THE CITY OF LAKE ELMO

Our Mission is to Provide Quality Public Services in a Fiscally Responsible Manner While Preserving the City's Open Space Character

NOTICE OF MEETING

City Council Workshop
3800 Laverne Avenue North
Tuesday, June 14, 2016
6:30 PM

I.	Call to Order	6:30 pm
II.	OP Discussion	6:30 pm
III.	Shoreland Ordinance Draft	7:00 pm
IV.	Adjourn	7:30 pm

Memorandum

DATE: 6-14-16

TO: Lake Elmo City Council

FROM: Stephen Wensman, City Planner

SUBJECT: OP Ordinance Update – Updated Draft for Discussion

PURPOSE

To update the City's OP development codes to eliminate on-going issues (i.e. allowed density, required buffers, lot design, etc) and to ensure these developments are meeting the City's expectations.

BACKGROUND

The Planning Commission reviewed an initial draft of this language in April, and Council examined a subsequent draft in early May. At Council's direction, an updated draft was then prepared integrating Council's feedback. Provided Council believes things are moving in the right direction, we would intend to use feedback from this meeting to draft a final ordinance that would go before the Planning Commission for a public hearing.

APPROACH SUMMARY REVIEW

Specific issues staff was asked to address with this update included but were not limited to:

- Continue placing a focus on proper septic site locations to determine future lot locations, but maintain the current set of options (individual and communal options);
- Give more options as to what could be done on Open Space land;
- Add criteria for what buffers will be required;
- Limit accessory structure height to 22'
- Maintain 40 acre minimum before OP can be used;
- Consider referencing new landscaping regulations;
- Consider updates to hardcover regulations;
- Change all references to an HOA to a CIC;
- Provide for a slight increase in density by right (many have received waivers for up to 20 units per 40 acres);
- Maintain open space requirements;

- Maintain 4/5 waiver voting requirement by Council;
- Update street requirements per direction of the City Engineer;
- Consider updating the process if necessary (i.e. transitioning to an overlay district rather than a CUP)
- Remove redundancy found throughout the current regulations.

WORKSHOP DIRECTION

The following issues have been addressed in this updated draft:

- The purpose statement was updated to stress the City's intent to provide flexibility through this process (pg 1).
- Options for minimum land area have been provided, and materials to assist Council with this decision have been included in the packet (pg 2).
- Required super-majority votes for deviations have been eliminated in favor of standard PUD review criteria to determine if flexibilities being sought are in line with City goals (pgs 4 & 7).
- The Comp Plan was re-examined, and staff has confirmed that a comp plan change will be necessary if Council would like to allow for greater density within open space PUDs (pg 4).
- Required buffer language was updated as directed (pg 5).
- Specific roadway standards were eliminated in favor of referencing the City's standard engineering specifications & plates. Deviations from adopted standards would need to be justified through the PUD process (pg 6).
- Minimum lot sizes have been restored to existing standards: 1 acre and ½ acre. (pg 6).
- Clarification on how "buildable areas" are determined was added (pg 6).
- All individual septic systems will now be required to be on private property outside of any easement areas (pg 8).
- Existing language on "wetland treatment systems" was eliminated as directed (pg 8).
- Optional landscaping standards that had been offered were eliminated in favor of existing standards (pg 9).
- Open Space PUD review criteria have been updated to give Council a rational way to determine whether a proposal is achieving the City's goals (pg 11).
- Sketch plan review no longer includes a public hearing in front of the planning commission (although it will still go before the Planning Commission for review and comment) (pg 13).
- Language regarding easements to be dedicated at with the Final Plan highlights that "buffers" may be something protected/created by an easement (pg 18).

UPDATED DRAFT

- The updated draft before Council continues to include comments in the margin to either explain the provisions being proposed, or highlight the changes that have been made. Comments highlighted in yellow have been updated or added since the last draft in May.
- For your reference, we have also included a draft that utilizes underlines and strikeouts to show specific changes since May.
- Note: Language in RED within the draft ordinance indicates language that must be added, amended, or still needs to be addressed.

In preparation for the meeting on the 14th, we again ask that you to read through this draft and prepare questions for discussion ahead of time. Nothing is finalized, and feedback from Council will dictate the final ordinance to be assembled by staff.

Thank you!

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. _____

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 **(Will include definition updates if needed -- TBD)**

SECTION 2 **(Will repeal existing OP codes in Chapter 150)**

SECTION 3 **(Will replace existing OP codes in Chapter 150 with reserved language)**

i.e. "Sections 150.161 through 150.199 – RESERVED"

SECTION 4 **(Will clean up numerous existing problems with numbering in Chapter 154 to allow for placement of the new ordinance within zoning)**

SECTION 5 **Will adopt the new Open Space Planned Unit Development Regulations as follows:**

Article XVI: OPEN SPACE PLANNED UNIT DEVELOPMENTS

§ 154.650 PURPOSE.

The purpose of open space planned unit developments is to ~~maintain the rural character of Lake Elmo by~~provide greater development flexibility within rural portions of the community while still preserving agricultural land, woodlands, corridors, pollinator & wildlife habitat, and other significant natural features~~; while still allowing for residential development~~ 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.

§ 154.652 DEFINITIONS.

Unless specifically defined in §§ 154.009 *et seq.*, common definitions, words, and phrases used in §§ 154.009 *et seq.* 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.

§ 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 _____ 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 ~~Community Development Department~~Director of Planning, including a public hearing before the Planning Commission, 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 [date of ordinance publication] 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 (40, 30, 20, 10) 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 ~~Community Development Department~~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)(1) or 154.656(A)(2) are hereby prohibited.

(D) Use Restrictions

Adopted PUD overlay district regulations may include specific provisions governing uses which supersede the general regulations herein or that which may otherwise be required by underlying zoning.

§ 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 20 units per 40 acres of buildable land; 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, and must meet a minimum lot size requirement as outlined herein.

(b) If individual septic tanks which utilize communal drain 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 ~~an existing open space planned unit development, or a parcel of land~~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 Section ~~xxx~~154.659).

~~**(d)** By majority vote of the City Council, required buffers may be reduced or eliminated entirely if the applicant can demonstrate that existing mature vegetation, changes in topography occuring on the site, or proposed landscaping will provide an effective year-round buffer between the structures proposed within the open space planned unit development and neighboring development.~~

(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 (in as much as possible), minimizes tree loss, protects historic sites or structures, and limits the need for soil removal and/or grading shall then be identified. The orientation of individual building sites shall strive to maintain maximum natural topography and ground cover.

(a) Building pads shall be located outside of required buffers, and shall be cited so as to provide ample room for accessory structures on future lots.

~~**(b)** Whenever possible, building pads shall be oriented in small clusters often referred to as rural hamlets.~~

(c) 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.

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

(5) Placement of Streets

(a) Streets shall then be designed and located in such a manner as to:

1. Maintain and preserve natural topography, groundcover, significant landmarks, and trees;
2. Minimize cut and fill;
3. Preserve and enhance both internal and external views and vistas;
4. Promote road safety;
5. Assure adequate access for fire and rescue vehicles; and
6. Assure and promote adequate vehicular circulation both within the development and with adjacent neighborhoods.

(b) The ~~minimum street~~design of streets and the dedication of right-of-way ~~for one-way streets~~ shall be ~~40 feet, and the minimum right-of-way for two-way streets shall~~in compliance with the City's standard plates and specifications as may be ~~50 feet.~~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.

