determines in its sole judgment are necessary to assist in reviewing, implementing or enforcing the provisions of this article. The amount of the deposit, and any addition to it that the City may later require, shall be established by the Planning Director. The City and the applicant may agree to share the costs of consultants based upon a specific written agreement. Any funds not used by the City shall be returned to the applicant at the conclusion of the project.

SECTION 3. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 153: Subdivision Regulations by amending various parts of Sections 153.01 through Section 153.09 by adding the underlined language and deleting the ~~strikethrough~~ language as follows:

§ 153.01 REGULATIONS ESTABLISHED.

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

§ 153.02 GENERALLY.

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

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

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

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

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

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

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

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

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

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

(F) *Flood plain management*.

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

(2) In the general flood plain district, applicants shall provide the information required in § 152.140. The City 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.

§ 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.

§ 153.04 REGISTERED LAND SURVEY.

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

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

(A) No conveyance of lands to which the regulations contained in this chapter are applicable shall be made and no conveyance of land to which the regulations contained in this chapter are

applicable shall be filed or recorded, if the land is described in the conveyance by metes and bounds or by reference to an unapproved registered land survey made after 10-3-1968, or to an unapproved plat made after 10-3-1968.

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

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

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

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

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

§ 153.06 LOT CONSOLIDATION/LOT LINE ADJUSTMENT.

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

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

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

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

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

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

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

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

(7) Any easements that become unnecessary as a result of the combination of parcels must be vacated. A request to vacate easements shall be made concurrently with the application for lot consolidation/lot line adjustment. Review of the easement vacation request, including any public hearings and City Council action, shall be completed before action may be taken on the application for lot consolidation/lot line adjustment.

(8) New easements shall be established as the City deems necessary.

(C) *Subdivision of Property for Public Purpose.* Alternatively, the subdivision of property resulting from acquisition by governmental agencies for public improvements or uses may be processed in the same manner as a lot line adjustment or lot consolidation.

(D) *Submittal Requirements.* Requests for lot line adjustments or lot consolidation shall be filed with the City on an official application form. The applicant's signatures shall be provided on the application form. If the applicant is not the fee owner of the property, the fee owner's signature shall also be provided on the application form, or the applicant shall provide separate written and signed authorization for the application from the fee owner. Such application shall be accompanied by the following information. The application shall be considered as being officially submitted and complete when the applicant has complied with all the specified requirements. The applicant will be responsible for all expenses incurred in obtaining the required information.

(1) A fee as set forth by the City's adopted fee schedule.

(2) Detailed written and graphic materials fully explaining the proposed lot line adjustment.

(3) A legal description of the affected parcels and legal descriptions for each of the resulting parcels; and, in regard to lot line adjustments, legal descriptions for the adjusted or consolidated parcels;

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

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

(6) A title search showing ownership of the property and any existing deed restrictions.

(7) Other information shall be provided as may be reasonably requested by the City staff.

(E) *Review of lot line adjustment or lot consolidation.* A completed application shall be reviewed administratively by the Planning Department who shall make a written finding in regard to the provisions of division (B) above. The City's approval shall be conditioned upon recording of documents which effectuate the lot line adjustment or lot consolidation and any other conditions deemed necessary to ensure compliance with the Zoning Code. Unless a request for additional review time is requested by the City, action on the application shall be taken within 60 days after a complete application is submitted. Prior to the issuance of any development permits, and no later than 60 days after administrative review and approval, the applicant shall provide the City with recorded documents or recorded document numbers for the deeds of conveyance which effectuate

the lot line adjustment or lot consolidation. Failure to provide the required verifications within the required time shall invalidate the City's approval.

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

SECTION 153.065 LOT DIVISIONS.

Section 153.065 Lot Divisions.

