

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-083

AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES BY
ADOPTING NEW FENCING REGULATIONS IN THE LAKE ELMO ZONING CODE.

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code, by repealing City Code Sections 154.120 through 154.128 in their entirety.

SECTION 2. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code, by adding the following language:

Article 5 - General Regulations

§154.205 Fencing Regulations

§154.205 Fencing Regulations

- A. *Purpose.* The purpose of this Ordinance is to provide for the regulation of fences in the city of Lake Elmo and to prevent fences from being erected that would be a hazard to the public, an unreasonable interference with the uses and enjoyment of neighboring property or are incompatible with existing uses and other zoning restrictions.
- B. *Definitions.* The following words, terms and phrases, when used in this Section, shall have the meaning ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Permanent Fence. Fences that are installed in a fixed or enduring manner that are not intended for a seasonal or temporary purpose.

Temporary Fence. Fences that are installed and removed on a seasonal basis, such as snow fences, garden fences and seasonal recreational fences, such as hockey boards.

- C. Permit Required
 - 1. *Permanent Fence.* No permanent fence shall be erected without first obtaining a fence permit. Application shall be made to the Planning Director. The fee shall be established by the City's Fee Schedule. The Planning Director is authorized to issue a fence permit if the application indicates that the fence will be in compliance with this Ordinance. The Board of Adjustment and Appeals shall hear and decide appeals when it is alleged that the Planning Director was in error. The appeals shall follow the procedure outlined in §31.01.

2. *Temporary Fence.* Temporary fencing that complies with subsection (F) and all other applicable provisions of this Ordinance shall be exempt from permit requirements.
- D. *General Requirements.* All fences erected in the city of Lake Elmo are subject to the following requirements:
1. *Maintenance.* All fences shall be properly maintained with respect to appearance and safety. Fences that remain in a state of disrepair for an extended period of time shall constitute a nuisance per §96.03.
 2. *Face of Fence.* The finished side of any fence or wall must face abutting property or street rights of way.
 3. *Fence Materials.*
 - a. *Residential Districts.* Permitted fence materials in residential districts shall be limited to brick, stone, wood, wrought iron, vinyl, composite material, chain-link and, in cases of temporary fencing only, materials that are consistent with temporary fencing as regulated under subsection (F).
 - b. *Commercial and Mixed-Use Districts.* Permitted fence materials in commercial and mixed-use districts shall be limited to brick, stone, wrought iron, decorative metal, vinyl, and high quality vinyl coated chain-link. Wood fencing may only be utilized as picket or split-rail type decorative fencing.
 4. *Traffic Obstruction.* No fence or wall shall obstruct a motorist's or a pedestrian's safe view from the driveway or street.
 5. *Easement Encroachment.* Where allowed by this Ordinance and other applicable sections, a fence may be constructed up to 1 foot off a property line unless an easement is present, or it is determined a fence would obstruct a drainage area. An easement encroachment agreement, along with a fence permit, allows a fence to be constructed within a City easement after it has been reviewed and approved by the City Council and the applicable fee has been received.
 6. *Swimming Pools.* All swimming pools shall be enclosed with required fencing per §151.085.
- E. *Fence Height*
1. *Fences within Front and Side (Corner) Yards.* Any fence within a front or side (corner) yard setback may not exceed forty-two (42) inches in height and must be 50% open to air and light.
 2. *Residential and Mixed-Use Districts.* No fence or wall shall exceed six feet (6') in height.
 3. *Commercial and Industrial Districts.* No fence or wall shall exceed eight feet (8') in height. Fences that exceed eight feet (8') in height require a conditional use permit.
- F. *Temporary Fences*
1. *Height and Performance.* Temporary fences shall comply with the fence height standards of subsection (E). Temporary fences shall be at least 40% open to air

and light. If unable to be at least 40% open to air and light, temporary fences shall not exceed forty-two inches (42") in height.

2. Duration and Limitation

- a. No snow fence or posts shall be installed prior to November 1, and must be removed prior to April 15.
- b. Seasonal recreational fencing intended for winter sports, such as hockey or broomball shall not be installed prior to November 1, and must be removed prior to April 15.

3. *Location.* Snow fences shall be set back at least 50 feet from any south or east property line, or such additional distance as may be required to prevent the accumulation of snow on public streets or adjoining property, as determined by the Public Works Director.

G. *Prohibited Fencing.* Barbed wire and electric fencing are prohibited in platted areas.

H. *Agricultural Exemption.* Fences constructed on parcels in excess of 5 acres for the keeping of horses; and fences constructed on parcels in excess of 10 acres are specifically exempted from the provisions of this Section. Any such agricultural fencing shall be at least 75% open to air and light.

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 08-083 was adopted on this fourth day of June 2013, by a vote of ___ Ayes and ___ Nays.

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

ATTEST:

Adam Bell, City Clerk

This Ordinance 08-083 was published on the ____ day of _____, 2013.