CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-152

AN ORDINANCE TO REPEAL EXISTING OPEN SPACE DEVELOPMENT REGULATIONS WITHIN CHAPTER 150, ADOPT NEW OPEN SPACE DEVELOPMENT REGULATIONS IN CHAPTER 154, AND TO IMPLEMENT REFERENCE UPDATES IN CHAPTER 154

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 150: General Provisions, by repealing all Open Space Preservation regulations contained in Sections 150.175 through 150.190.

SECTION 2. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 150: General Provisions, by adding the following language after Section 150.160, Review and Revocation:

Sections 150.161 through 150.199 -- RESERVED

SECTION 3. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code, to implement needed reference updates as follows:

- Articles I and II are restated and incorporated herein unchanged.
- The currently un-numbered Article entitled "Zoning Districts," containing sections 154.030 through 154.036, is hereby restated and incorporated herein unchanged except for the title which is amended to read: "Article III – Zoning Districts"
- The currently un-numbered Article entitled "Additional Regulations and Modifications," containing sections 154.080 through 154.083, is hereby restated and incorporated herein unchanged except for the title which is amended to read: "Article IV – Additional Regulations and Modifications"
- Current Articles III (3) through XIII (13) containing sections 154.100 through 154.600, are hereby restated and incorporated herein unchanged except for their Article numbers which are amended to read Articles V (5) through XV (15)
- Current Article XIV (14) containing section 154.700 is hereby restated and incorporated herein unchanged except for its Article number which is amended to read Article XVII (17)

- Current Articles XVI (16) through XVII (17) containing sections 154.750 through 154.800, are hereby restated and incorporated herein unchanged except for their Article numbers which are amended to read Articles XVIII (18) through XIX (19)

- The currently un-numbered Article entitled "Design and Performance Standards – Restrictions on Nuisance and Hazardous Activities," containing sections 154.900 through 154.999, is hereby restated and incorporated herein unchanged except for the title which is amended to read: "Article XX – Design and Performance Standards – Restrictions on Nuisance and Hazardous Activities"

- Current Section 154.106(A)(4) is amended as follows: "The proposed use meets all specific development standards for such use listed in Article 9 of this Chapter"

- Current Section 154.106(E)(1) is amended as follows: "The conditions shall include all specific development standards for such use listed in Article 9 of this Chapter"

- Current Section 154.202 is amended as follows: "Permits are required for all changes in use and all development activities, with the exception of signs, which shall be governed by the specific requirements of Section 154.212 as may be applicable."

- Current Section 154.210(D)(6) is amended as follows: "*Landscaping and Screening.* Parking areas shall be screened and landscaped as provided in Article 8, Section 154.258"

- Current Section 154.305(B)(6) is amended as follows: "*Screening of Storage Areas.* The storage or display of inoperable or unlicensed vehicles not awaiting service as in subsection (B4) or other equipment, and all trash storage or disposal facilities, shall meet all setback requirements of a structure, and shall be screened from view from adjacent public streets and adjacent residential properties. Screening shall meet the requirements of Article 8, Section 154.258."

- Current Section 154.404(introductory paragraph) is amended as follows: "Development of land within the rural districts shall follow established standards for traffic circulation, landscape design, parking, signs and other considerations as specified in Articles 7, 8, and 9. The following standards apply to specific uses, and are organized by district."

- Current Section 154.408(E)(1) is amended as follows: "Standards for accessory uses and structures that are permitted in all districts, or in all residential buildings in any district, are listed in Article 9, Specific Development Standards. These include uses such as family and group family day care, bed and breakfast facilities, and home occupations, and structures such as swimming pools and solar equipment."

- Current Section 154.454(introductory paragraph) is amended as follows: "Development of land within the urban residential districts shall follow established standards for traffic circulation, landscape design, parking, signs and other considerations as specified in Articles 7, 8, and 9. The following standards apply to specific uses, and are organized by district."

- Current Section 154.459 is amended as follows: "Standards for accessory uses and structures that are permitted in all districts, or in all residential buildings in any district, are listed in Article 9, Specific Development Standards. These include uses such as family and group family day care, bed and breakfast facilities, and home occupations, and structures such as swimming pools and solar equipment."