~~(d) Streets shall be designed according to the following standards:~~

~~1. Pavement shall be 14 to 18 feet wide for 1-way streets;~~

~~2. Pavement shall be 22 to 28 feet wide for 2-way streets; and~~

~~3. Pavement width shall be 22 to 24 feet for streets where homes are located on just 1 side of the street.~~

~~4. Streets shall not be constructed with a rural cross-section.~~

(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) Lot Size

1. Single-family lots being served by individual septic tanks and drain fields shall be a minimum of one (1) acre in size;
2. Single-family lots being served by individual septic tanks utilizing communal drain fields shall be a minimum of ~~¼~~1/2 acre (~~10,890~~21,780 square feet) in size;
3. Base lots for townhomes shall be large enough such that individual unit lots can meet all required structure setbacks contained herein.

(b) Buildable Area to be Shown

1. Buildable area on each proposed lot shall be shown~~ taking into account required~~. Buildable area shall exclude land within the following areas:

   a. Required buffers from adjacent ~~parcels~~lands [see section 154.657(3)]

   b. Steep slopes;

   c. Drainage swales;

   d. Easements; and

   ~~1.~~e. Land within the following ~~setback standards~~setbacks:

	HOUSING TYPE		Additional Requirements
	Single Family Homes	Townhomes	
Front Yard	30	20	xxx
Side Yard	15 feet or 10% of lot width		xxx
Corner Lot Front Yard	30		xxx
Corner Lot Side Yard	30		xxx
Rear Yard	20		xxx
Well from Septic Tank	50		xxx

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

(7) Open Space and Parkland Adjustments

(a) Open Space

1. 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.
2. Not less than 60% of the preserved open space shall be in contiguous parcels which are ten (10) or more acres in size.
3. Preserved open space parcels shall be contiguous with preserved open space or public park land on adjacent parcels.

Formatted: Font color: Red

(b) Parkland

1. Parks and recreational facilities shall be provided in addition to preserved open space as specified in the Lake Elmo Parks Plan.

2. 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.
3. 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) All preserved open space within an open space planned unit development shall be subject to a conservation easement and used for the purposes as defined by §§ 150.175 *et seq.*

(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:

1. Owned by an individual or legal entity who will use the land for preserved open space purposes as provided by permanent conservation restrictions (in accordance with M.S. Ch. 84C.01-.05, as it may be amended from time to time), to an acceptable land trust as approved by the city; and/or
2. Conveyed by conservation easement to the city.

(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 §§ 150.175 *et seq.* for a final plan.

(2) Septic System Design Standards

(a) In General

~~(a)~~ All septic systems shall conform to the performance standards of the Minnesota Pollution Control Agency's standards for sewage treatment systems WPC-7080 and its appendices, or the M.P.C.A. standards in effect at the time of installation and septic system regulations of the Lake Elmo Municipal Code.

(b) ~~Communal drain fields~~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 other easement.

(c) Communal Drain Fields.

~~(b)~~a. Communal drain fields may be partially or completely located in an area designated as preserved open space provided:

~~1.~~i. The ground cover is restored to its natural condition after installation; and

~~2.~~ii. Recreational uses are prohibited above or within 50 feet of communal drain fields, or as approved by the City Engineer.

~~3. No wetland treatment system shall be allowed within the village green.~~

~~(c)~~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.

(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.

(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.

~~OR~~

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

~~(b) Developer shall provide spaced or clustered plantings of 1 ½ inch caliper deciduous trees at a rate of 2 per 100 lineal feet on both sides of the street, between 0 and 5 feet to the inside of the right-of-way for rural sections and between 5 feet and 10 feet to the inside of right-of-way for urban sections. Four foot conifers may be substituted.~~

(5) Impervious Surface Standards (still needs work)

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 ~~OP~~ 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 BUFFER SETBACKS IN OP DEVELOPMENTS

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

~~*Recommended*~~ *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	

§ 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) The Preliminary Plan is consistent with the purpose of §§ 150.175 *et seq.*~~

~~(3) The Preliminary Plan complies with the development standards of §§ 150.175 *et seq*~~

(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:

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

b. The deviation(s) help to create a 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.

~~1.~~ Feedback gained during the open space PUD Sketch Plan phase should be addressed within the subsequent PUD Preliminary Plan.

~~2. At Council's discretion via super-majority vote, any of the minimum standards outlined in either § **154.657 or § 154.658** may be modified to authorize submission of an open space PUD Preliminary Plan that is tailored to the development site. 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.~~

(b) Specific open space PUD Sketch Plan Submittal Requirements

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

1. 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;
2. A listing of the following site data: Address, current zoning, parcel size in acres and square feet and current legal description(s);
3. A narrative explaining the applicant's proposed objectives for the open space PUD, a listing of the proposed modifications from standard in **§ 154.657** as may be applicable, and an explanation of how the proposal addresses the PUD review criteria in **§ 154.660.**
4. A listing of general information including the following:
   a. Number of proposed residential units.
   b. Calculation of the proposed density of the project showing compliance with **§ 154.657(A).**
   c. A listing of all proposed land uses (i.e. preserved open space, buildable sites, parkland, etc).
   d. Square footages of land dedicated to each proposed land use.
5. An existing conditions exhibit, including topography, that identifies the location of the following environmental features along with calculations (in acres) for each:
   a. Gross site acreage;
   b. Existing wetlands;
   c. Existing woodlands;
   d. Areas with slopes greater than 12%, but less than 25%;
   e. Areas with slopes of 25% or greater;
   f. Woodlands;
   g. Other pertinent land cover(s).

6. An open space PUD Sketch Plan illustrating the nature of the proposed development. At a minimum, the plan should show:
    a. Existing zoning district(s) on the subject land and all adjacent parcels;
    b. Layout of proposed lots and proposed uses denoting Outlots planned for public dedication and/or preserved open space;
    c. Area calculations for each parcel;
    d. General location of wetlands and/or watercourses over the property and within 200 feet of the perimeter of the subdivision parcel;
    e. Location of existing and proposed streets within and immediately adjacent to the subdivision parcel;
    f. Proposed sidewalks and trails;
    g. Proposed parking areas;
    h. General location of wooded areas or significant features (environmental, historical, cultural) of the parcel;
    i. Location of utility systems that will serve the property;
    j. Calculations for the following:
        i. Gross land area (in acres);
        ii. Number of proposed residential units.
        iii. Proposed density of the project showing compliance with **§ 154.657(A).**
        iv. Acreage & square footage of land dedicated to each proposed land use (i.e. preserved open space, buildable sites, parkland, etc).
        v. Acreage & square footage of land proposed for public road right-of-way;
        vi. Acreage & square footage of land dedicated to drainage ways and ponding areas;
        vii. Acreage & square footage of land for Trails and/or sidewalks (if outside of proposed road right-of-way);
    k. 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).
7. 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).
8. 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.

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

(c) Open Space PUD Sketch Plan Proposal Review

1. Planning Commission

a. Upon receiving an open space PUD Sketch Plan proposal, the ~~Community Development Department~~City shall schedule a date upon which the Planning Commission will review the ~~plans and hold a public hearing on the~~ proposal~~. Notice for the public hearing shall be completed in conformance with (reference applicable code section assuming we have one).~~.

b. ~~Following the hearing~~Upon completing their review, the Planning Commission shall adopt findings and recommendations on the proposed open space PUD as soon as practical.

