

City of Lake Elmo

651/777-5510

3800 Laverne Avenue North / Lake Elmo, MN 55042

City of Lake Elmo
City Council Workshop
3800 Laverne Avenue North
Lake Elmo, MN 55042

July 14, 2009

6:30 p.m.

1. Agenda
2. Wireless Communications Tower Ordinance Discussion
3. Accessory Building Ordinance Amendments
4. Adjourn

City Council
Date: 7/14/09
Staff Report – Workshop Discussion
Item: 1

ITEM: Wireless Communications Tower Ordinance Discussion
SUBMITTED BY: Kyle Klatt, Planning Director *KLK*
REVIEWED BY: Kelli Matzek, City Planner
Craig Dawson, City Administrator
Planning Commission

SUMMARY AND ACTION REQUESTED:

The City Council is being asked to discuss the wireless communications ordinance update project as part of its July workshop session. The primary purpose of the workshop is to provide the Council with an opportunity to discuss the ordinance update project in advance of an initial draft ordinance being completed. The Council's workshop will follow a similar discussion by the Planning Commission at its meeting the preceding night. Any major discussion points from the Commission meeting will be shared with the Council at the workshop.

A secondary objective of the workshop will be to introduce the project consultant Garrett Lysiak of Owl Engineering and to provide the Council with an opportunity to ask questions of Mr. Lysiak before an ordinance draft is completed.

Staff has attached the report submitted to the Planning Commission in advance of its meeting, which outlines some of the major decision areas for the proposed code that will be reviewed by the Commission.

As noted previously, the City Council has adopted a moratorium on the construction of any new communications towers within the City. The purpose of the moratorium (which extends through the end of 2009) is to provide the City with time to further study the issues associated with wireless communications facilities and to draft revisions to the ordinance that will better represent the community's expectations concerning the design and siting of new facilities in Lake Elmo. The moratorium was adopted for a period of one year, and could be rescinded at an earlier date if the new code is ready for adoption in accordance with the planned work schedule.

ADDITIONAL INFORMATION:

The next step in the ordinance update process will be to complete a draft ordinance for review at a future Planning Commission meeting. It is anticipated that after the Commission has had a chance to review a draft ordinance, there will be another open house scheduled to receive public feedback before a formal public hearing is scheduled and recommendation is made to the City Council.

ATTACHMENTS:

1. Staff Report to the Planning Commission
2. Current Ordinance (with highlighting to show sections targeted for revisions)

ORDER OF BUSINESS:

- Introduction Craig Dawson, Interim City Administrator
- Report/Presentation Kyle Klatt, Planning Director
- Questions from the Council Mayor & Council Members

City of Lake Elmo Planning Department
Wireless Communications Ordinance Amendment

To: Planning Commission

From: Kyle Klatt, Planning Director

Meeting Date: 7-13-09

Introductory Information

Objective: Early this year, the Lake Elmo City Council adopted a moratorium on the construction of new telecommunications towers within the City, and has previously directed the Planning Department to begin work on an update to the existing wireless communication tower ordinance during the moratorium period. The moratorium was established until the end of 2009; however, the work plan that was approved by the Council for the update project anticipated that the new ordinance would be adopted by July or August.

Based on the progress made to date, the City is about a month behind on the work plan as originally approved by the City. The planning department has conducted an open house to receive public feedback regarding wireless communications issues in the City and is currently working with the project consultant to prepare an initial draft of the revised ordinance. Prior to completing this draft, staff is seeking some direction from the Planning Commission regarding the major decision areas that have been identified as issues and that need to be addressed with the new code. These decision areas are highlighted below.

With the feedback received from the Planning Commission, the project consultant and staff will finish drafting the ordinance revisions with the intent of bringing these back for review in August. The work plan calls for a second open house once a draft has been prepared, which would likely occur sometime in the middle of August.

Open House Summary: An open house related to the wireless communications ordinance update project was conducted on June 10, 2009 and was attended by six citizens and a representative from the Minnesota Wireless Communications Association. The comments received at this meeting can be summarized in general as follow:

- Residents spoke about the lack of coverage in certain portions of the City, especially in the Tri-Lakes area.

(cont.)

- There was support for providing expanded service in Lake Elmo, even if it means the construction of new towers.
- The citizens present expressed a preference for towers that support co-location to help expand the options for service in the City.
- There was no specific preference stated for where towers should be located, whether on public or private property.
- The residents in attendance did not express concern over the appearance of new towers, and did not see a significant benefit to using techniques to camouflage new towers.

Garret Lysiak of Owl Engineer was present at the open house to answer questions from the public and will also be available at the Planning Commission meeting to further discuss the drafting of a revised ordinance.

Staff Review and Analysis

***Major
Decision
Areas:***

The Planning Commission has previously been provided with information concerning the current ordinance and a summary of the issues that intend to be addressed with a new ordinance. At this time, the Commission is being asked to review some of the major decision areas to help provide direction for the drafting of a new ordinance. Some of these decisions involve community preferences and the City will have a fair amount of discretion at determining appropriate standards. Other amendments to the code will likely be somewhat technical in nature and will be based to a much greater extent on the expertise of the project consultant. Staff is planning to bring a draft ordinance in front of the Planning Commission and to the public another open house prior to setting a formal hearing date on the ordinance.

The attached existing wireless telecommunication tower permit ordinance has been highlighted to depict which of the existing ordinance provisions will likely be updated as part of the City's review. In addition, the following are the major decision areas that will need to be address by a new ordinance:

- *Location Preferences/Requirements.* The City Council has previously indicated that new towers should be located on public property, and only constructed on private land when there is no reasonable pubic space available to accommodate a new facility. Currently, the ordinance lists the allowable locations, and was recently amendment to specify that the list of locations is presented in preferential order. The ordinance could be revised to *require* applicants to approach the City first before negotiating with a private property owner.
- *Submittal Documentation.* The project consultant will be proposing language in the ordinance that more clearly identifies the information to be submitted in order for the City to verify the need for a new tower. Although this language is more technical in nature, the Planning Commission should

confirm that a clear demonstration of need will help aid the City's decision regarding new facilities.

- *Proximity to Residential Areas.* The current ordinance only allows towers in residential zones on property that is greater than 10 acres in size. Although this leaves a large percentage of the City available for towers, it does eliminate some potential sites that could provide coverage within residential neighborhoods.
- *Proximity to Natural/Scenic Areas.* During the course of the T-Mobile application review, there was some concern expressed over the visibility of the proposed tower from Sunfish Lake Park and Lake Jane. The Planning Commission should indicate if there are specific natural or scenic areas that should be protected from the visibility of new towers.
- *Maximum Height.* As part of a discussion concerning tower siting issues, the Commission should consider whether smaller, less visible towers that may not be suitable for co-location would be preferable to taller towers that could allow for additional carriers and potentially reduce the overall number of wireless communication sites needed on the in the community.
- *Co-location Preferences.* If co-location is determined to be a priority for the City, the resulting tower design standards will need to allow for larger and taller towers.
- *Tower Design.* The Commission has seen many examples of traditional, stealth and camouflaged towers, and will need to determine if any particular design is preferred in Lake Elmo. The type of tower that is used may have impacts on whether or not co-location is viable for a particular site.
- *Review Process.* Staff is recommending that new towers be reviewed as a Conditional Use Permit and that co-location facilities be allowed by administrative permit. In order to make this change, the individual district use charts would need to be amended to include wireless communication facilities.
- *Outside Review and Analysis.* The Planning Commission should consider including language in the revised code that clearly gives the City the authority to request outside assistance with reviewing applications. Much of the information that is submitted with a wireless communications facility request is very technical in nature and should be reviewed by someone with expertise in the area of RF Engineering.
- *Search Radius.* The ordinance has recently been amended to require a wider search radius to determine whether or not there are suitable co-location facilities for a new tower. Presently the search area is set at 2 miles from a

proposed site. Given the large open, natural, and park areas in Lake Elmo, this distance may still be somewhat minimal.