- Current Section 154.504(introductory paragraph) is amended as follows: "Development of land within the VMX District shall follow established standards for traffic circulation, landscape design, and other considerations as specified in Articles 7, 8, and 9."

- Current Section 154.505(introductory paragraph) is amended as follows: "Development of land within the VMX district shall follow established standards for traffic circulation, landscape design, parking, signs and other considerations as specified in Articles 7, 8, and 9. The following standards apply to specific uses; other standards related to design and building type may be found at §154.506."

- Current Section 154.510 is amended as follows: "Standards for accessory uses and structures that are permitted in all districts, or in all residential buildings in any district, are listed in Article 9, Specific Development Standards. These include uses such as family and group family day care, bed and breakfast facilities, and home occupations, and structures such as swimming pools and solar equipment."

- Current Section 154.553(introductory paragraph) is amended as follows: "Development of land within the commercial districts shall follow established standards for traffic circulation, landscape design, and other considerations as specified in Articles 7, 8, and 9."

- Current Section 154.554(introductory paragraph) is amended as follows: "The following standards apply to specific uses allowed within the Commercial Districts. Other specific use standards are located in Article 9."

- Current Section 154.752(introductory paragraph) is amended as follows: "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."

- Current Article XVII, renumbered to Article XIX by this ordinance, is hereby restated and incorporated herein unchanged except for its hierarchy of sections references which shall be amended to follow the following subsection hierarchy:

  Section Number. Section Title
  A. Subsection
  B. Subsection
  C. Subsection
    1. Subsection
    2. Subsection
    3. Subsection
      a. Subsection
      b. Subsection
      c. Subsection
        i. Subsection
        ii. Subsection
        iii. Subsection

- Current Section 154.800(c)(O), changed to 154.800(L) as part of the subsection hierarchy update above, is amended as follows: "Residential planned unit developments shall be permitted in shoreland areas subject to the requirements of Article XVIII of this chapter." All subsections of 154.800(L) are restated and incorporated herein unchanged.

<u>SECTION 4</u>. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code, to add Article XVI: OPEN SPACE PLANNED UNIT DEVELOPMENTS

Article XVI: 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 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 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 on the undeveloped parcel; however, the total number of dwelling units shall not exceed the density limitations contained in the Comprehensive Plan for Opens 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 drainageways, minimize tree loss, protect historic sites or structures, and limit the need for soil removal and/or grading shall then be identified. The orientation of individual building sites shall maintain maximum natural topography and ground cover.

(a) Building pads shall be located outside of required buffers, and shall be sited so as to provide ample room for accessory structures on 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 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 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 Communal septic system use shall be located within a dedicated Outlot to be owned by the homeowners association (HOA) of the development.

(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 addition to preserved open space as specified in the Lake Elmo Parks Plan.

(ii) Determination of whether a land or cash dedication will be required to fulfil parkland requirements will be at the discretion of the City Council, 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 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.

(1) Preserved Open Space Standards

(a) 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.

(b) Preserved open space land shall be controlled in one or more of following manners as determined at the sole discretion of the City Council:

(i) Owned by an individual or legal entity who will use the land for a specific set of purposes outlined 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 as approved by the city; and/or

(ii) Conveyed by conservation easement to the city.

(iii) 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).

(c) 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) declarations 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.

(d) Where applicable, a Common Interest Community association shall be established to permanently maintain all residual open space and recreational facilities. The Common Interest Community association agreements, guaranteeing continuing maintenance, and giving lien right to the city if there is lack of the maintenance shall be submitted to the city as part of the documentation requirements of § 154.661(3) for an open space PUD Final Plan.

(2) Septic System Design Standards

(a) In General

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

(b) 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.

(c) Communal Drain Fields.

(i) 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.

(ii) 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.

(3) Building Standards

(a) Principal structures within open space planned unit developments shall not exceed 2 and ½ stories or 35 feet in height.

(b) Accessory structures within open space planned unit developments shall not exceed 22 feet in height.

(c) It is desired that the structures within neighborhoods convey a particular architectural style with similar building components, materials, roof pitches. The PUD Overlay ordinance crafted for each individual development should establish minimum architectural standards for the neighborhood.

(d) All wells shall be located a minimum of fifty (50) feet from septic tanks and septic fields.

(4) Landscaping Standards

(a) 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.

(b) 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.