~~The Community Development Department~~

c. 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.

2. City Council

a. The City Council may listen to comments on the proposed development if they deem such necessary prior to taking action on the proposed open space PUD Sketch plan.

b. After consideration of the ~~Community Development Department~~Director of Planning's recommendation, the Planning Commission recommendation, and the comments received at the public hearing, 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.

c. For each of the identified modifications to the minimum standards outlined in § 154.657, 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. The ability to pursue approval of modified standards may only be authorized via a super-majority vote of the City Council.

(d) Effect of a PUD Sketch Plan Review

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.

(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 a distinctly similar proposal has 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 ~~Community Development Department~~Director of Planning, the following information shall constitute a complete application for an open space PUD Preliminary Plan.

1. All required information for a preliminary plat per Chapter 1102, Section 1102.01(C) and Section 1102.02.
2. A written summary of the required Developer Open House meeting as required by Chapter 1102, Section 1102.01(B)(5).
3. A separate open space PUD Preliminary Plan which includes the following information:
   a. 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);
   b. Area calculations for gross land area, wetland areas, right-of-way dedications, and proposed public and private parks or open space;
   c. Existing zoning district(s) on the subject land and all adjacent parcels;
   d. 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.);
   e. The location of proposed septic disposal area(s);
   f. Area calculations for each parcel;
   g. Proposed setbacks on each lot (forming the building pad) and calculated buildable area;
   h. Proposed gross hardcover allowance per lot (if applicable);

i. Existing contours at intervals of two feet. Contours must extend a minimum of 200 feet beyond the boundary of the parcel(s) in question;

j. Delineation of wetlands and/or watercourses over the property;

k. Delineation of the ordinary high water levels of all water bodies;

l. Location, width, and names of existing and proposed streets within and immediately adjacent to the subdivision parcel;

m. Easements and rights-of-way within or adjacent to the subdivision parcel(s);

n. The location and orientation of proposed buildings;

o. Proposed sidewalks and trails;

~~o.~~

p. 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;

q. Lighting location, style and mounting and light distribution plan.

r. Proposed parks, common areas, and preservation easements (indicate public vs. private if applicable);

s. Location, access and screening detail of large trash handling and recycling collection areas

4. Colored renderings which detail the building materials being used and clearly communicate the look and design of the proposed building(s);

5. Proposed architectural and performance standards for the development;

6. 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 ~~Community Development Department~~Director of Planning;

7. A utility plan providing all information as required by Public Works, the City Engineer, and/or the ~~Community Development Department~~Director of Planning;

8. 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;

9. A landscape plan, including preliminary sketches of how the landscaping will look, prepared by a qualified professional providing all information outlined in Section <insert applicable section here> ;

10. A tree preservation plan as required by Section <insert applicable section here>;

11. The location and detail of signage providing all pertinent information necessary to determine compliance with Section <insert applicable section here>;

12. 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;

13. A plan sheet or narrative clearly delineating all features being modified from standard open space PUD regulations;

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

15. Any other information as directed by the ~~Community Development Department.~~Director of Planning.

~~15.~~

(c) PUD Preliminary Plan Review

1. As part of the review process for an open space PUD Preliminary Plan, the ~~Community Development Department~~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.

2. ~~The Community Development Department~~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.

3. 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.

4. In approving or denying the PUD Preliminary Plan, the City Council shall make findings on the PUD review criteria outlined in Section 1023.08.

5. 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 ~~Community Development Department~~Director of Planning, the following information shall constitute a complete application for an open space PUD Final Plan.

1. All required information for a final plat per <insert applicable section here>;
2. 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.
3. 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.
4. 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.
5. Up-to-date title evidence for the subject property in a form acceptable to the ~~Community Development Department~~Director of Planning.
6. Warranty deeds for Property being dedicated to the City for all parks, Outlots, etc., free from all liens and encumbrances.
7. All easement dedication documents for easements not shown on the final plat including those for trails, ingress/egress, buffer establishment, etc., together with all necessary consents to the easement by existing encumbrancers of the property.
8. Any other information deemed necessary by the ~~Community Development Department~~Director of Planning to fully present the intention and character of the open space PUD.
9. 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

1. ~~The Community Development Department~~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.

2. 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.

3. ~~The Community Development Department~~The Director of Planning shall finalize the ordinance to establish the proposed overlay district for consideration by the Planning Commission and City Council.

4. 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.

5. The City Council shall then consider the recommendations of the ~~Community Development Department~~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.

6. 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.

7. Planned Unit Development Agreement.

    a. 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.

    b. 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.

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

(d) Time Limit

1. A Planned Unit Development shall be validated by the applicant through the commencement of any necessary construction or establishment of the authorized use(s), subject to the permit requirements of Title 9 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 of the time allowed for validation of the Planned Unit Development approval if requested in writing by the applicant; extension requests shall be submitted to the ~~Community Development Department~~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.
2. 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 Community Development Department~~The Director of Planning may approve minor changes in the location, placement, and height of buildings 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 stories to buildings, additional lots, or changes to designated uses established as part of the PUD. An Administrative Amendment shall be memorialized via letter signed by the Community Development 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 Section xxx. Ordinance amendments shall be limited to changes that are deemed by the ~~Community Development Department~~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 (work in progress)

Pre-existing OP developments authorized prior to [date this ordinance is effective] 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. An application to amend an existing OP development shall be administered in the same manner as that required for a new open space PUD beginning at open space PUD Preliminary Plan.

§ 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 6 (Will update the list of overlay districts in Chapter 154 to include the Open Space Planned Unit Development Overlay District)

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. _____

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 **(Will include definition updates if needed -- TBD)**

SECTION 2 **(Will repeal existing OP codes in Chapter 150)**

SECTION 3 **(Will replace existing OP codes in Chapter 150 with reserved language)**

i.e. "Sections 150.161 through 150.199 – RESERVED"

SECTION 4 **(Will clean up numerous existing problems with numbering in Chapter 154 to allow for placement of the new ordinance within zoning)**

SECTION 5 **Will adopt the new Open Space Planned Unit Development Regulations as follows:**

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 still preserving agricultural land, woodlands, 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.

§ 154.652 DEFINITIONS.

Unless specifically defined in §§ 154.009 *et seq.*, common definitions, words, and phrases used in §§ 154.009 *et seq.* 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.

§ 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 _____ 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, including a public hearing before the Planning Commission, 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 [date of ordinance publication] 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 (40, 30, 20, 10) 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)(1) or 154.656(A)(2) are hereby prohibited.

(D) Use Restrictions

Adopted PUD overlay district regulations may include specific provisions governing uses which supersede the general regulations herein or that which may otherwise be required by underlying zoning.

§ 154.657 OPEN SPACE PUD DESIGN

Open space PUDs shall comply with all of the following minimum design standards unless modifications are authorized by the City Council 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 20 units per 40 acres of buildable land; 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, and must meet a minimum lot size requirement as outlined herein.

(b) If individual septic tanks which utilize communal drain 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 Section 154.659).

(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 (in as much as possible), minimizes tree loss, protects historic sites or structures, and limits the need for soil removal and/or grading shall then be identified. The orientation of individual building sites shall strive to maintain maximum natural topography and ground cover.