- *Alternative Sites.* For applicants that choose to locate on a private site, there is no language in the present code that requires any study of alternate sites as a part of the City's review. This issue should be addressed as part of the location preferences discussion as noted above.

Although a definitive response from the Planning Commission is not needed in order to prepare an initial draft ordinance, it will be useful to incorporate the Planning Commission's discussion into this first draft to facilitate later decisions on this item.

Conclusion and Next Steps:

The Planning Commission is not being asked to make a formal recommendation at this time; however, any feedback received will be used to prepare a draft wireless communications ordinance in advance of a public hearing on the revised ordinance.

The meeting will also provide the Commission with an opportunity to meet and ask questions of the project consultant at an early juncture of the ordinance development.

The next major steps that are anticipated in the process of developing a revised ordinance include the following:

- 1) Council workshop discussion on major decision areas with project consultant (July 14, 2009).
- 2) Preparation of initial ordinance draft.
- 3) Review of draft ordinance by the Planning Commission (August 10, 2009)
- 4) Public open house concerning draft ordinance (week of August 17th through 21st).
- 5) Public hearing by Planning Commission on draft ordinance (September 14, 2009).

WIRELESS TELECOMMUNICATION TOWER PERMIT

§ 150.110 PURPOSE AND INTENT.

The wireless telecommunication tower permit regulations are intended to:

- (A) Reasonably accommodate the provision of wireless telecommunication services to the general public;
- (B) Minimize adverse visual effects of wireless telecommunication towers, antennae, or accessory equipment through careful design and siting standards;
- (C) Avoid potential damage to adjacent properties from tower failures through structural standards and setback requirements; and
- (D) Maximize the use of existing and approved towers, structures, and/or buildings for the location of new wireless telecommunication towers in order to reduce the number of the structures needed to accommodate wireless telecommunication services.

(1997 Code, § 1390.01) (Ord. 97-24, passed 1-21-1998)

§ 150.111 PERMIT REQUIRED.

No person shall install a wireless telecommunication facility or any portion thereof, at a height greater than is allowed for structures in the underlying zoning district without first being issued a wireless telecommunication tower permit.

(1997 Code, § 1390.03) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99


§ 150.112 PROHIBITED AREAS.


Wireless telecommunication towers shall not be allowed in the following areas:


- (A) Residentially zoned parcels of less than 10 acres unless the wireless telecommunication tower and ground facilities accessory thereto are located within 100 feet of the right-of-way of a public utility transmission line;
- (B) Open space easements or conservation easements; and/or

Summary of Comments on Printing - Lake Elmo, MN Code of Ordinances

Page: 1

 Number: 1 Author: kyle.klatt Subject: Highlight Date: 7/9/2009 12:50:27 PM

 Number: 2 Author: kyle.klatt Subject: Highlight Date: 7/9/2009 2:13:30 PM
Recommended to require a Conditional Use Permit

 Number: 3 Author: kyle.klatt Subject: Highlight Date: 7/9/2009 2:15:48 PM
Evaluate parcel and zoning requirements.

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(C) Airport impact zones without consent of the F.A.A.

(1997 Code, § 1390.03) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99

§ 150.113 ALLOWED TOWER SITES

Applicants for a wireless telecommunication tower permit shall make a reasonable effort to locate the towers and accessory ground facilities in the following areas:

(A) On an existing public utility power line support structure, within an existing public utility power line right-of-way, or within 100 feet of the right-of-way;

(B) On publicly owned property, as approved by the City Council; and/or

(C) On agriculturally or residentially zoned parcels greater than 10 acres.

(1997 Code, § 1390.04) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99

§ 150.114 APPLICATION

Applications for a wireless telecommunication tower permit shall be submitted on forms provided by the City Planner, which shall include the following information:

(A) A sketch drawn to scale acceptable to the City Planner and City Engineer which illustrates:

(1) The parcel on which the tower and accessory ground facilities;


(2) The buildings located and to be located on the tower parcel;


(3) The buildings located within 100 feet of the perimeter of the tower parcel;


and


(4) Access easements as necessary to the tower parcel.


(B) A sketch drawn to scale or a photo image acceptable to the City Planner and City Engineer which illustrates the relative size of the proposed wireless telecommunication tower or existing structure on which the antenna will be located compared to structures located within 100 feet of the perimeter of the parcel on which the tower is located and which illustrates the visibility of the tower from adjoining parcels located within 100 feet of the perimeter of the parcel on which the tower is located. The City Planner may also require a visual impact demonstration including mock-ups and/or photo montages and plans for painting the tower;


 Number: 1 Author: kyle.klatt Subject: Highlight Date: 7/9/2009 12:51:04 PM

 Number: 2 Author: kyle.klatt Subject: Highlight Date: 7/9/2009 2:16:33 PM
Establish as a requirement to consider public lands before permitting on a private site.

 Number: 3 Author: kyle.klatt Subject: Highlight Date: 7/9/2009 2:16:46 PM
Review area requirements.

 Number: 4 Author: kyle.klatt Subject: Highlight Date: 7/9/2009 2:50:52 PM

 Number: 5 Author: kyle.klatt Subject: Highlight Date: 7/9/2009 2:17:21 PM
Multiple changes to provide better information as part of the application process.

 Number: 6 Author: kyle.klatt Subject: Highlight Date: 7/9/2009 12:51:51 PM

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1 (C) A report from a qualified and licensed professional engineer which:

- (1) Describes the wireless telecommunication tower height and design including a cross-section and elevation;
- (2) Certifies the wireless telecommunication tower's compliance with structural and electrical standards;
- (3) Documents the height above grade for the mounting positions, which can be used for co-location and the minimum separation distances between the co-location positions; and
- (4) Describes the wireless telecommunication tower's capacity to support antennae, including an example of the number and type of antennas that can be accommodated on the wireless telecommunication tower.

(D) A 2-year plan for wireless telecommunication facilities to be located within the city shall be submitted by the applicant. The city acknowledges that the plans are fluid and in all likelihood will change depending upon market demands for the service. The city will maintain an inventory of all existing and reasonably anticipated cell site installations. The applicant shall provide the following written information in each 2-year plan and the plan must be updated with each submittal for a new wireless telecommunication tower permit as necessary:

- (1) A description of the radio frequencies to be used for each technology;
- (2) A list of all existing sites to be upgraded or replaced, and proposed cell sites within the city for these services by the applicant; and
- (3) A presentation size map of the city, which shows the 2-year plan for cell sites, or if individual properties are not known, the geographic service areas of the cell sites.