(5) Impervious Surface Standards

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

(a) Impervious surfaces created by roads, trails, and other planned impervious improvements shall count against the maximum allowed impervious coverage.

(b) 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.

(c) 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.

(6) Trail Standards

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

(a) 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.

(b) All trails shall be constructed of asphalt or concrete in compliance with the standard city

design plate for trails.

(c) Proposed trails shall provide connections between and access to the buildable land areas and preserved open space land being created by the development.

(d) Proposed trails shall connect to existing, planned, or anticipated trails or roads on adjacent parcels.

(e) 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:

(1) The proposed development is consistent with the goals, objectives, and policies of the Comprehensive Plan.

(2) All prerequisites for an open space PUD as outlined in § 154.655 are met.

(3) 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:

(a) The deviation(s) allow for higher quality building and site design that will enhance aesthetics of the site;

(b) 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;

(c) The overall design provides appropriate solutions to eliminate adverse impacts that proposed deviations may impose on surrounding lands.

(4) 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.

(1) Open Space PUD Sketch Plan

(a) Purpose

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.

(b) 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.

(i) 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;

(ii) A listing of the following site data: Address, current zoning, parcel size in acres and square feet and current legal description(s);

(iii) 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.

(iv) A listing of general information including the following:

1. Number of proposed residential units.
2. Calculation of the proposed density of the project showing compliance with § 154.657(A).
3. A listing of all proposed land uses (i.e. preserved open space, buildable sites, parkland, etc).
4. Square footages of land dedicated to each proposed land use.

(v) An existing conditions exhibit, including topography, that identifies the location of the following environmental features along with calculations (in acres) for each:

1. Gross site acreage;
2. Existing wetlands;
3. Existing woodlands;
4. Areas with slopes greater than 12%, but less than 25%;
5. Areas with slopes of 25% or greater;
6. Woodlands;
7. Other pertinent land cover(s).

(vi) An open space PUD Sketch Plan illustrating the nature of the proposed development. At a minimum, the plan should show:

1. Existing zoning district(s) on the subject land and all adjacent parcels;
2. Layout of proposed lots and proposed uses denoting Outlots planned for public dedication and/or preserved open space;
3. Area calculations for each parcel;
4. General location of wetlands and/or watercourses over the property and within 200 feet of the perimeter of the subdivision parcel;
5. Location of existing and proposed streets within and immediately adjacent to the subdivision parcel;
6. Proposed sidewalks and trails;
7. Proposed parking areas;
8. General location of wooded areas or significant features (environmental, historical, cultural) of the parcel;
9. Location of utility systems that will serve the property;
10. 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);
11. 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).

(vii) 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).

(viii) 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:

1. Ownership, management, and maintenance of defined preserved open space;
2. Maintenance of public and private utilities; and

3. General architectural guidelines for principal and accessory structures.

(ix) If applicable, a historic preservation plan for any historic structures on the site shall be submitted.

(c) Open Space PUD Sketch Plan Proposal Review

(i) Planning Commission

1. Upon receiving an open space PUD Sketch Plan proposal, the City shall schedule a date upon which the Planning Commission will review the proposal.
2. Upon completing their review, the Planning Commission shall adopt findings and recommendations on the proposed open space PUD as soon as practical.
3. 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.

(ii) City Council

1. 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.
2. 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.
3. For each of the identified modifications to the minimum standards outlined in
4. § 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.

(d) Effect of a PUD Sketch Plan Review

(i) 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.

(ii) 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.

(e) 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.

(2) PUD Preliminary Plan

(a) Prerequisite

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

(b) 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.

(i) All required information for a preliminary plat per Chapter 1102, § 1102.01(C) and § 1102.02.