(a) Building pads shall be located outside of required buffers, and shall be cited so as to provide ample room for accessory structures on future lots.

~~**(b)** Whenever possible, building pads shall be oriented in small clusters often referred to as rural hamlets.~~

(c) 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.

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

(5) Placement of Streets

(a) Streets shall then be designed and located in such a manner as to:

1. Maintain and preserve natural topography, groundcover, significant landmarks, and trees;
2. Minimize cut and fill;
3. Preserve and enhance both internal and external views and vistas;
4. Promote road safety;

5. Assure adequate access for fire and rescue vehicles; and
6. 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) Lot Size

1. Single-family lots being served by individual septic tanks and drain fields shall be a minimum of one (1) acre in size;
2. 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;
3. Base lots for townhomes shall be large enough such that individual unit lots can meet all required structure setbacks contained herein.

(b) Buildable Area to be Shown

1. Buildable area on each proposed lot shall be shown. Buildable area shall exclude land within the following areas:
   a. Required buffers from adjacent lands [see section 154.657(3)]
   b. Steep slopes;
   c. Drainage swales;
   d. Easements; and
   e. Land within the following setbacks:

	HOUSING TYPE		Additional Requirements
	Single Family Homes	Townhomes	
Front Yard	30	20	xxx
Side Yard	15 feet or 10% of lot width		xxx
Corner Lot Front Yard	30		xxx
Corner Lot Side Yard	30		xxx
Rear Yard	20		xxx
Well from Septic Tank	50		xxx

	HOUSING TYPE		Additional Requirements
	Single Family Homes	Townhomes	

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

(7) Open Space and Parkland Adjustments

(a) Open Space

1. 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.
2. Not less than 60% of the preserved open space shall be in contiguous parcels which are ten (10) or more acres in size.
3. Preserved open space parcels shall be contiguous with preserved open space or public park land on adjacent parcels.

(b) Parkland

1. Parks and recreational facilities shall be provided in addition to preserved open space as specified in the Lake Elmo Parks Plan.
2. 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.
3. 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 by the City Council 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) All preserved open space within an open space planned unit development shall be subject to a conservation easement and used for the purposes as defined by §§ 150.175 *et seq.*

(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:

1. Owned by an individual or legal entity who will use the land for preserved open space purposes as provided by permanent conservation restrictions (in accordance with M.S. Ch. 84C.01-.05, as it may be amended from time to time), to an acceptable land trust as approved by the city; and/or
2. Conveyed by conservation easement to the city.

(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 §§ 150.175 *et seq.* for a final plan.

(2) Septic System Design Standards

(a) In General

All septic systems shall conform to the performance standards of the Minnesota Pollution Control Agency's standards for sewage treatment systems WPC-7080 and its appendices, or the M.P.C.A. standards in effect at the time of installation and septic system regulations of the Lake Elmo Municipal Code.

(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 other easement.

(c) Communal Drain Fields.

a. Communal drain fields may be partially or completely located in an area designated as preserved open space provided:

   i. The ground cover is restored to its natural condition after installation; and

   ii. 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.

(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.

(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 (still needs work)

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 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	

§ 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:

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

b. The deviation(s) help to create a 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.

1. 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;
2. A listing of the following site data: Address, current zoning, parcel size in acres and square feet and current legal description(s);
3. A narrative explaining the applicant's proposed objectives for the open space PUD, a listing of the proposed modifications from standard in **§ 154.657** as may be applicable, and an explanation of how the proposal addresses the PUD review criteria in **§ 154.660.**
4. A listing of general information including the following:
    a. Number of proposed residential units.
    b. Calculation of the proposed density of the project showing compliance with **§ 154.657(A).**
    c. A listing of all proposed land uses (i.e. preserved open space, buildable sites, parkland, etc).
    d. Square footages of land dedicated to each proposed land use.
5. An existing conditions exhibit, including topography, that identifies the location of the following environmental features along with calculations (in acres) for each:
    a. Gross site acreage;
    b. Existing wetlands;
    c. Existing woodlands;
    d. Areas with slopes greater than 12%, but less than 25%;
    e. Areas with slopes of 25% or greater;
    f. Woodlands;
    g. Other pertinent land cover(s).
6. An open space PUD Sketch Plan illustrating the nature of the proposed development. At a minimum, the plan should show:
    a. Existing zoning district(s) on the subject land and all adjacent parcels;
    b. Layout of proposed lots and proposed uses denoting Outlots planned for public dedication and/or preserved open space;

c. Area calculations for each parcel;

d. General location of wetlands and/or watercourses over the property and within 200 feet of the perimeter of the subdivision parcel;

e. Location of existing and proposed streets within and immediately adjacent to the subdivision parcel;

f. Proposed sidewalks and trails;

g. Proposed parking areas;

h. General location of wooded areas or significant features (environmental, historical, cultural) of the parcel;

i. Location of utility systems that will serve the property;

j. Calculations for the following:

   i. Gross land area (in acres);

   ii. Number of proposed residential units.

   iii. Proposed density of the project showing compliance with **§ 154.657(A).**

   iv. Acreage & square footage of land dedicated to each proposed land use (i.e. preserved open space, buildable sites, parkland, etc).

   v. Acreage & square footage of land proposed for public road right-of-way;

   vi. Acreage & square footage of land dedicated to drainage ways and ponding areas;

   vii. Acreage & square footage of land for Trails and/or sidewalks (if outside of proposed road right-of-way);

k. 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).

7. 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).

8. 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.

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

(c) Open Space PUD Sketch Plan Proposal Review

1. Planning Commission

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

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

c. 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.

2. City Council

a. The City Council may listen to comments on the proposed development if they deem such necessary prior to taking action on the proposed open space PUD Sketch plan.

b. After consideration of the Director of Planning's recommendation, the Planning Commission recommendation, and the comments received at the public hearing, 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.

c. For each of the identified modifications to the minimum standards outlined in § 154.657, 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. The ability to pursue approval of modified standards may only be authorized via a super-majority vote of the City Council.

(d) Effect of a PUD Sketch Plan Review

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.

(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 a distinctly similar proposal has 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.

1. All required information for a preliminary plat per Chapter 1102, Section 1102.01(C) and Section 1102.02.
2. A written summary of the required Developer Open House meeting as required by Chapter 1102, Section 1102.01(B)(5).
3. A separate open space PUD Preliminary Plan which includes the following information:
    a. 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);
    b. Area calculations for gross land area, wetland areas, right-of-way dedications, and proposed public and private parks or open space;
    c. Existing zoning district(s) on the subject land and all adjacent parcels;
    d. 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.);
    e. The location of proposed septic disposal area(s);
    f. Area calculations for each parcel;
    g. Proposed setbacks on each lot (forming the building pad) and calculated buildable area;
    h. Proposed gross hardcover allowance per lot (if applicable);
    i. Existing contours at intervals of two feet. Contours must extend a minimum of 200 feet beyond the boundary of the parcel(s) in question;
    j. Delineation of wetlands and/or watercourses over the property;
    k. Delineation of the ordinary high water levels of all water bodies;
    l. Location, width, and names of existing and proposed streets within and immediately adjacent to the subdivision parcel;

m. Easements and rights-of-way within or adjacent to the subdivision parcel(s);

n. The location and orientation of proposed buildings;

o. Proposed sidewalks and trails;

p. 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;

q. Lighting location, style and mounting and light distribution plan.