(E) The cost of mailing addresses for all property owners of record located within 1,000 feet of the subject property to be complied by the city;

(F) An application fee in an amount prescribed from time to time by City Council resolution as necessary to reimburse the city for costs incurred to process the wireless telecommunication tower permit application;

(G) Confirmation that the applicant is properly licensed by the F.C.C., or is the authorized representative of a wireless telecommunication provider properly licensed by the F.C.C.;

(H) Written authorization from the property owner describing the area which will be subject to the tower lease and acknowledging that the property owner will be responsible for removal of the wireless telecommunication tower, antennae, and tower accessory equipment which is unused or abandoned for 12 consecutive months;



Number: 1 Author: kyle.klatt Subject: Highlight Date: 7/9/2009 2:18:14 PM

Provide information that can be used to clearly demonstrate the need for a new facility.



Number: 2 Author: kyle.klatt Subject: Highlight Date: 7/9/2009 2:19:10 PM

Require carriers to provide information about surrounding sites. Need to establish coverage gaps and plan for addressing gaps.

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(I) Documentation of the steps to be taken by applicant to avoid causing destructive interference to co-located previously established public safety communications facilities; and

(J) A detailed landscape plan, which indicates how tower accessory equipment will be screened.

(1997 Code, § 1390.05) (Ord. 97-24, passed 1-21-1998)

§ 150.115 PLANNING COMMISSION REVIEW.

(A) Upon receipt of a completed application, the City Planner shall schedule a hearing before the Planning Commission which shall be preceded by 10-days mailed notice to the record owners of property located within 1,000 feet of the parcel on which the tower will be located.

(B) The Planning Commission shall make recommendations to the City Council regarding the issuance of the wireless telecommunication tower permit and, in particular, in regard to the following:

(1) Compliance of application with the city regulations and development standards; and/or

(2) Proposed conditions, as necessary, to prevent the wireless telecommunication tower, antennae, and tower accessory equipment from becoming a nuisance to surrounding property owners.

(1997 Code, § 1390.06) (Ord. 97-24, passed 1-21-1998)

§ 150.116 CITY COUNCIL REVIEW.

(A) Upon receipt of Planning Commission recommendations, the City Council shall review the application. The City Council may approve the application subject to conditions, table its review until a date certain, or deny the application for a wireless telecommunication tower permit. If the application is approved by the City Council, a wireless telecommunication tower permit and a building permit shall be issued upon the execution of a wireless telecommunication tower agreement.

(B) The agreement shall be signed by the applicant and property owner and the terms of the agreement shall include the following:

(1) A list of the conditions of approval to the wireless telecommunication tower permit;

(2) A statement indicating that failure to comply with the conditions of

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approval shall result in the removal of the wireless telecommunication tower, antennae, or tower accessory equipment;

(3) A statement indicating that the expenses incurred by the city to enforce the provisions of the wireless telecommunication tower agreement shall be reimbursed by the applicant;

(4) A statement, which requires the applicant to utilize the procedures established by the F.C.C. to resolve any complaints received relating to interference allegedly caused by the wireless telecommunication tower; and

(5) A statement indicating that a wireless telecommunication tower which has not been used for 12 consecutive months shall be deemed abandoned and may be required to be removed in the same manner and pursuant to the same procedures as for hazardous and substandard buildings (M.S. §§ 463.15 through 463.261, as they may be amended from time to time).

(1997 Code, § 1390.07) (Ord. 97-24, passed 1-21-1998)

§ 150.117 CO-LOCATION REQUIREMENTS.

Except as hereinafter provided, antenna utilized to provide wireless telecommunication services shall be located on existing towers or structures which exceed 75 feet in height and which are located within $\frac{2}{4}$ mile of the antenna site being proposed by the applicant. In the event that co-location is not possible, the applicant must demonstrate that a good faith effort to co-locate on existing towers and structures was made but an agreement could not be reached.

(1997 Code, § 1390.08) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99


§ 150.118 EXCEPTIONS TO CO-LOCATION REQUIREMENTS.

The City Council shall waive any or all of the co-location requirements if it is determined that:

(A) The antennae and/or tower accessory equipment would cause the structural capacity of an existing or approved tower or building to be exceeded, as documented by a qualified and licensed professional engineer, and the existing or approved tower or building cannot be reinforced, modified, or replaced to accommodate the antennae or tower accessory equipment at a reasonable cost;

(B) The antennae and/or tower accessory equipment would cause interference materially impacting the usability of existing antennae or tower accessory equipment as

 Number: 1 Author: kyle.klatt Subject: Highlight Date: 7/9/2009 12:52:45 PM

 Number: 2 Author: kyle.klatt Subject: Highlight Date: 7/9/2009 2:19:51 PM
Adjusted to 2 miles, consider larger amount due to conditions in Lake Elmo.

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documented by a qualified radio frequency engineer and the interference cannot be prevented at a reasonable cost;

(C) Existing or approved towers and buildings within the applicant's search radius cannot or will not accommodate the antennae and/or tower accessory equipment at a height necessary to function reasonably as documented by a qualified radio frequency engineer; and/or

(D) Other unforeseen reasons make it infeasible to locate the antennae and/or tower accessory equipment upon an existing or approved tower or building.

(1997 Code, § 1390.09) (Ord. 97-24, passed 1-21-1998)

§ 150.119 CONSTRUCTION PERMITS.

All wireless telecommunication towers erected, constructed, or located within the city, and all wiring therefore, shall comply with the requirements set forth in the Uniform Building Code.

(1997 Code, § 1390.10) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99

§ 150.120 TOWER STANDARDS.

(A) Wireless telecommunication towers shall comply with the following standards unless the City Council grants a variance as necessary to reasonably accommodate the wireless telecommunication tower. Variance procedures shall be processed according to the zoning code.


(B) (1) *Design.*


(a) To blend into the surrounding environment through the use of color and architectural treatment;


(b) To be of a monopole design unless the City Council determines that an alternative design would better blend into the surrounding environment;

(c) All proposed wireless telecommunication tower shall be designed structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least 2 additional users if the tower is over 100 feet in height or for at least 1 additional user if the tower is between 75 feet and 100 feet in height; and

(d) Where possible, all proposed wireless telecommunication towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at various heights.

 Number: 1 Author: kyle.klatt Subject: Highlight Date: 7/9/2009 2:20:17 PM
Community design preferences should be determined and included in this section.

 Number: 2 Author: kyle.klatt Subject: Highlight Date: 7/9/2009 2:21:24 PM
Consideration for stealth and camouflage designs. Co-location limitations should also be considered.

 Number: 3 Author: kyle.klatt Subject: Highlight Date: 7/9/2009 2:21:55 PM
Adjust in relation to general height requirements.

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1

Setbacks from lot lines

(a) In all residential zoning districts, wireless telecommunication towers shall be set back 1 foot for each foot of tower height plus 20 feet.

(b) In all zoning districts, towers may encroach into the rear or side yard setback areas, provided that the rear or side yard property line abuts a commercial or business zoned property and the wireless telecommunication tower does not encroach upon any easements.

(c) Wireless telecommunication towers shall not be located between a principal structure and a public street.