- A. The City Planning Director may approve administratively the subdivision of one lot or parcel into two or three lots where no public infrastructure, easements or rights-of-way are being dedicated. The following requirements must be met before the City may approve an administrative lot division:

1. The submittal of the required land use application and fee.
2. The submittal of proof of ownership.
3. The submittal of a current certificate of survey, prepared and signed by a Minnesota licensed land surveyor, depicting the following:
 - a. Graphic scale of the survey (engineering scale only, not less than 1 inch equals 50 feet).
 - b. North arrow.
 - c. Date of the survey.
 - d. Existing legal description of the parcel of land to be subdivided.
 - e. Existing parcel boundaries shown with survey measurement data matching the legal description of the parcel of land.
 - f. Area in square feet and in acres of the parcel of land to be subdivided.
 - g. Existing site improvements within the subject property and those within 50 feet of the boundaries of the parcel to be subdivided.
 - h. All encroachments along the outside boundary of the parcel of land to be subdivided.
 - i. All easements of record affecting the parcel of land to be subdivided.
 - j. Basins, lakes, rivers, streams, creeks, wetlands and other waterways bordering on or running through the parcel of land to be subdivided. The ordinary high water elevation and the 100-year flood elevation shall be shown where applicable.
 - k. The location, right-of-way widths and names of public streets or other public ways, showing type, width and condition of improvements, if any, that pass through and/or adjacent to the parcel of land being subdivided.
 - l. Location, right-of-way widths and names of any railroad, if any, that pass through or are adjacent to the parcel of land being subdivided.
 - m. The location, type and size of any public infrastructure (sanitary sewer, water, storm sewer) that is located on or adjacent to the parcel of land being subdivided.
 - n. Identify all gaps and overlaps of the property being subdivided.
 - o. The outside boundary of the property being subdivided must be clearly marked survey monumentation.
 - p. The boundary shown with survey measurement data and proposed legal description for each of the lots as they are proposed to be subdivided.

- q. The boundary and legal description of any proposed easements on the property. The owner must provide a 10-foot-wide drainage and utility easement along all property lines. The City also may require a drainage and utility easement over wetlands, wetland buffers, stormwater basins, lakes, drainage channels and tributaries.
 - r. The City also may require the dedication of easements or right-of-way for public streets consistent with the City's Comprehensive Plan.
 - s. If the owner is proposing residential lots that would use on-site septic systems, then the owner must provide documentation that each lot would have enough area for a primary and secondary on-site septic system along with the proposed location of the houses, driveways and wells for each of those lots.
4. A lot division shall not result in the creation of more than three lots.
 5. The Planning Director may approve or cause to be modified plans for a lot division. The Director must first determine, however, that the plans meet all eCity ordinances and policies and that the lot division proposal would not have an adverse impact on the subject property or surrounding properties. If the Director makes a negative determination about the proposed lot division or if the applicant wishes to appeal the decision, the case shall be sent to the Planning Commission for a review and recommendation and to the City Council for action.
 6. The City may require a letter of credit as a condition of a lot divisions in order to guarantee the proper repair and patching of streets after the installation of or connection to utilities in the streets or in the public rights-of-way.
 7. The City shall not approve more than three new lots from a parcel or tract in any single calendar year.
 8. The owner must record the deeds for the lot division with Washington County within 180 days of City approval of a lot division, or the lot division shall be no longer valid.

§ 153.07 MINOR SUBDIVISIONS.

- (A) *Purpose and Intent.* The purpose of a minor subdivision process is to allow the City to waive certain procedures and requirements of a major subdivision. The purpose is to reduce the time and cost to the property owner for dividing land in locations and situations that are well defined and where no new public infrastructure is required. The minor subdivision process allows for concurrent review and approval of a Ppreliminary and Ffinal-Pplat.
- (B) *Criteria for Minor sSubdivision.* A minor subdivision is a division of land which results in no more than 4 parcels shown on the plat/survey:
 - (1) Each resultant parcel meets all applicable requirements of the Zoning Code, including but not limited to density, lot size, lot width, and minimum frontage on a public road, unless a variance has been approved according to the procedures set forth in Section 153.11 of the City Code.

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

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

(D) *Review of Minor Subdivision.*

- (1) *Review by staff and other commissions or jurisdictions.* The City shall refer copies of the preliminary plat to the City Engineer, Planner, Attorney, the Watershed District and the appropriate county, state, or other public agencies for their review and comment. The City shall instruct the appropriate staff persons to prepare technical reports where appropriate, and to provide general assistance in preparing a recommendation on the action to the Planning Commission and Council.
- (2) *Public Hearing Set.* Upon receipt of a complete application, the City shall set a public hearing following proper hearing notification. The Planning Commission shall conduct the hearing, and report its findings and make a recommendation to Council. Notice of said hearing shall consist of a legal property description and a description of the request, which shall be published in the official newspaper at least 10 days prior to the hearing and written notification of said hearing shall be mailed at least 10 days prior to the hearing to all owners of land within 350 feet of the boundary of the property in question. Public hearings shall follow the hearing procedures outlined in Section 154.102. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Chapter.
- (3) The Planning Commission shall make a finding of fact and recommend such actions or conditions relating to the request as it deems necessary to carry out the intent and purpose of this Chapter.
- (4) The City Council shall not approve a minor subdivision until it has received a report and recommendation from the Planning Commission and the City staff, or until 60 days after the first regular Planning Commission meeting at which the request was considered.
- (5) Approval of a minor subdivision shall require passage of a resolution by a majority vote of a quorum of the City Council.