r. Proposed parks, common areas, and preservation easements (indicate public vs. private if applicable);

s. Location, access and screening detail of large trash handling and recycling collection areas

4. Colored renderings which detail the building materials being used and clearly communicate the look and design of the proposed building(s);

5. Proposed architectural and performance standards for the development;

6. 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;

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

8. 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;

9. A landscape plan, including preliminary sketches of how the landscaping will look, prepared by a qualified professional providing all information outlined in Section <insert applicable section here> ;

10. A tree preservation plan as required by Section <insert applicable section here>;

11. The location and detail of signage providing all pertinent information necessary to determine compliance with Section <insert applicable section here>;

12. 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;

13. A plan sheet or narrative clearly delineating all features being modified from standard open space PUD regulations;

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

15. Any other information as directed by the Director of Planning.

(c) PUD Preliminary Plan Review

1. 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.
2. 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.
3. 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.
4. In approving or denying the PUD Preliminary Plan, the City Council shall make findings on the PUD review criteria outlined in Section 1023.08.
5. 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.

1. All required information for a final plat per <insert applicable section here>;
2. 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.
3. 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.
4. 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.
5. Up-to-date title evidence for the subject property in a form acceptable to the Director of Planning.
6. Warranty deeds for Property being dedicated to the City for all parks, Outlots, etc., free from all liens and encumbrances.
7. All easement dedication documents for easements not shown on the final plat including those for trails, ingress/egress, buffer establishment, etc., together with all necessary consents to the easement by existing encumbrancers of the property.
8. Any other information deemed necessary by the Director of Planning to fully present the intention and character of the open space PUD.
9. 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

1. 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.
2. 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.

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

4. 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.

5. 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.

6. 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.

7. Planned Unit Development Agreement.

    a. 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.

    b. 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.

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

(d) Time Limit

1. A Planned Unit Development shall be validated by the applicant through the commencement of any necessary construction or establishment of the authorized use(s), subject to the permit requirements of Title 9 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 of the time allowed for validation of the Planned Unit Development approval 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.
2. 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 in the location, placement, and height of buildings 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 stories to buildings, additional lots, or changes to designated uses established as part of the PUD. An Administrative Amendment shall be memorialized via letter signed by the Community Development 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 Section xxx. 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 (work in progress)

Pre-existing OP developments authorized prior to [date this ordinance is effective] 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. An application to amend an existing OP development shall be administered in the same manner as that required for a new open space PUD beginning at open space PUD Preliminary Plan.

§ 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.

<u>SECTION 6</u> (Will update the list of overlay districts in Chapter 154 to include the Open Space Planned Unit Development Overlay District)

THE CITY OF LAKE ELMO

MAYOR AND COUNCIL COMMUNICATION

DATE: 6/14/16
REGULAR
ITEM #:
MOTION

AGENDA ITEM: Shoreland Ordinance

SUBMITTED BY: Stephen Wensman, Planning Director

REVIEWED BY: Emily Becker, City Planner

Kristina Handt, City Administrator

BACKGROUND:

The regulation of shorelands in MN are governed by Minnesota Rules Part 6120.2800. This State Statute defines the scope of the DNR shoreland regulations, which in no uncertain terms states that the DNR's minimum standards and criteria apply to those shoreland of public waters of the state which are subject to local government land use controls. In 2015, the City of Lake Elmo updated its Shoreland Ordinance, but had not received MNDNR approval as required. Typically, the process is track the changes to the ordinance and to follow a MN/DNR checklist to be sure the amended ordinance is compliant with minimum requirements. The 2015 ordinance amendment was rather comprehensive to address the City's zoning code update and no tracking of individual changes was made. The Planning Department has been working with the MNDNR to get Shoreland Ordinance approved by the MNDNR and has had several meetings with Jenifer Sorenson at the MNDNR to discuss the approval process and to go through the checklist item by item.

ISSUE BEFORE COUNCIL:

Emily Becker, City Planner, has completed the checklist and has drafted an ordinance update that Staff feels will comply with the minimum requirements of the MNDNR's for shorelands and is requesting permission by the City Council to send the ordinance and checklist to the MNDNR for their approval of the ordinance. The draft ordinance amendment has added language to in an attempt to meet the MNDNR's minimum requirements. Once comments are received back by the MNDNR, Staff will address any identified issues and will then begin the process of adopting those changes with a public hearing at the Planning Commission and adoption by the City Council.

PROPOSAL DETAILS/ANALYSIS:

Although Staff is not seeking the Council's review of the Shoreland Ordinance at this time, the draft amendment to be sent to the MNDNR addresses areas that our current ordinance appears to be noncompliant with the MNDNR's model ordinance. The draft ordinance amendment will update the 2015 Shoreland Ordinance as follows:

- Subd. A– adding a reference to MN State Statutes

- Table 17-3 - Change setback from a Natural Environment lake, increasing the minimum lot size for two family/duplexes, and adding minimum lot width for unsewered single family and duplex development.
    - Adding g. Lots intended as controlled access to public waters…
- Design Criteria for Structures -Adding Roads, Driveway and Parking Area requirements
- Planned Unit Developments – Approval by the MNDNR required – avoids adding a long and confusing PUD section to the Code.
- Nonconformities – updated to meet MNDNR minimum requirements.

FISCAL IMPACT:

None

RECOMMENDATION:

Staff recommends the City Council direct Planning Staff to send the Draft Ordinance Amendment and checklist to the MNDNR for formal approval with the following motion:

"Move to direct Planning Staff to send the MNDNR the City of Lake Elmo's draft Shoreland Ordinance Amendment and checklist to begin the formal approval process as required by Minnesota Statutes Section 103F.221"

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-137

AN ORDINANCE AMENDING SHORELAND MANAGEMENT DISTRICT RESTRICTIONS TO OBTAIN COMPLIANCE WITH DEPARTMENT OF NATURAL RESOURCES SHORELAND ORDINANCE REQUIREMENTS.

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code; Section 800 to read the following:

ARTICLE 17. SHORELAND MANAGEMENT OVERLAY DISTRICT

§154.800 Shoreland Management Overlay District

§154.800 Shoreland Management Overlay District

A. *Purpose.* The ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F, Minnesota Regulations, Parts 6120.2500-6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 462. The purpose of the Shoreland Management Overlay District is to preserve and enhance the quality of surface waters and conserve the economic and natural environmental values of shorelands through the following activities:

1. Regulate placement of sanitary and waste treatment facilities on shorelands of public waters to prevent pollution of public waters and public health hazards resulting from the facilities.
2. Regulate alteration of shorelands of public waters to prevent excessive sediment pollution, increased water runoff and excessive nutrient runoff pollution.
3. Preserve and enhance the unique aesthetic appearance and ecological value of the shoreland.
4. Regulate the construction of buildings and changes of land use in shorelands to minimize property damage during periods of high water.

B. *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Bluff. A topographic feature such as a hill, cliff, or embankment having the following characteristics. (An area with an average slope of less than 18% over a distance of 50 feet or more shall not be considered part of the bluff.)

1. Part or all of the feature is in a Shoreland area;
2. The slope rises at least 25 feet above the ordinary high water level of the water body;
3. The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30% or greater; and
4. The slope must drain toward the water body.