(ii) A separate open space PUD Preliminary Plan which includes the following information:

1. Administrative information (including identification of the drawing as an "Open Space PUD Preliminary Plan," the proposed name of the project, contact information for the developer and individual preparing the plan, signature of the surveyor and civil engineer certifying the document, date of plan preparation or revision, and a graphic scale and north arrow);
2. Area calculations for gross land area, wetland areas, right-of-way dedications, and proposed public and private parks or open space;
3. Existing zoning district(s) on the subject land and all adjacent parcels;
4. Layout of proposed lots with future lot and block numbers. The perimeter boundary line of the subdivision should be distinguishable from the other property lines. Denote Outlots planned for public dedication and/or open space (schools, parks, etc.);
5. The location of proposed septic disposal area(s);
6. Area calculations for each parcel;
7. Proposed setbacks on each lot (forming the building pad) and calculated buildable area;
8. Proposed gross hardcover allowance per lot (if applicable);
9. Existing contours at intervals of two feet. Contours must extend a minimum of 200 feet beyond the boundary of the parcel(s) in question;
10. Delineation of wetlands and/or watercourses over the property;
11. Delineation of the ordinary high water levels of all water bodies;
12. Location, width, and names of existing and proposed streets within and immediately adjacent to the subdivision parcel;

13. Easements and rights-of-way within or adjacent to the subdivision parcel(s);
14. The location and orientation of proposed buildings;
15. Proposed sidewalks and trails;
16. Vehicular circulation system showing location and dimension for all driveways, parking spaces, parking lot aisles, service roads, loading areas, fire lanes, emergency access, if necessary, public and private streets, alleys, sidewalks, bike paths, direction of traffic flow and traffic control devices;
17. Lighting location, style and mounting and light distribution plan.
18. Proposed parks, common areas, and preservation easements (indicate public vs. private if applicable);
19. Location, access and screening detail of large trash handling and recycling collection areas

(iii) Proposed architectural theming and performance standards for the development;

(iv) 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;

(v) A utility plan providing all information as required by Public Works, the City Engineer, and/or the Director of Planning;

(vi) 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;

(vii) The location and detail of signage providing all pertinent information necessary to determine compliance with § 154.212;

(viii) A tree preservation plan as required by § 154.257;

(ix) A landscape plan, including preliminary sketches of how the landscaping will look, prepared by a qualified professional providing all information outlined in § 154.258;

(x) 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;

(xi) A plan sheet or narrative clearly delineating all features being modified from standard open space PUD regulations;

(xii) Common Interest Community Association documents including bylaws, deed restrictions, covenants, and proposed conservation easements.

(xiii) Any other information as directed by the Director of Planning.

(c) PUD Preliminary Plan Review

(i) 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.

(ii) 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.

(iii) 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.

(iv) In approving or denying the PUD Preliminary Plan, the City Council shall make findings on the PUD review criteria outlined in § 154.660.

(v) 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.

(d) 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.

(e) 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 findings for an additional year.

(3) PUD Final Plan

(a) Application Deadline

Application for an open space PUD Final Plan shall be submitted for approval within ninety (90) 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.

(b) 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.

(i) All required information for a final plat per City Code § 153.08;

(ii) 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.

(iii) 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.

(iv) 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.

(v) Up-to-date title evidence for the subject property in a form acceptable to the Director of Planning.

(vi) Warranty deeds for Property being dedicated to the City for all parks, Outlots, etc., free from all liens and encumbrances.

(vii) All easement dedication documents for easements not shown on the final plat including those for trails, ingress/egress, etc., together with all necessary consents to the easement by existing encumbrancers of the property.

(viii) Any other information deemed necessary by the Director of Planning to fully present the intention and character of the open space PUD.

(ix) If certain land areas or structures within the open space PUD are designated for recreational use, public plazas, open areas or service facilities, the owner of such land and buildings shall provide a plan to the city that ensures the continued operation and maintenance of such areas or facilities in a manner suitable to the city.

(c) PUD Final Plan Review

(i) 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.

(ii) Staff should once again identify any information submittals that were waived so Council may determine if such is needed prior to making a final decision.

(iii) The Director of Planning shall finalize the ordinance to establish the proposed overlay district for consideration by the Planning Commission and City Council.

(iv) 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.

(v) 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.

(vi) As a condition of PUD Final Plan approval, publication of the overlay district ordinance shall be required prior to filing of the approved final plat.

(vii) Planned Unit Development Agreement.

1. At its sole discretion, the City may as a condition of approval, require the owner and developer of the proposed open space PUD to execute a development agreement which may include but not be limited to all requirements of the open space PUD Final Plan.
2. The development agreement may require the developers to provide an irrevocable letter of credit in favor of the City. The letter of credit shall be provided by a financial institution licensed in the state and acceptable to the City. The City may require that certain provisions and conditions of the development agreement be stated in the letter of credit. The letter of credit shall be in an amount sufficient to ensure the provision or development of improvement called for by the development agreement.

