

NOTICE OF MEETING

City Council Meeting

Tuesday, June 04, 2013 7:00 P.M.

City of Lake Elmo | 3800 Laverne Avenue North

AGENDA

- A. Call to Order**
- B. Pledge of Allegiance**
- C. Roll Call**
- D. Order of Business**
- E. Approval of Agenda**
- F. Accept Minutes**
 - 1. Accept May 21, 2013 City Council Meeting Minutes
- G. Public Comments/Inquiries**
- H. Presentations**
 - 2. Fire Department Year-to-Date Report
- I. Consent Agenda**
 - 3. Approve Payment of Disbursements and Payroll
 - 4. Skid Steer Trade/Upgrade
 - 5. Christ Lutheran Church Minor Subdivision - 3549 Lake Elmo Avenue
Resolution 2013-46
 - 6. Liquor License Code Amendment; ***Ordinance 08-081***
 - 7. Fire Relief Association By-laws Amendment
 - 8. Approve Special Event Permit - Go Commando Adventure Race/Team Ortho
Foundation at Green Acres Recreation
 - 9. Approve Temporary Liquor License - Team Ortho Foundation

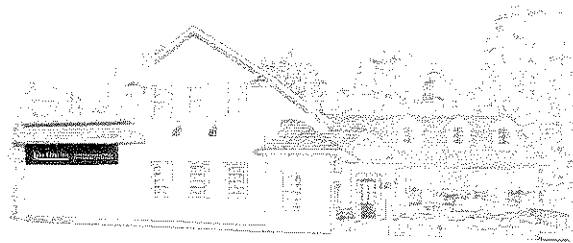
J. Regular Agenda

10. Municipal Separate Storm Sewer System (MS4) Permit – Annual Public Meeting and Accept the 2012 MS4 Annual Report
11. Zoning Text Amendment – Sign Ordinance Update; ***Ordinance 08-082, Resolution 2013-47***
12. Zoning Text Amendment – Fence Ordinance; ***Ordinance 08-083***
13. Review of 2013 Lake Elmo Park Survey
14. Conversion of Road Right of Way to Utility Easement on Legion Avenue North (Kupferschmidt/Toft)

K. Summary Reports and Announcements

- Mayor
- Council
- City Administrator
- City Attorney
- Planning Director
- City Engineer
- Finance Director
- City Clerk

L. Adjourn



Lake Elmo Inn

To the Lake Elmo City Council;

May 28th, 2013

My name is John Schiltz, my wife Chris and I own the Lake Elmo Inn and Lake Elmo Inn Event Center. I have been here for over 30 years and I have seen a lot of what happens in this town. I have not always liked the direction our city has gone; for example the one ten acre lots on I-94, or the 201 project and many more. I have always done my best for the city of Lake Elmo and I am very proud of what we have contributed to our community.

Over thirty years I have seen lawsuit after lawsuit and some that have made it all the way to the Supreme Court and hundreds and thousands of dollars spent to defend a handful of people's ideas of what they would like. We lost Section 32 to Oakdale (look at the revenue that section brings to the City of Oakdale) just because of a handful of people that think they know best. I knew a Service gas station that wanted to come into Lake Elmo and they would have put Oakland Jr. High septic system into a onsite waste plant at no cost to anyone and that was thrown out by the same people. Wow, now there is a gas station right across the street in West Lakeland doing great business and the money is going to another city! We pay our fair share of taxes in this town and maybe more than others in our surrounding cities, and for what? To keep new businesses and developments out?

Last year Lake Elmo had a change of guard so to speak; new council, new mayor, new administrator and new employees. I am not sure why most of City Hall has changed but I can say this; Thank You! Thank You! Thank You! I have never been more impressed with the direction of Lake Elmo as I have been this past year. Your staff is polite and knowledgeable and you can just feel the harmony in City Hall. There's been nothing like it! Your vision of Lake Elmo and with people like Damon Farber and Associates was the first of any hope I have seen in 30 years. Did you know that back in the 30's there were more business's on Main Street then there is today. Last year there were 9 empty buildings alone. Again, with their vision along with the help of our counsel and administration it is the best thing I have seen yet.