Bluff Impact Zone. A bluff and land located within 20 feet from the top of a bluff.

Boathouse. A structure designed and used solely for the storage of boats and boating equipment.

Dedicated Riparian Area. Starting at the Ordinary High Water Level (OHWL), areas dedicated to the City to be maintained in a permanent state of natural vegetation for the purposes of protecting surface waters from the impacts of land alteration and/or development activity. Permitted uses within dedicated riparian areas are noted in subsection (C)(7) (f).

D.N.R. The Minnesota Department of Natural Resources.

Land Alteration. The excavation or grading of land involving movement of earth and materials in excess of 50 yards.

Shore Impact Zone. Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50% of the structure setback.

Shoreland. Land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond, or foliage; and 300 feet from a river or stream, or the landward extend of a flood plain designated by ordinance on a river or stream; whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner.

Water-Oriented Accessory Structure of Facility. A small, above-ground building or other improvement, except stairways, fences, docks, and retaining walls which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of the structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.

C. Shoreland Management Overlay District

1. *Shoreland Classifications.* The public waters in Table 17-1 have been classified by the commissioner of natural resources as natural environment (NE), recreational development (RD) and tributary (T) shorelands. Where noted, riparian dedication is required by the City.

Table 17-1: Shoreland Classifications

DNR ID #	Name	Location	Ordinary High Water Level	Class	150 FT[a] Riparian Dedication Required
82011601	Armstrong (north of CSAH 10)	Sec 28, T29, R21	1020.3	NE	No
82011602	Armstrong (south of CSAH 10)	Sec 28, T29, R21	1019.3	NE	No
82009900	Clear	Sec 2 & 11, T29, R21	-	NE	No
82010100	DeMontreville	Sec 4, 5 & 9,T29, R21	929.3	RD	No
82011000	Downs	Sec 24, T29, R21	889.1	NE	No
82010900	Eagle Point	Sec 22 & 27, T29, R21	896.5	NE	No
82010600	Elmo	Sec 13, 14, 23, 24 & 26, T29, R21	885.6	RD	No
82010800	Friedrich Pond	Sec 15 & 22, T29, R21	-	NE	No
82011300	Goose	Sec 27, 34 & 35, T29, R21	924.4	NE	Yes
82011100	H.J. Brown Pond	Sec 26, T29, R21	-	NE	No
82007400	Horseshoe	Sec 25, T29, R21	876.8	NE	No
82010400	Jane	Sec 9 & 10, T29, R21	924.0	RD	No
82011700	Kramer	Sec 35, T29, R21	-	NE	Yes
82041900	Margaret	Sec 26, T29, R21	-	NE	No

82010300	Olson	Sec 8 & 9, T29, R21	929.3	RD	No
N/A	Raleigh Creek North (to Eagle Point Lake)	Sec 16, 21 & 22, T29, R21	-	T	No
N/A	Raleigh Creek South (Eagle Point Lake to Lake Elmo)	Sec 22, 23 & 227, T29, R21	-	T	No
82011200	Rose	Sec 25 & 36, T29, R21	-	NE	No
82010700	Sunfish	Sec 14, T29, R21	896.4	NE	No
82010000	Unnamed	Sec 4, T29, R21	-	NE	No
82031300	Unnamed	Sec 12, T29, R21	-	NE	No
82041700	Unnamed	Sec 25, T29, R21	-	NE	No
82048400	Unnamed	Sec 11, T29, R21	-	NE	No
N/A	Unnamed to Wilmes Lake	Sec 33, T29, R21	-	T	No
N/A	Unnamed Tributary	Sec 25, T29, R21	-	T	No

Classifications

RD = Recreational Development Lake Classification

NE = Natural Environment Lake Classification

T = Tributary River Classification

Notes to Table 17-1:

a. As measured from and perpendicular to the ordinary high water level (OHWL)

2. Land Uses in Shoreland Districts. All uses of land shall be regulated by the applicable zoning district subject to applicable conditions. Notwithstanding the underlying zoning district, the following uses shall be regulated in shoreland districts as specified in Table 17-2:

Table 17-2: Permitted (P), Conditional (C) and Interim (I) Uses, Shoreland Classifications

	Shoreland Classification		
Land Uses	**Recreational Development**	**Natural Environment**	**Tributary River**
Residential	P	P	P
Commercial	P	C	C
Public and Civic Uses	P	C	C
Outdoor Recreation[a]	C	C	C
Agricultural and Related Uses[b]	P	P	P
Industrial and Extractive Uses	-	-	-
Utilities, Transportation and Communications	C	C	C
Accessory Uses	P	P	P
Planned Developments (PUDs)	C	C	C

Notes to Table 17-2:

a. City owned parks and open space and any uses or structures accessory to such uses are permitted within shoreland areas.

b. Vegetative clearing within shore and bluff impact zones and on steep slopes is not permitted.

3. *Shoreland Standards.* The following standards in Table 17-3 shall apply within shoreland areas to principal, conditional and accessory uses and structures:

Table 17-3: Shoreland Standards

	Shoreland Classification		
Standards	**Recreational Development**	**Natural Environment**	**Tributary River**
Minimum structure setback from County, State or Federal road right-of-way	50 feet	50 feet	50 feet
Minimum structure setback from an unplatted cemetery or historical site[a]	50 feet	50 feet	50 feet
Minimum structure setback from the Ordinary High Water Level (OHWL)[b, c]			
Riparian dedication required	200 feet	200 feet	200 feet
Riparian dedication not required[d]			
Sewered	75 feet	~~100~~ 150 feet	75 feet
Unsewered	100 feet	150 feet	100 feet
Minimum structure setback from top of bluff	30 feet	30 feet	30 feet
Minimum septic system setback from OHWL	75 feet	150 feet	75 feet
Minimum low floor elevation above the 100-year flood elevation	2 feet	2 feet	2 feet
Maximum impervious lot coverage			
With riparian dedication	50%	50%	50%
Without riparian dedication			
Sewered[e]	30%	30%	30%
Unsewered	15% or 6,000 square feet (sf), whichever is larger		
Minimum lot size[f], riparian lots			
Riparian dedication required	Same as zoning district		
Riparian dedication not required, sewered			
Single family detached	20,000 sf	40,000 sf	Same as zoning district
Two-family or duplex	35,000 sf	70,000 sf	
Riparian dedication not required, unsewered			
Single family detached	40,000 sf	80,000 sf	Same as zoning district
Minimum lot size[f], non-riparian lots			
Riparian dedication required	Same as zoning district		
Riparian dedication not required, sewered			
Single family detached	15,000 sf	20,000 sf	Same as zoning district
Two-family or duplex	~~17,500~~ 26,000	~~26,000~~ 35,000	

	sf	sf	
Riparian dedication not required, unsewered			
Single family detached	40,000 sf	80,000 sf	Same as zoning district
Minimum lot width[f,g]			
Riparian dedication required	Same as zoning district		
Riparian dedication not required, sewered			
Single family detached	80 feet	125 feet	80 feet
Two-family or duplex	135 feet	225 feet	115 feet
Riparian dedication not required, unsewered			
Single family detached	150 feet	200 feet	100 feet
Two-family or duplex	225 feet	300 feet	150 feet

Notes to Table 17-3:

a. Reduction of the required setback from a historic site is permitted with the approval of the office of the Minnesota State Archeologist.