(viii) As directed by the City, documents related to the PUD shall be recorded against the property.

(d) Time Limit

(i) 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. 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 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.

(ii) 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 city 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 approve minor changes 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

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 5. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code, Article III: ZONING DISTRICTS, Section 154.035 OP-Open Space Preservation District as follows:

§ 154.035 OP – OPEN SPACE PRESERVATION DISTRICT.

(A) OP District Discontinued

Provisions regulating the OP Open Space Preservation District were repealed and replaced with the regulations now in Article XVI: Open Space Planned Unit Developments.

(B) Buffer Setbacks In OP Developments

Buffer setbacks shall be applied from the edge of the existing open space preservation developments as follows.

Buffer Setbacks in OP Developments (in feet)					
	North Edge	*South Edge*	*West Edge*	*East Edge*	*Exception Parcel(s)*
St. Croix's Sanctuary	200	50	50	100	
Discover Crossing	200	100	50	100	
Whistling Valley I	25	200	N/A	N/A	
Whistling Valley 1I	25	100	85	N/A	

Whistling Valley III	50	100	100	N/A	
Farms of Lake Elmo	100	50	100	25	
Prairie Hamlet	200	50	50	100	
Fields of St. Croix I	50	N/A	200	100	
Fields of St. Croix 1I	N/A	200	200	N/A	N/A
The Homestead	50	50	200	50	
Tapestry at Charlotte's Grove	50	50	200	50	100
Tamarack Farm Estates	100	100	100	100	
Sunfish Ponds	100	100	100	200	
Hamlet on Sunfish Lake	50	100	50	50	
Cardinal Ridge	100	200	50	50	
Wildflower Shoves	100	200	100	200	
Heritage Farms	50	N/A	N/A	50	N/A
Tana Ridge (Res. 2009-033)	N/A	N/A	50	50	
Parkview Estates (Res. 2009-033)	50; except Lot 9, Block 5 use 20 ft	N/A	N/A	50	

<u>SECTION 6</u>. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code, Section 154.036 as follows:

§ 154.036 OZD - OVERLAY ZONING USE DISTRICT.

The following overlay districts are designed to promote orderly development or to protect some specific sensitive natural resources. These district regulations are in addition to, rather than in lieu of, regulations imposed by the existing basic zoning use districts. These districts are defined and established as follows:

A. Flood Plain – See §§ 151.01 through 151.14 of this Code;
B. Restrictive Soils Overlay District – See §§ 150.200 through 150.203 of this Code;
C. Wetland Protection and Preservation Overlay District – See §§ 150.215 through 150.219 of this Code;
D. Shoreland District – See §§ 154.800 of this Code;
E. Interstate Corridor Overlay District – See §§ 150.230 through 150.238 of this Code;

F. Airport (reserved); and
G. Open Space Development Overlay District – See §§ 150.175 through 150.190 of this Code

SECTION 7. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code, Section 154.350 as follows:

§ 154.350 DIVISION INTO DISTRICTS.

A. *All Areas Zoned.* The incorporated areas of Lake Elmo are hereby divided into the following zoning districts:

Table 8-1: Zoning Districts

Zoning District		Reference
R-2	One and Two Family Residential	154.033
GB	General Business	154.034
A	Agriculture	Article XI
RR	Rural Residential	Article XI
RT	Rural Development Transitional	Article XI
RS	Rural Single Family	Article XI
RE	Residential Estate	Article XI
LDR	Urban Low Density Residential	Article XII
MDR	Urban Medium Density Residential	Article XII
HDR	Urban High Density Residential	Article XII
VMX	Village Center - Mixed Use	Article XIII
C	Commercial	Article XIV
CC	Convenience Commercial	Article XIV
LC	Neighborhood Office/Limited Commercial	Article XIV
BP	Business Park/Light Manufacturing	Article XIV
PF	Public Facilities	Article XV

SECTION 8. Adoption Date

This Ordinance No. 08-152 was adopted on this _____ day of July 2016, by a vote of ___ Ayes and ___ Nays.

_____
Mayor Mike Pearson

ATTEST:

_____
Julie Johnson
City Clerk

This Ordinance No 08-152 was published on the ____ day of _____, 2016.