- (6) Prior to certification by the City of the approval of the minor subdivision, the applicant shall submit the final plat for signature, supply the deed(s) easement documents granting the City any easements required by the City using the City's standard form of easement and pay any required recording or other fees.
- (7) Whenever an application for a minor subdivision has been considered and denied by the City Council, a similar application for a minor subdivision affecting substantially the same property shall not be considered again by the Planning Commission or the City Council for at least 6 months from the date of its denial unless a decision to reconsider such matter is made by a majority vote of the entire City Council.
- (E) *Recording of the Minor Subdivision.* If the minor subdivision is approved by the Council, the subdivider shall record it with the County Recorder or Registrar of Titles within 180 days after the approval. If not ~~filed~~ recorded within 180 days, approval of the minor subdivision shall be considered void, unless a request for a time extension is submitted in writing and approved by the City Council. The subdivider shall, immediately upon recording, furnish the City with copies of the recorded documents which effectuate the minor subdivision. No building permits shall be issued for construction of any structure on any lot within the approved minor subdivision until the City has received evidence of the plat being recorded by the County.
- (F) *Financial Guarantee.* Following the approval of a minor subdivision as required by this Section and prior to the issuing of any building permits or the commencing of any work, the applicant may be required to submit a financial guarantee to the City to ensure the completion of any improvements as shown on the approved plans and as required as a condition of minor subdivision approval.
- (G) *Certification of Taxes Paid.* Prior to approval of an application for a minor subdivision, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the minor subdivision application relates.

§ 153.08 MAJOR SUBDIVISIONS – PRE-APPLICATION CONFERENCE -SKETCH PLAN REVIEW.

- (A) *Purpose and Intent.* In order to ensure that all applicants are informed of the procedural requirements and minimum standards of this chapter and the requirements or limitations imposed by other City ordinances or plans, prior to the development of a preliminary plat, applicants are required to attend a pre-application conference with City staff (including, but not limited to, the Planning Director and the City Engineer) to review and discuss the proposed subdivision. ~~submit a sketch plan of the proposed subdivision to the City for review.~~
- 1. **Prerequisite.** Pre-Application Conference. Before filing of an application for a major subdivision with the City, the applicant of the proposed major subdivision

shall arrange for and attend a pre-application conference with the Planning Director, City Engineer and other City staff. The primary purpose of the pre-application conference shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of his or her proposal for the area for which it is proposed and its conformity to the provisions of this section before incurring substantial expense in the preparation of plans, surveys and other data.

2. No application for a major subdivision will be accepted by the City unless an applicant's proposal is distinctly similar to one reviewed by City staff in the required pre application conference.

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

- (1) An application fee as set forth by the City's adopted fee schedule.
- (2) Detailed written and graphic materials fully explaining the proposed major subdivision.
- (3) List of property owners located within 350 feet of the subject property in a format prescribed by the City.
- (4) A scaled drawing which includes:
 - a. Locations of boundary lines in relation to a known section, quarter section, or quarter quarter section line comprising a legal description of the property;
 - b. Graphical scale not less than 1 inch equals 100 feet.
 - c. Data and north point.
 - d. Existing conditions.
 - i. Boundary line of proposed subdivision, clearly indicated;
 - ii. Existing zoning classification for land within and abutting the subdivision;
 - iii. A statement on the acreage and dimensions of the lots;
 - iv. Location widths and names of existing or previously platted streets or other public ways, showing type, width, and conditions of