b. Where structures exist on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the Ordinary High Water Level (OHWL), provided the proposed building is not located in a shore impact zone or bluff impact zone.

c. With the exception of public crossings of public waters, roads, driveways and parking areas shall meet the minimum structure setback. Where no alternative exists, such improvements may be placed within the required structure setbacks provided they are designed to adapt to the natural landscape, soil erosion is minimized and no construction shall occur in shore or bluff impact zones. Exceptions to setback requirements must comply with the rules and regulations of local watershed districts.

d. Commercial and public and civic uses with public waters frontage shall be setback double the required setback or be substantially screened from the water by vegetation or topography, assuming summer, leaf-on conditions.

e. The maximum amount of impervious surface allowed for sewered lots zoned Rural Single Family (RS) is 15% of lot area or 6,000 sf, whichever is larger.

f. Minimum lot size and width requirements apply to residential uses only.

g. *Lots Intended As Controlled Accesses to Public Waters or as Recreation Areas for Use by Owners of Nonriparian Lots within Subdivisions.* Must meet or exceed the following standards:

They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots.

i. If docking, mooring, or over-water storage of more than six (6) watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

Controlled Access Lot Frontage Requirements

Ratio of Lake Size to Shore Length (acres/mile)	Required increase in frontage (percent)
Less than 100	25%
100-200	20%
201-300	15%
301-400	10%
Greater than 400	5%

ii. They must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot; and covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the non-significant conflict activities include swimming, sunbathing, or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations.

4. Design Criteria for Structures

a. *Water Oriented Accessory Structures.* Each lot may have one (1) water oriented accessory structure not meeting the normal structure setbacks if the structure complies with the following provisions:

i. *Structure Height.* The structure or facility must not exceed ten (10) feet in height, exclusive of safety rails, from the average grade of the structure to the peak of the roof. Detached decks must not exceed eight (8) feet above grade at any point.

ii. *Structure Size.* Water oriented accessory structures cannot occupy an area greater than two-hundred and fifty (250) square feet.

iii. *Structure Setback.* The setback of the structure or facility landward from the Ordinary High Water Level (OHWL) must be at least ten (10) feet on a recreational development lake and fifty (50) feet on a natural environment lake.

iv. *The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf*-on conditions.

v. *The roof of the structure may be used as a deck with safety rails, but must not be enclosed or used as a storage area.*

vi. The structure or facility must not be used for human habitation and must not contain water supply or sewage treatment facilities.

vii. *Watercraft Storage Facilities.* As an alternative for recreational development water bodies, water oriented accessory structures used solely for watercraft storage, and including the storage of related boating and water oriented sporting equipment, may occupy up to four hundred (400) square feet provided the maximum width of the structure is twenty (20) feet as measured parallel to the configuration of the shoreline.

b. *Stairways, Lifts and Landings.* Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

i. Stairways and lifts must not exceed four (4) feet in width. Wider stairways may be used for public open space or recreation properties.

ii. Landings for stairways and lifts must not exceed thirty-two (32) square feet in area. Landings larger than thirty-two (32) square feet may be used for public open space or recreation properties.

iii. Canopies or roofs are not allowed on stairways, lifts or landings.

iv. Stairways, lifts and landings may be either constructed above ground on posts or pilings or placed into the ground, provided that they are designed and built in a manner that ensures control of soil erosion.

v. Stairways, lifts and landing must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical.

vi. Facilities such as ramps, lifts or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of subsections (i) through (v) above are satisfied.

c. *Roads, Driveways, and Parking Areas.* Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

5. *Subdivision Standards.* The following standards shall apply to subdivisions in shoreland areas:

a. Each lot created through subdivision must be suitable in its natural state for the proposed use with minimal alteration. In determining suitability the City will consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision, or of the community at large.

b. Subdivisions must conform to all other official controls adopted by the City of Lake Elmo. Subdivisions will not be approved that are designed so variances from one or more standards in official controls would be needed to use the lots for their intended purpose. Lots that would require use of holding tanks must not be approved.

c. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of this section, the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirement of this section as much as possible.

6. *Agricultural Activities.* The following standards shall apply to agricultural activities in shoreland areas:

a. The shore impact for parcels with permitted agricultural uses is equal to a line parallel to and 50 feet from the OHWL.

b. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore impact zones are maintained in permanent vegetation or operated under an approved conservation plan (resource management systems) consistent with the field office technical guides of the local soil and water conservation district or the USDA Natural Resources Conservation Service.

c. Animal ~~F~~ feedlots, which must comply with PCA Rules 7020.0100-7020.1900 and obtain permits, and manure storage are not permitted within the shoreland of watercourses or in bluff impact zones, and must meet a minimum setback of 300 feet from the ordinary high water level of all public water basins identified in subsection (C)(1).

d. The use of pesticides, fertilizers or animal wastes within shoreland areas shall be done in such a way as to minimize impacts on shore impact zones by proper application or use of earth or vegetation.

7. *Shoreland Alterations*. The purpose of this section is to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent back slumping and protect fish and wildlife habitat. Shoreland alterations shall be allowed in accordance with the following standards:

   a. No principal or accessory structure or use shall be placed within bluff or shore impact zones other than agricultural activities as permitted by subsection (C)~~(5)~~6~~(~~b).

   b. Shore impact zones shall be maintained in permanent vegetation or operated under an approved conservation plan consistent with the field office technical guides of the local soil and water conservation district.

   c. *Intensive Vegetative Clearing*. Intensive vegetation clearing within shore and bluff impact zones and/or steep slopes is not permitted. Intensive clearing within shoreland areas outside of bluff or shore impact zones and steep slope areas is permitted subject to City approval of an erosion and sedimentation control plan that is consistent with the City's Storm Water and Erosion and Sediment Control Ordinance (§150.270).

   d. *Limited Tree Clearing*. Limited clearing of trees and shrubs and the cutting, pruning and trimming of trees within bluff and shore impact zones or steep slopes to accommodate picnic areas, trails and water access and to provide a view to the water from a principal dwelling site shall be permitted provided the screening of structures, as viewed from the water, is not substantially reduced and that the shading of water surface is along rivers is preserved. These provisions do not apply to the removal of tree limbs or branches that are dead or pose a safety hazard.

   e. *Grading in Shoreland Areas*. All grading and filling activities must be in conformance with the Wetland Conservation Act. Any grading or filling on steep slopes or within shore or bluff impact zones involving the movement of ten (10) or more cubic yards of material or involving more than fifty (50) cubic yards of material elsewhere in a shoreland area shall require the submission of a Grading Permit. Approval shall be granted only if the following conditions are met:

      i. Any filling or grading in any Type 2, 3, 4, 5, 6, 7 or 8 wetland shall be in conformance with the Wetland Conservation Act of 1991 and shall require consideration of how extensively the proposed activity will affect the following functional qualities of the wetland:

         a) Sediment and pollution trapping and retention

         b) Storage of surface runoff to prevent or reduce flood damage

         c) Fish and wildlife habitat and endangered plants and animals

         d) Recreational use

         e) Shoreline or bank stabilization

         f) Historical significance

      ii. The smallest amount of bare ground is exposed for the shortest time possible;

      iii. Ground cover such as mulch is used for temporary bare soil coverage and permanent ground cover, such as sod, is established;

      iv. Methods to prevent erosion and trap sediment during construction are employed;

      v. Altered areas are stabilized to accepted erosion control standards;

      vi. Fill is not placed so as to create unstable slopes;

      vii. Plans to place fill or excavated material on steep slopes are certified by qualified professionals as to slope stability;

viii. Alterations below the OHWL are authorized by the Commissioner of the Minnesota Department of Natural Resources per Minn. Stats. § 103G.245;

ix. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the OHWL and the height of the riprap above the OHWL does not exceed three feet; and

x. Alterations of topography shall only be permitted if accessory to a permitted or conditional use.

f. *Dedicated Riparian Areas*. Riparian areas dedicated to the City shall be protected from intensive development. Permitted uses include passive open space, pedestrian trails, public parks and park-related structures, facilities for public water access, fishing piers, parking lots for park users, and stormwater treatment ponds. Unless being used for active park purposes, the riparian areas shall be maintained in permanent natural vegetation.