Finally, like I stated earlier in this letter I am very proud of the mayor and council along with the city staff. I know I am speaking for a lot of people and can say that it is time for Lake Elmo to change for the better and we all think you are on the right track. Please do not let the voices from the past stop or ruin the momentum you have started. We all believe that the direction you are taking us is the right direction.

Sincerely;

John Schiltz

Owner of Lake Elmo Inn and Lake Elmo Inn Event Center

LAKE ELMO CITY COUNCIL MINUTES

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CITY OF LAKE ELMO CITY COUNCIL MINUTES May 21, 2013

Mayor Pearson called the meeting to order at 7:00 P.M.

PRESENT: Mayor Pearson, Council Members Bloyer, Nelson, Smith, and Park

Also Present: City Administrator Zuleger, Associate City Attorney Brekken, Planning Director Klatt, City Engineer Griffin, Finance Director Bendel, and City Clerk Bell.

PLEDGE OF ALLIGENCE

APPROVAL OF AGENDA

*MOTION: Council Member Smith moved **TO APPROVE THE MAY 21, 2013 CITY COUNCIL AGENDA AS PRESENTED.** Council Member Park seconded the motion. **Motion passed 5-0.***

ITEM 1: ACCEPT MINUTES

THE MAY 07, 2013 CITY COUNCIL MINUTES WERE APPROVED AS PRESENTED BY CONSENSUS OF THE CITY COUNCIL.

PUBLIC COMMENTS:

a) Susan Hawkinson, 4891 Olson Lake Trail. She posed a couple of questions from last meeting. She pointed out the Council's adopted guiding principle #2. She asked Council to be mindful of 1) plan for future to preserve natural and open space, and 2) in a democracy, the will of the majority counts and. Asked Council "why do you believe change in ordinance benefits city when majority of citizens opposed." In addition, ...

Council Member Smith responded- She has received a large number of not so nice emails and nice emails. A phone call asked why "majority of residents" are primarily considered when dealing with a public lake. Many residents have to go somewhere else to use a lake. Why do people who live on lake get more of a say." Another call reported all the parking spots are filled by fishermen.

Mayor Pearson said he would personally explain his reasoning to Ms. Hawkinson the next day outside of this meeting if she wishes, but the Council has already spent time publically discussing the issue.

Council Member Bloyer spoke about his experience growing up on the lake. He posed the question of how much of a problem use has been. The new rules will actually be a benefit to residents with less congestion. Lake use is mainly limited to the weekend.

b) Pat Dean: was going to provide more information from 2011 relating to the lake issue, but chose to forgo his permitted time as he deemed it unnecessary.

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c) Charlie Stockwell - Minneapolis Rowing Club - hosting 110th regatta on Lake Elmo. Working with Washington County and the City to coordinate the appropriate permits. Asked that Council approve the proposed resolution supporting the event. He thanked the Council and the City.

PRESENTATIONS - None

CONSENT AGENDA

2. Approve Payment of Disbursements and Payroll of \$175,945.88
3. Accept Financial Report dated April 30, 2013
4. Accept Building Permit Report dated April 30, 2013
5. Keats MSA Street and Trunk Watermain Improvements -Change Order No. 1.
6. Production Well No. 4 -Accept Bids and Award Contract; **Resolution 2013-39**
7. 2013 Seal Coat Project -Accept Bids and Award Contract; **Resolution 2013-40**
- ~~8. Easement Encroachment Agreement - 5090 Marquess Trail Court North~~
9. Approve Resolution supporting the 110th NWIRA Championship Regatta on Lake Elmo; **Resolution 2013-41**

Mayor Pearson pulled consent item 8 in order to abstain.

MOTION: Council Member Nelson moved TO APPROVE THE CONSENT AGENDA AS PRESENTED. Council Member Park seconded the motion. MOTION PASSED 5-0.