- improvements, if any, railroad and utility rights-of-way, parks and other open spaces, permanent buildings and structures, easements in section and corporate lines within the tract and to a distance of 150 feet beyond the tract;
- v. Location and size of existing sewers, water mains, wells, culverts, or other underground utilities within the tract and to a distance of 150 feet beyond the tract, the data as grades, invert elevations, and locations of catch basins, and manholes shall also be shown;
 - vi. Boundary lines of adjoining unsubdivided or subdivided land, within 150 feet, identified by name and ownership, including all contiguous land owned or controlled by the subdivider;
 - vii. Topographic data, including contours at vertical intervals of not more than 5 feet; water courses, marshes, rock outcrops, power transmission poles and lines and other significant features shall also be shown; National Geodetic Vertical Datum (N.G.V.D.) shall be used for all topographic mapping; and
 - viii. The subdivider may be required to file a report prepared by a registered civil engineer or soil scientist on the feasibility of on-site sewer and water systems on each lot; the report shall include a soil borings analysis and a percolation test to verify conclusions;.
 - ix. Buildable area on each lot and proposed building pad;.
 - x. Existing and proposed driveway locations;.
 - xi. Existing parks, streets and easement locations; and
 - xii. Delineated wetlands and water bodies including ordinary high water elevations and floodplain boundaries as applicable.
- e. Proposed design features.
- i. Layout of proposed streets showing right-of-way widths, center line grade, typical cross-sections, and proposed names of streets in conformance with all applicable City ordinances and policies; the name of any street used in the City or its environs shall not be used unless the proposed street is the logical extension of an already named street, in which event the same name shall be used. The names and number shall comply with the County Uniform Street Numbering System.
 - ii. Areas other than streets, pedestrian ways, utility easement, intended to be dedicated or reserved for public use, including the size of the areas in acres.
 - iii. Provision for surface water disposal, drainage, and flood control within the boundaries of the proposed property division consistent with sSection 150.273 of the City Code, storm water management and erosion and sediment control

f. *Supplementary information.*

- i. The supplementary information as shall reasonably be deemed necessary by City staff, ~~the Planning Commission or the City Council~~;
- ii. Proposed protective covenants;
- iii. Statement of the proposed use of lots stating type of residential buildings with number of proposed dwellings and type of business or industry, so as to review the effect of the development on traffic, fire hazards, and congestion of population;
- iv. If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions, shall be shown. The proposed zoning plans shall be for information only and not vest any rights in the application for use other than residential;
- v. A statement showing the proposed density with the method of calculating said density also shown.
- vi. Where the subdivider owns property adjacent to that which is being proposed for division, the City Planning Commission may require that the subdivider submit a sketch plan or ghost plat of the remainder of the property so as to show the possible relationship between the proposed division and a future subdivision. All subdivisions shall be reasonably consistent with the existing or potential adjacent subdivisions; and
- vii. Where structures are to be placed on large or excessively deep lots, which are subject to replat, the development subdivision plans shall indicate placement of structures so that lots may be further subdivided, in addition to a sketch plan that illustrates a way in which the lots can possibly be resubdivided.

(C) Sketch Pre-application Plan Review. The ~~sketch~~ pre-application plan for the proposed subdivision shall be reviewed by City staff ~~the Planning Commission, and Council.~~ The ~~City may refer the sketch plan to the Parks Commission to secure its recommendation as to the location of any property that should be dedicated to the public, such as parks, playgrounds, trails, open space or other public property.~~ The City shall accept the information received, but take no formal or informal action which could be construed as approval or denial of the proposed plat. The City staff review of the proposed subdivision plan is to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of his or her proposal for the area for which it is proposed and its conformity to the provisions of this subchapter. The applicant shall not construe any of the information provided by City at this point in the review process as an approval or denial of the proposed subdivision but rather as information to guide the applicant through the next steps in the City review process for the applicant's proposal.

§ 153.09 PRELIMINARY MAJOR SUBDIVISIONS (PRELIMINARY PLAT).

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

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

Note: Sections 153.10 through 153.18 remain unchanged.

SECTION 4. Effective Date. This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

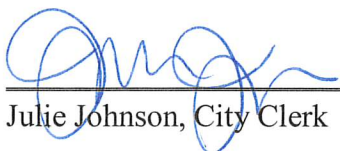
SECTION 5. Adoption Date. This Ordinance 08-239 was adopted on this 18th day of Aug. 2020, by a vote of 3 Ayes and 1 Nays.

LAKE ELMO CITY COUNCIL



Mike Pearson, Mayor

ATTEST:


Julie Johnson, City Clerk

This Ordinance 08-239 was published on the 28th day of August, 2020.