(d) A required setback may be reduced or its location in relation to a public street varied, at the sole discretion of the City Council, to allow for the integration of a wireless telecommunication tower with an existing or proposed structure such as a church steeple, power line support device, or light standard.

(e) A required setback may be reduced or its location in relation to a public street varied upon providing the city with a licensed professional engineer's certification that the wireless telecommunication tower is designed to collapse or fail within a distance or zone shorter than the required setback distance.

2

Height

(a) In all residential zoning districts, the maximum height of any wireless telecommunication tower including all antennas and other attachments, shall not exceed 1 foot for each 1 foot the tower is setback from a residential dwelling unit up to a maximum of 195 feet for parcels of 40 acres or more and 125 feet for parcels between 10 to 40 acres in size.


(b) In all non-residential zoning districts, wireless telecommunication tower and antennae shall not exceed 195 feet in height above ground for a freestanding wireless telecommunication tower, and 195 feet in height above ground as measured by the lowest ground elevation adjacent to a building on which the tower/antenna is located, including all antennas and other attachments where the zoning district is adjacent to a residential zoning district. The setback from a common lot line shall be 2 feet for each 1 foot of tower height.


(1997 Code, § 1390.11) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99


§ 150.121 LIGHTING.

At night, wireless telecommunication towers shall not be illuminated by artificial means.

(1997 Code, § 1390.12) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99

 Number: 1 Author: kyle.klatt Subject: Highlight Date: 7/9/2009 2:22:26 PM
Evaluate in relation to community preferences.

 Number: 2 Author: kyle.klatt Subject: Highlight Date: 7/9/2009 2:23:03 PM
Determine appropriate heights as part of tower location and proliferation discussions.

 Number: 3 Author: kyle.klatt Subject: Highlight Date: 7/9/2009 2:53:57 PM

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§ 150.122 SIGNS AND ADVERTISING.

The use of any portion of a wireless telecommunication tower for signs other than warning or equipment information sign is prohibited.

(1997 Code, § 1390.13) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99

§ 150.123 INTERFERENCE WITH PUBLIC SAFETY TELECOMMUNICATION.

No wireless telecommunication facility shall interfere with public safety telecommunications. All wireless telecommunication towers/antennas shall comply with F.C.C. regulations and licensing requirements.

(1997 Code, § 1390.14) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99

§ 150.124 PROHIBITED SUBDIVISIONS.

Where a wireless telecommunication facility has been located on a residentially or agriculturally zoned parcel greater than 10 acres, except when the facility is located within a power line easement, or within 100 feet of the easement, the parcels shall not be further subdivided unless the resulting parcel on which the wireless telecommunication facility is located continues to be more than 10 acres in size.

(1997 Code, § 1390.15) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99

§ 150.125 ACCESSORY UTILITY BUILDINGS.

All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment.

(1997 Code, § 1390.16) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99

§ 150.126 GROUND-MOUNTED EQUIPMENT.

All ground mounted equipment accessory to a wireless telecommunication tower shall be



Number: 1 Author: kyle.klatt Subject: Highlight Date: 7/9/2009 2:24:10 PM
Evaluate impacts of generators and other potentially intrusive activities on the site.

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enclosed in a building with brick walls and have a dark colored standing seam metal roof and be further screened with sufficient trees, as determined by the City Planner, and shrubs to substantially reduce the visual impact.

(1997 Code, § 1390.17) (Ord. 97-24, passed 1-21-1998) Penalty, see § 10.99

This page contains no comments

ITEM: Accessory Building Ordinance Amendments
SUBMITTED BY: Kyle Klatt, Planning Director *K.K.*
REVIEWED BY: Kelli Matzek, City Planner
Craig Dawson, City Administrator
Planning Commission

SUMMARY AND ACTION REQUESTED:

The City Council is being asked to review proposed revisions to the City's accessory building regulations found in the Zoning Ordinance. This agenda item was originally presented to the Council on November 5, 2008 but was tabled at this time so that it could be brought back at a workshop session in 2009. Given the Council's relatively active slate of workshop agendas this year, the accessory building discussion has been postponed until now due to more pressing matters.

In order to provide the Council with a sufficient amount of information for the workshop, the entire packet item from November has been copied and is attached for consideration by the City Council. Staff will present a summary of the major changes proposed at the workshop and will be available to answer any question at this time.

ADDITIONAL INFORMATION:

Please refer to the executive summary prepared for the November 5, 2009 Council meeting for a detailed summary of this discussion item.

ATTACHMENTS:

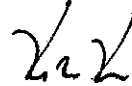
1. Council Packet from 11/5/08, including:
 - o Executive Summary
 - o Ordinance No. 08-010 (to be renumbered)
 - o Resolution No. 08-049 (to be renumbered)
 - o Summary of Proposed Changes

ORDER OF BUSINESS:

- Introduction..... Craig Dawson, Interim City Administrator
- Report/Presentation Kyle Klatt, Planning Director
- Questions from the Council Mayor & Council Members

City Council
Date: 11/5/08
Regular Agenda
MOTION
Item: _____

ITEM: Consider Amendments to the Accessory Buildings Section of the Zoning Ordinance: **Ordinance No. 08-010**

SUBMITTED BY: Kyle Klatt, Planning Director 

REVIEWED BY: Planning Commission
Susan Hoyt, City Administrator
Kelli Matzek, City Planner

SUMMARY AND ACTION REQUESTED:

The City Council is being asked to consider amendments to the accessory building provisions of the zoning ordinance. These changes represent minor modifications to specific sections of the ordinance and have been proposed: 1) to improve the consistency between various sections of the current code and 2) to clarify the intent and interpretation of various sections of the code dealing with accessory uses. The proposed amendments do not propose a major departure from the current ordinance and are intended primarily to clean up portions of the code that have been confusing or difficult to administer in the past.

The initial basis for the proposed amendments was the identification of discrepancies between a building department setback handout and the zoning ordinance. As part of the regular review of building permits, staff also found that the requirements for accessory buildings were either difficult to find or inconsistent between various portion of the code. The proposed amendments should help clarify and simplify the review of building permits, especially for accessory buildings. The proposed ordinance was reviewed during the course of several Planning Commission meetings this past summer, and was recommended for approval.

The regulations for accessory buildings may be found in two distinct sections of the Zoning Ordinance: within the development standards for each zoning district and as part of the design and performance standards that apply to all districts. The sections that would be impacted by the proposed changes include Sections 154.030 through 154.066 and Sections 154.092 and 154.093.

REVIEW OF PROPOSED AMENDMENTS:

The proposed changes can be summarized as follows:

- The RE District provisions (Section 154.058) will be amended to add accessory building setbacks to the district table. This table will now include the front, side, street side, rear, and arterial street setbacks for accessory building as well as principal buildings. Since these setbacks were not previously identified elsewhere in the code, the Planning Commission recommended that they follow the OP district requirements with the exception of the front yard setback (set at 100 feet to be consistent with the front yard setback for principal structures).
- Language in all zoning districts will be amended to clearly state whether or not the dimensional requirements apply to principal, accessory buildings, or both. Each zoning district table will include separate headings labeled "Principal Building Setbacks" and "Accessory Building Setbacks". At present, the code either uses these terms interchangeably or just uses "Building Setbacks".