8. *Sand and Gravel Extraction*. The following standards shall apply to sand and gravel extraction uses:

   a. Processing machinery shall be located consistent with setback standards for structures.

   b. A site development and restoration plan shall be developed by the owner for approval by the city which addresses dust, noise, possible pollutant discharges, hours and duration of operation and anticipates vegetation and topography alterations. It shall identify actions to be taken to mitigate adverse environmental impacts and measures to be employed to restore the site after excavation.

9. *Stormwater Management*. Stormwater management shall be in accordance with the City's Storm Water and Erosion and Sediment Control Ordinance (§150.270). In addition, the Minnesota Pollution Control Agency's Minnesota Stormwater Manual shall be used as guidance. Within shoreland areas, the following standards also apply:

   a. Existing natural drainage ways, wetlands and vegetated soil surfaces must be used to convey, store, filter and retain storm water in a manner consistent with local watershed district rules and regulations before discharge to public waters.

   b. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, and erosion potential and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as grading is complete and facilities or methods used to retain sediment on the site are removed.

   c. Use of fertilizers, pesticides or animal wastes within shoreland areas must be done in a way to minimize impact on the shore impact zone or public water by proper application.

   d. New constructed storm water outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

10. *Private Utilities*. The following provisions shall apply in shoreland areas:

    a. Private subsurface sewage treatment systems shall meet applicable City and County requirements and Minnesota Pollution Control Agency's Chapter 7080 standards. Publicly owned sewer systems shall be used where available.

    b. Any private water supply to be used for domestic purposes shall meet quality standards established by the Minnesota Department of Health and the Minnesota Pollution Control Agency.

11. *Planned Unit Developments*. ~~Residential~~ ~~p~~Planned unit developments shall be permitted in shoreland areas subject to the requirements of Article XVI of this chapter.

    a. Design criteria for planned unit developments within shoreland areas:

i. At least 50 percent of the total project area shall be preserved as open space. The open space computation shall not include road rights-of-way, or land covered by roads, structures or parking surfaces.

ii. Open space shall include areas having physical characteristics that are unsuitable for development in their natural state and areas containing significant historic sites or unplatted cemeteries.

iii. Open space may contain outdoor recreational facilities for use by the owners of residential units or the public.

iv. The appearance of open space areas, including topography, vegetation and allowable uses, shall be preserved.

v. PUDs shall be connected to public water supply and sewer systems.

vi. Before final approval of a PUD is granted, the developer/owner shall provide for the preservation and maintenance, in perpetuity, of open space and the continuation of the development as a community.

vii. Approval from the DNR is required to ensure compliance with additional regulations.

12. *Nonconformities.* Nonconformities, substandard lots and structures, and nonconforming on-site sewage treatment systems within shoreland areas shall meet the requirements specified in Article IV of this chapter.

a. The expansion or enlargement of a riparian substandard structure shall meet the shoreland development standards set forth in subsection (C)(3) except as follows:

~~i. The extension, enlargement or alteration of a riparian substandard structure or sanitary facility may be permitted on the side of the structure or facility facing away from the OHWL without following the variance process.~~

~~ii. An improvement to a riparian substandard structure or sanitary facility may be allowed to extend laterally by a conditional use permit (parallel to the OHWL) when the improvement is in compliance with the other dimensional standards of this chapter. In no case shall the improvement extend closer to the OHWL than the existing structure.~~

i. Decks may be allowed without a variance where riparian dedication is not required, provided as follows:

a) A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing OHWL setback of the structure;

b) The deck encroachment toward the OHWL does not exceed 15 percent of the existing shoreline setback of the structure from the OHWL or does not encroach closer than 30 feet, whichever is more restrictive; and

c) The deck is constructed primarily of wood, and is not roofed or screened.

~~ii. If a riparian substandard structure is demolished, replacement shall comply with the dimensional standards of this section.~~

b. Any deviations from the standards set forth in subsection (C)(3) must be authorized by a variance.

c. *Nonconforming Sewage Treatment Systems.*

i. A sewage treatment system not meeting the requirements of subsection (C)(10)(a) must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purpose of this provision, a sewage treatment system shall not be considered

nonconforming if the only deficiency is the sewage treatment system's improper setback from the OHWL.

ii. Upgrading or replacement of any nonconforming system will be required within a reasonable period of time which will not exceed 2-years. Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, section 103F, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency's Chapter 7080 for design of on-site sewage treatment systems, shall be considered nonconforming.

d. Construction on nonconforming lots of record.

i. Lots of record in the office of the county recorder on the date of enactment of local shoreland controls that do not meet the requirements of Table 17-3 of this ordinance may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot size meets the minimum restrictions of the underlying zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this ordinance are met.

ii. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Table 17-3 of this ordinance the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of Table 17-3 of this ordinance as much as possible.

~~13. *Surface Water-Oriented Uses.* Uses with needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters must meet the following standards:~~

~~i. Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need.~~

~~ii. No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff.~~

~~iii. Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information.~~

~~iv. Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.~~

D. *Administration.*

1. *Required Notice to the Department of Natural Resources.* The zoning administrator shall send copies of notices of any public hearings to consider variances, plats, ordinance amendments, PUDs or conditional uses under local shoreland management controls to the commissioner of the department of natural resources or his designee at least ten days prior to the hearings. In addition, a copy of the approved amendments, plats, variances and conditional uses shall be sent to the commissioner or his designee within ten days of the final decision.

2. *Variances.* The board of adjustment shall hear and decide requests for variances in accordance with the rules that it has adopted for the conduct of business. When a

variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in subsection C.1 above shall also include the board of adjustment's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

3. *Conditional Use Permits.* A thorough evaluation of the waterbody and the topographic, vegetation, and soil conditions on the site must be made to ensure the prevention of soil erosion or other possible pollution of public waters, both during and after construction, visibility of structures from public waters is limited, site is adequate for water supply and on-site sewage treatment. Conditions may be attached to issuance of the conditional use permit to fulfill the purpose of the ordinance including, but not limited to, increased setbacks from OHWL, limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted, and special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

SECTION 3. Effective Date. This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 4. Adoption Date. This Ordinance 08-___-137 was adopted on this _____ day of ___ 2016, by a vote of ___ Ayes and ___ Nays.

LAKE ELMO CITY COUNCIL

_____

Mike Pearson, Mayor

ATTEST:

_____

Julie Johnson, City Clerk

This Ordinance 08-___-137 was published on the ____ day of _____, 2016.