- There are currently two definitions that describe how to measure the height of buildings: "Height of Building" and "Building Height". The proposed ordinance eliminates one of these terms and adds a diagram to provide additional clarity concerning the interpretation of this measurement.
- The reference to roof height in Section 154.092, Subd. (A,2) will be removed. With this change, all accessory building heights will be calculated in the same manner as principal buildings. Specifically, the definition noted above allows the averaging of the grade around the building and the averaging of the height between the highest ridge and eave line to determine the two points used to calculate height.
- The accessory building height in all districts (except for agricultural buildings) will be amended to 18 feet (from either 14 feet or 20 feet). This figure is recommended as a balance between the previous roof height requirement of 20 feet and the averaging that is allowed for mansard, gable, hip, and gambrel style roofs. The current requirement varies from district to district and there is no apparent reason for these discrepancies.
- The definition for a tool shed has been revised to delete a statement related to roof height. These types of structures will still have a separate height requirement that is lower than other buildings, and in this case, will be reduced from 12 feet to 10 feet (to account for the averaging as noted above).
- Accessory buildings in the Open Space Preservation District are currently allowed to be built to a higher height than in other districts; this provision will be amended to reflect a common height across all residential zoning districts. The current OP district height limit is 25 feet and would be changed to 18 feet under the proposed Ordinance. This change also reflects the definition change noted above.
- The requirements for maximum building height and door height will be included in the residential district tables only. The requirements for accessory buildings in industrial and business districts will therefore match the requirements for principal building in these districts. There are references to the business and industrial district exemptions that can be eliminated from the current ordinance because of these changes.
- All language pertaining to size limits for the parking of passenger automobiles (found in Section 154.092, Subd. D) will be deleted. Rather than specifying a specific size limit of 1,000 square feet, the proposed amendments would limit the size of attached and detached garages to no more than the footprint of the principal structure. This change will help end confusion regarding space marked on building plans as storage, workshop, or miscellaneous useage.
- Clarification will be added to specify that building footprint will be used to calculate the size requirements for an accessory building (not gross floor area). This revision also provides for a blanket statement across all districts that an accessory building cannot exceed the size of a principal structure. The current maximum size allowed for accessory buildings will not change, and previously the size of the principal building was only relevant for parcels larger than 20,000 square feet.
- Section 154.092 Subd. F and G will be amended to clarify that accessory buildings cannot exceed the height of the principal building in any zoning district with the exception of agricultural farm buildings and the exceptions to height listed elsewhere in the City Code. This change does not alter the intent of the current Ordinance.
- The table found in Section 154.093 has been updated to clarify the accessory building requirements for the smallest lot sizes in R-1, RED, and OP districts and to remove existing language that states the size of accessory buildings cannot exceed a principal structure. The revised statement in Section 154.092, Subd. D will now cover this requirement. The Planning Commission could find no reason for a cut-off of 5,000 square feet for the smaller lots in this table, and with the proposed change, all lots less than one acre in size would be grouped together.
- A provision will be added to Section 154.092 that reads as follows: "The footprint of an attached garage shall not be larger than the footprint of the living area within the principal building. All garage space located under a living area or other garage space will not count towards the total attached garage area allowed". Although this language does not place set limit on the total area that could be used for the parking of cars, the City's building code, setback requirements, impervious coverage

ordinance, driveway standards, and other similar provisions with the code provide additional regulations that will limit the practicability of building an excessive-sized garage.

The amendments should help simplify the review process for new accessory buildings by standardizing the organization of information and the consistency between each district.

BACKGROUND INFORMATION:

Of the proposed amendments, the changes to regulations concerning the parking of passenger automobiles represent the most significant modifications from the previous Ordinance. Under the current code, space devoted to the parking of automobiles cannot exceed 1,000 square feet, and this limit applies to both detached and attached garages. In practice, this limitation has been very difficult to administer and enforce because the total size allowed for both accessory buildings in all districts exceeds this amount. As part of its review, the Planning Commission determined that the use of space within an accessory building was not as important as the total size and height allowed. The Planning Commission's recommendation; therefore, is that the total size of all accessory buildings be regulated so that they cannot exceed the size of the principal building on a lot (both for attached and detached structures). Under the proposed ordinance, the size of accessory buildings would still be regulated by district and would never be allowed to exceed the size of a principal building.

All other changes are intended to provide consistency and clarity throughout the code, in some instances incorporating revised standards, improved definitions, or updated tables to accomplish this objective.

PLANNING COMMISSION:

The Planning Commission reviewed the proposed ordinance amendments over the course of several meetings earlier this summer, and conducted a public hearing on this matter on July 14, 2008. There were no public comments received and the Commission unanimously recommended approval of the Ordinance amendments as document in the attached Ordinance.

RECOMMENDATION:

The Planning Commission recommends that the City Council approved the proposed amendments to the accessory building provisions of the Zoning Ordinance.

SUGGESTED MOTION FOR CONSIDERATION:

Motion:

Motion to adopt Ordinance No. 08-010 amending the accessory building regulations.

Motion to adopt Resolution No. 08-049 authorizing summary publication of Ordinance No. 08-010 in the official City paper.

ATTACHMENTS:

1. Ordinance No. 08-010
2. Resolution No. 08-049 (Summary Publication)
3. Summary of Proposed Changes (including summary table)

ORDER OF BUSINESS:

- Introduction..... Susan Hoyt, City Administrator
- Report..... Kyle Klatt, Planning Director

- Questions from the CouncilMayor & Council Members
- Questions/Comments from the public Mayor facilitates
- Call for a Motion
 (required for further discussion; does not
 imply approval of the motion Mayor facilitates
- Discussion Mayor facilitates
- Action on motion..... Council

**Accessory Building Ordinance Updates
Summary Table**

Proposed Changes to Existing Zoning Ordinance

TABLE 1 – SETBACKS/HEIGHT

Accessory Bldg Setbacks	AG	AG	RR	RR	R1	R2	R3	R4	RE	OP	OP
		Clustered		Animal						Single	Townhouse
Front	200	30	30	100	30	30	50	50	100	30	30
Side	200	10	10	100	10	10	20	20	50/15	15*	15*
Side (Street)	200	25	25	100	25	25	50	50	80/30	30	30
Rear	200	40	40	100	40	40	50	50	100/15	40	40
Rear (Garages, Boats, Storage, Tool)	200	10	10	100	10	10	20	20	100/15	15*	15*
Arterial Street	200	50	50	100	50	50	50	50	150/50	50	50
Height (for residential districts)	18	18	18	18	18	18	18	18	18	18	18
Max Door Height (for residential districts)	14	14	14	14	14	14	14	14	14	14	14
Number	2	2	1	1	1	1	1	1	1	1	1

* Or 10% of lot width, whichever is greater

Notes:

- Building height will be calculated in accordance with the definition in the City Code. References to maximum roof height have been eliminated in the accessory building section.

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-010

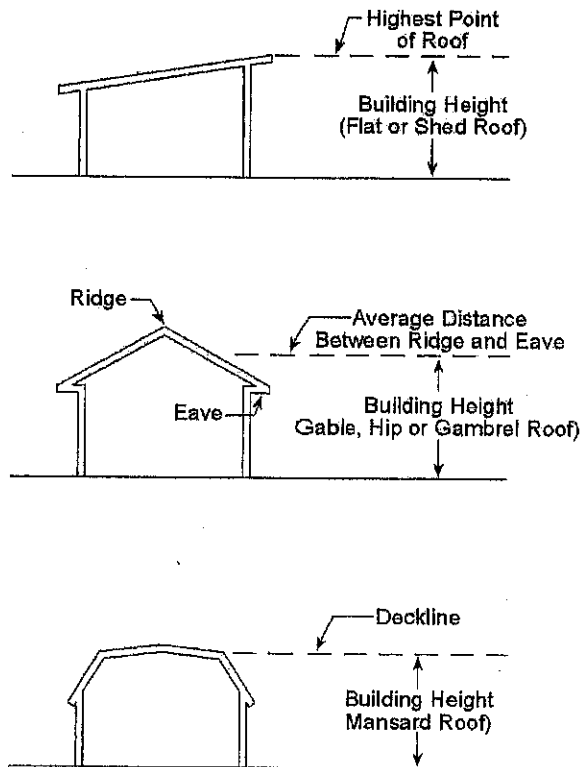
AN ORDINANCE TO AMEND ACCESSORY BUILDING REGULATIONS

Section 1. The City Council of the City of Lake Elmo hereby ordains that Section 11.01 (Definitions) is hereby amended to *remove* the following definition:

HEIGHT OF BUILDING. The vertical distance between the lowest grade level at the building line and the uppermost point on the roof.

and to *add* the following diagram to the definition of **BUILDING HEIGHT** so that it reads as follows:

BUILDING HEIGHT. The vertical distance from the average of the highest and lowest point of grade for that portion of the lot covered by building to the highest point of the roof for flat roofs; to the roof deck line of mansard roofs; and to the mean height between eaves and highest ridge for gable, hip, and gambrel roofs.



Section 2. The City Council of the City of Lake Elmo hereby ordains that the *Minimum District Requirements* tables found in Sections 154.036, Subd. (D); 154.041, Subd. (C); 154.044, Subd. (C); 154.047, Subd. (C); 150.180, Subd. (B, 2, h) are hereby amended in the following manner:

Section 154.033

(D) *Minimum district requirements.*

Agricultural Zoning District		
	Farm Dwellings and Related Structures and Activities and Non-Farm Dwellings if not Clustered	Non-Farm Dwellings and Activities if Clustered
Lot Size	Nominal 40 acres	1-1/2 acres (if clustered)
	A 40-acre parcel not reduced by more than 10% due to road rights-of-way and survey variations	
Lot Width	300 feet	125 feet
Primary Building setback from property lines: (Also see § 154.082)		
Front:	200 feet	30 feet
Side (Interior):	200 feet	10 feet
Rear:	200 feet	40 feet
Side Corner:	200 feet	25 feet
Arterial Street:	200 feet	50 feet
Primary Building Height (Also see § 154.083)	35 feet	35 feet
Off-Street Parking (Also see § 154.095)	N/A	3 spaces per dwelling unit
Accessory Building or Structure setback from property lines: (Also see §§ 154.092 and 154.093)		
Front:	200 feet	30 feet
Side (Interior):	200 feet	10 feet
Rear:	200 feet	40 feet
Rear (detached residential garages, and storage, boat, and tool sheds)	200 feet	10 feet
Side Corner:	200 feet	25 feet
Arterial Street:	200 feet	50 feet

Section 154.036

(D) *Minimum district requirements.*

Rural Residential Zoning District		
Lot Size	Nominal 10 acres	5 to 7 acres if clustered
	A 10-acre parcel not reduced by more than 10% and/or a 10-acre parcel located on a corner or abutting a street on 2 sides not reduced by more than 15% due to road right-of-way and survey variations	

Lot Width (See § 153.04)	300 feet	125 feet
Primary Building or Structure Setbacks from property lines (Also see § 154.082)		
Front:	30 feet	30 feet
Side (Interior):	10 feet	10 feet
Side (Corner):	25 feet	25 feet
Rear:	40 feet	40 feet
Arterial Street:	50 feet	50 feet
Primary Building Height (Also see § 154.083)	35 feet	-
Off-Street Parking (Also see § 154.095)	3 spaces per unit	same
Accessory Building or Structure setbacks from property lines: (Also see §§ 154.092 and 154.093)		
Front:	30 feet	30 feet
Side (Interior):	10 feet	10 feet
Side Corner:	25 feet	25 feet
Rear:	40 feet	40 feet
Rear (detached residential garages, and storage, boat, and tool sheds)	10 feet	10 feet
Arterial Street:	50 feet	50 feet
Accessory Building Height (Also see § 154.083)	14 feet	14 feet

Section 154.041

(C) Minimum district requirements.

R-1 Zoning District	
Lot Size	1-1/2 acre per unit without sanitary sewer; 24,000 square feet per unit with sanitary sewer
Lot Width	125 Feet
Primary Building or Structure Setbacks from Property Lines (Also see § 154.082)	
Front:	30 Feet
Side (Interior):	10 Feet
Side (Corner):	25 Feet
Rear:	40 Feet
Arterial Street:	50 Feet
Primary Building Height (Also see § 154.083)	35 Feet
Accessory Buildings or Structure Setbacks from Property Lines (Also See §§ 154.092 and 154.093)	
Front:	30 feet
Side (Interior):	10 feet

Side (Street):	25 feet
Rear:	10 feet
Arterial Street:	50 feet
Accessory Building Height (Also see § 154.083)	20 feet

Section 154.044

(C) Minimum district requirements.

R-2 Zoning District	
Lot Size	One-Family: 1-1/2 acre per unit without sanitary sewer; 7,500 feet per unit with sanitary sewer
	Two-Family: 1-1/2 acre per unit without sanitary sewer; 6,000 square feet per unit with sanitary sewer
Lot Width	One-Family: 75 feet at front yard setback line with sanitary sewer; 125 feet without sanitary sewer
	Two-Family: 100 feet at front yard setback line with sanitary sewer; 200 feet without sanitary sewer
Principal Building setbacks from property lines (Also see § 154.082)	
Front:	30 Feet
Side (Interior):	10 Feet
Side (Corner):	25 Feet
Rear:	40 Feet
Arterial Street:	50 Feet
Primary Building Height (Also see § 154.083)	35 Feet
Accessory Buildings and Structures setbacks from property lines.	
Front:	30 feet
Side:	10 feet
Side (Street):	25 feet
Rear:	10 feet
Arterial Street:	50 feet
Accessory Building and Structures Height (Also see § 154.083)	14 feet

Section 157.047

(C) Minimum district requirements.

R-4 Zoning District	
Lot Size	3,500 Square Feet per Unit

Lot Width	100 Feet at Front Yard Setback Line
<u>Principal Building and Structure Setbacks</u> from property lines (Also see § 154.082)	
Front:	50 Feet
Side (Interior):	20 Feet
Side (Corner):	50 Feet
Rear:	50 Feet
Arterial Street:	50 Feet
Building Height (Also see § 154.083)	35 Feet
<u>Accessory Buildings and Structures Setbacks</u> from property lines. (Also See §§ 154.092 and 154.093)	
Front:	50 feet
Side:	20 feet
Side (Street):	50 feet
Rear:	20 feet
Arterial Street:	50 feet
Accessory Buildings and Structures Height (See § 154.083)	14 feet

Section 150.048

(C) *Minimum district requirements.*

RE Zoning District	
Lot Size	2-1/2 minimum (108,750 square feet) to 10 acres (435,600 square feet)
Subdivision Density	3.33 acre average - No outlots to remain within subdivision
Lot Configuration	Lots must be configured to contain a circle with a diameter of 250 feet minimum; the ratio of lot length to width shall be a maximum of 3:1 - Flag lots are prohibited
Area of Building Site	A minimum of 1.25 acres of land above the flood plain and free of any drainage easements
<u>Principal Building and Structure Setbacks</u> from property lines: (Also see § 154.082)	
Front:	100 Feet Minimum
Side (Interior):	50 Feet Minimum
Side (Corner):	80 Feet Minimum
Rear:	100 Feet Minimum
Collector/Arterial Street:	150 Feet Minimum
Frontage on Public Roadway	150 feet minimum, except 70 feet at the end of cul-de-sac streets
Primary Building Height (Also see § 154.083)	35 Feet
<u>Accessory Buildings and Structures Setbacks</u> (Also see §§ 154.092 and 154.093)	
Front:	100 feet
Side:	15 feet

Side (Street):	30 feet
Rear:	15 feet
Arterial Street:	50 feet
Accessory Buildings and Structures Height (Also see § 154.083)	14 Feet

Section 150.080

(h) Minimum district requirements.

Open Space Preservation District (OP)		
	Single-Family	Townhouse
Maximum Building Height:		
Primary Structure	2 and ½ stories or 35 feet	2 and ½ stories or 35 feet
Accessory Structure	25 feet	4-story or 20 feet, whichever is less
Minimum Lot Width: ½ acre lot; 1 acre lot	NA	NA
Maximum Impervious Surface Coverage: Gross Lot Area	No more than 15% for the primary structure and driveway; but up to 17% total when including all other impervious surfaces	NA
Minimum Principal Building and Structure Setbacks Requirements from property lines (Also see § 154.082):		
Front Yard	30 feet	20 feet
Side Yard	15 feet or 10% of lot width, whichever is greater	15 feet or 10% of lot width, whichever is greater
Corner Lot Front	30 feet	30 feet
Corner Lot Side Yard	30 feet	30 feet
Rear Yard:	40 feet	40 feet
Arterial Street:	50 feet	50 feet
Well From Septic Tank	50 feet	50 feet
Accessory Buildings and Structures Setbacks (Also see §§ 154.092 and 154.093)		
Front:	30 feet	30 feet
Side:	15 feet or 10% of lot width, whichever is greater	15 feet or 10% of lot width, whichever is greater
Side (Street):	30 feet	30 feet
Rear:	15 feet or 10% of lot width, whichever is greater	15 feet or 10% of lot width, whichever is greater
Arterial Street:	50 feet	50 feet

Section 3. The City Council of the City of Lake Elmo hereby ordains that Section 154.092 is hereby amended to read as follows:

§ 154.092 ACCESSORY BUILDINGS AND STRUCTURES.

(A) Types of accessory buildings include storage or tool sheds; detached residential garage; detached rural storage building; detached domesticated farm animal buildings; agricultural farm buildings. The accessory buildings are defined as follows:

(1) STORAGE OR TOOL SHED. A 1-story accessory building of less than 160 square feet gross area with a maximum roof height of ~~12~~ 10 feet and exterior colors or material matching the principal structure or utilizing earthen tones. No door or other access opening in the storage or tool shed shall exceed 28 square feet in area.

(2) DETACHED RESIDENTIAL GARAGE. A 1-story accessory building used or intended for the storage of motor driven passenger vehicles regulated in § 154.093 with a maximum roof height of 20 feet. No door or other access opening shall exceed 14 feet in height. The exterior color, design, and materials shall be similar to the principal structure.

(3) DETACHED RURAL STORAGE BUILDING. A 1-story accessory building used or intended for the storage of hobby tools, garden equipment, workshop equipment and the like. Exterior materials shall match the principal structure in exterior color or be of an earthen tone.

(4) DETACHED DOMESTICATED FARM ANIMAL BUILDING. A 1-story accessory building used or intended for the shelter of domestic farm animals and/or related feed or other farm animal supportive materials. The building shall require a Minnesota Pollution Control Agency feedlot permit and site and building plan approval. (Am. Ord. 97-38, passed 11-17-1998).

(5) AGRICULTURAL FARM BUILDING. An accessory building used or intended for use on an active commercial food-producing farm operation of more than 20 acres, a Minnesota Pollution Control Agency permit may be required.

(B) A tool shed as defined in this section may be placed on any lot in addition to the permitted number of accessory buildings.

(C) No accessory building shall be constructed nor accessory use located on a lot until a building permit has been issued for the principal building to which it is accessory.

~~(D) No accessory building used or intended for the storage of passenger automobiles shall exceed 1,000 square feet of gross area, nor shall any access door or other opening exceed the height of 10 feet, nor shall any structure exceed 1 story in height except when the garages are located in business, industrial or planned unit~~

~~developments. On parcels of 20,000 square feet in area or less, no detached accessory building or garage shall exceed the size of the principal building in gross floor area. The footprint of any detached accessory building shall not be larger than the footprint of the principal building.~~

~~(E) The footprint of an attached garage shall not be larger than the footprint of the living area within the principal building. All garage space located under a living area or other garage space will not count towards the total attached garage area allowed~~

(F) An accessory building shall be considered as an integral part of the principal building if it is located 6 feet or less from the principal building. The exterior design and color shall be the same as that of the principal building or be of an earthen tone; the height shall not exceed the height of the principal structure unless more restrictive portions of this chapter prevail.

(G) Accessory Building Height.

(1) ~~No accessory building in a commercial or industrial district shall exceed the height of the principal building-except for agricultural farm buildings and the exceptions to building height listed in Section 154.083.~~

~~(2) No detached building accessory to a residential structure or located in a residential district shall exceed 18 feet in height, except as otherwise permitted as an exemption from the district height requirements under Section 154.083.~~

~~(G) No accessory buildings in apartment developments shall exceed the height of the principal building.~~

(H) Accessory buildings in the commercial and industrial districts may be located to the rear of the principal building, subject to the Building Code and fire zone regulations.

(I) No detached garages or other accessory buildings in residential districts shall be located nearer the front lot line than the principal building on that lot, except in AG, RR, and R-1 Districts where detached garages may be permitted nearer the front lot line than the principal building by resolution of the City Council, except in planned unit developments or duster developments.
(Ord. 97-107, passed 4-16-2002)

(J) Accessory structures located on lake or stream frontage lots may be located between the public road and the principal structure, provided that the physical conditions of the lot require such a location and a resolution is issued. In no event shall the structure be located closer than 20 feet to the public right-of-way.

(K) All accessory buildings over 35 square feet in area shall have a foundation, concrete slab or wind anchor. Buildings larger than 100 square feet shall

require a building permit regardless of improvement value. Roof loads and wind loads shall conform to requirements as contained in the Building Code.

(L) The required rear yard setbacks for detached residential garages, and storage, boat, and tool sheds shall be a distance equal to the required side yard setback for each zoning district, except on through lots when the required rear yard setback in each zoning district shall apply.

(M) Performance standards for detached agricultural buildings and domesticated farm animal buildings on parcels of less than 20 acres shall include the following:

(1) Setbacks. All animal buildings, feedlots, and manure storage sites shall be set back in accordance with the underlying zoning district regulations.

(2) Slopes. The building, feedlot, or manure storage shall not be placed on slopes which exceed 13%.

(3) Water level. Evidence of the seasonally high groundwater level or mottled soil (as established by 8-1/2 foot borings) shall not be closer than 6-1/2 feet to the natural surface ground grade in any area within 100 feet of the proposed building and/or feedlot.

(4) Wetlands. No marsh or wetland (as established by the predominant wetland vegetation and/or soils) shall be utilized for placement of the proposed structure, feedlot, or grazing area.

Section 4. The City Council of the City of Lake Elmo hereby ordains that Section 154.093 is hereby amended to read as follows:

§ 154.093 NUMBER/SIZE OF ACCESSORY BUILDINGS.

The maximum number and size of accessory buildings permitted in each zoning district shall be as follows. No accessory building shall be constructed unless there is adequate room for the required secondary drainfield site.

Maximum Number and Size of Accessory Buildings	
Residential - R-1, RED, and OP	
Over 5,000 square feet but less than 1 acre	A combined 1,200 square feet total for both attached and detached accessory structures or residential garage; the size of the footprint of the detached structure shall not exceed the size of the footprint of the primary structure

From 1 acre to 2 acres	One 1,200-square foot detached residential, garage or building, in addition to an attached garage
Over 2 acres	One 1,300-square foot detached residential garage or building in addition to an attached garage

Section 5. Adoption Date

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

This Ordinance No. 08-010 was adopted on this 5th day of November 2008, by a vote of ___ Ayes and ___ Nays.

Mayor Dean Johnston

ATTEST:

Susan Hoyt
City Administrator

This Ordinance No. 08-010 was published on the ___ day of _____, 2008.

CITY OF LAKE ELMO

RESOLUTION NO. 2008-049

**RESOLUTION AUTHORIZING PUBLICATION OF
ORDINANCE NO. 08-010 BY TITLE AND SUMMARY**

WHEREAS, the city council of the city of Lake Elmo has adopted Ordinance No. 08-010, an ordinance to amend certain provisions of the zoning ordinance concerning accessory buildings; and

WHEREAS, the ordinance is lengthy; and

WHEREAS, Minnesota Statutes, section 412.191, subd. 4, allows publication by title and summary in the case of lengthy ordinances or those containing charts or maps; and

WHEREAS, the city council believes that the following summary would clearly inform the public of the intent and effect of the ordinance.

NOW, THEREFORE, BE IT RESOLVED by the city council of the city of Lake Elmo, that the city administrator shall cause the following summary of Ordinance No. 08-010 to be published in the official newspaper in lieu of the entire ordinance:

Public Notice

The City Council of the city of Lake Elmo has adopted Ordinance No. 08-010. The ordinance incorporates the following changes:

- The RE – Residential Estate District provisions (Section 154.058) are amended to add accessory building setbacks to the district table. This table now includes the front, side, street side, rear, and arterial street setbacks for accessory buildings as well as principal buildings, and follows the OP district requirements with the exception of the minimum front yard setback. The front yard setback for accessory building in an RE zoning district is set at 100 feet to be consistent with the front yard setback for principal structures in this district.
- The tables describing the minimum requirements for certain districts are amended to clearly state whether or not the dimensional requirements apply to principal structures, accessory buildings, or both. Each zoning district table includes separate headings labeled “Principal Building Setbacks” and “Accessory Building Setbacks”.

- One of two conflicting definitions for “Building Height” is eliminated and a table added to clarify the interpretation of this measurement.
- The reference to roof height in Section 154.092, Subd. (A,2) is removed. With this change, all accessory building heights will be calculated in the same manner as principal buildings. Specifically, the definition noted above allows the averaging of the grade around the building and the averaging of the height between the highest ridge and eave line to determine the two points used to calculate height.
- The accessory building height in all districts, except for agricultural buildings, is amended to 18 feet (from either 14 feet or 20 feet). This figure serves as a balance between the previous roof height requirement of 20 feet and the averaging that is allowed for mansard, gable, hip, and gambrel style roofs.
- The definition for a tool shed is revised to delete a reference to roof height. These types of structures will still have a separate height requirement that is lower than other buildings, and in this case, will be reduced from 12 feet to 10 feet to comply with the revised definition for building height.
- Accessory buildings in the Open Space Preservation District are currently allowed to be built to a higher height than in other districts; this provision is amended to reflect a common height across all residential zoning districts. The current OP district height limit is 25 feet and is lowered to 18 feet. This change also reflects the revised definition for building height.
- The requirements for maximum building height and door height are deleted from all sections except the residential district tables. With this change, the requirements for accessory buildings in industrial and business districts will therefore match the requirements for principal building in these districts. There are references to the business and industrial district exemptions that are eliminated from the current ordinance with these changes.
- The maximum size of the area devoted to the parking of passenger automobiles (found in Section 154.092, Subd. D) is eliminated. Rather than specifying a specific size limit of 1,000 square feet, the ordinance will limit the size of attached and detached garages to no more than the footprint of the principal structure.
- The ordinance clarifies that building footprint is used to calculate the size requirements for an accessory building (not gross floor area). This revision also provides for a blanket statement across all districts that an accessory building cannot exceed the size of a principal structure. The current maximum size allowed for accessory buildings is not being amended.
- Section 154.092 Subd. F and G are amended to clarify that accessory buildings cannot exceed the height of the principal building in any zoning district with the exception of agricultural farm buildings and the exceptions to height listed elsewhere in the City Code.
- The table found in Section 154.093 is updated to simplify the accessory building requirements for the smallest lot sizes in R-1, RED, and OP districts and to remove existing language that states the size of accessory buildings cannot exceed a principal structure. The revised statement in Section 154.092, Subd. D will now cover this requirement.
- A provision is added to Section 154.092 that reads as follows: “The footprint of an attached

garage shall not be larger than the footprint of the living area within the principal building. All garage space located under a living area or other garage space will not count towards the total attached garage area allowed". Although this language does not place set limit on the total area that could be used for the parking of cars, the City's building code, setback requirements, impervious coverage ordinance, driveway standards, and other similar provisions with the code provide additional regulations that will limit the size of a garage.

The full text of Ordinance No. 08-010 is available for inspection at Lake Elmo city hall during regular business hours.

Mayor Dean Johnston

BE IT FURTHER RESOLVED by the city council of the city of Lake Elmo that the city administrator keep a copy of the ordinance in her office at city hall for public inspection and that she post a full copy of the ordinance in a public place within the city.

Dated: _____, 20____.

Mayor Dean Johnston

ATTEST:

Susan Hoyt
City Administrator

(SEAL)

The motion for the adoption of the foregoing resolution was duly seconded by member

_____ and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against same:

Whereupon said resolution was declared duly passed and adopted.