ITEM 8. EASEMENT ENCROACHMENT AGREEMENT - 5090 MARQUESS TRAIL COURT NORTH

MOTION: Council Member Smith moved TO APPROVE EASEMENT ENCROACHMENT AGREEMENT 5090 MARQUESS TRAIL COURT NORTH. Council Member Park seconded the motion. MOTION PASSED 4-0-1 (PEARSON ABSTAINED)

REGULAR AGENDA

ITEM 10: APPROVE MASSAGE THERAPY LICENSES

City Clerk Bell gave summary of the requirements for the City's issuance of massage licenses. A public hearing is required by city code. Staff waited to hold one public hearing after City Hall received license applications from all known therapists practicing in town.

Mayor Pearson opened the public hearing at 7:12:38 P.M. Mayor Pearson closed the public hearing at 7:12:54 P.M. There were no public comments.

MOTION: Council Member Smith moved TO APPROVE 2013 MASSAGE THERAPY LICENSES AS PRESENTED, PENDING APPROVAL BY THE WASHINGTON COUNTY SHERIFF. Council Member Park seconded the motion. MOTION PASSED 5-0.

ITEM 11: FEE SCHEDULE UPDATE; ORDINANCE 08-079

City Clerk Bell explained the reason for fee schedule update. The main changes were to reflect the restructuring recommended by Northland Securities. Staff also officially added the fee for returned checks. Some clarifying language was added to some of the fees. Some fees were split. The fee splitting and restructuring that was recommended at the related workshop was discussed.

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MOTION: Council Member Boyer moved TO ADOPT THE ATTACHED ORDINANCE 08-079, AN ORDINANCE AMENDING SCHEDULE OF MUNICIPAL FEES, AS PRESENTED HEREIN. Council Member Smith seconded the motion. MOTION PASSED 5-0.

ITEM 12: MUNICIPAL STATE AID SYSTEM -RESOLUTION REVOKING MUNICIPAL STATE AID STREETS AND RESOLUTION ESTABLISHING STATE AID STREETS; RESOLUTION 2013-42, RESOLUTION 2013-43

City Engineer Griffin explained cities with populations over 5000 become eligible for Municipal State Aid. Distributed to cities and counties for use in higher level roads with higher traffic. Old complicated formula to determine amount was based on mileage and needs. Will be removing some non-existing roads. 4.39 miles of roads. New formula is based entirely on average daily traffic. Adding some other roads 4.33 miles of roads.

Re-designating Hudson Boulevard from Inwood Ave. to Manning Ave. Resolution 2013- 42 revokes south frontage and village parkway, Kimberly (brand new). Resolution adding Hudson blvd, Laverne.

A discussion took place about re-designation of the funds and how the money can be used. Money can be collected and reallocated to a different project unless money has already been expended. Keats Ave. was given as an example where the City cannot reallocate those funds without having to give some back. Allocation is about \$300-\$400k/year. About 25% of that is put in to General Fund for general street repair. However, this is not enough to maintain all the high caliber roads. It was noted that we will still need to spend additional city funds for various projects.

MOTION: Council Member Smith moved TO APPROVE RESOLUTION NO. 2013-42, REVOKING MUNICIPAL STATE AID STREETS. Council Member Park seconded the motion. MOTION PASSED 5-0.

MOTION: Council Member Smith moved TO APPROVE RESOLUTION NO. 2013-43, ESTABLISHING MUNICIPAL STATE AID STREETS. Council Member Boyer seconded the motion. MOTION PASSED 5-0

ITEM 13: ARTICLE 7 - SPECIFIC DEVELOPMENT STANDARDS; ORDINANCE 08-080, RESOLUTION 2013-44

Development standards are throughout the entire code. Trying to enhance and clarify for public use and restriction standards. If there are not standards, it can cause confusion. In regards to the proposed standards for drive-through facilities and gas stations, there will still be some type of permit involved at a later stage to give city control. The Planning Commission did amend and approve the proposed ordinance.

Council Member Boyer asked how staff arrived at the numbers used. Planning Director Klatt said that some have come from the Planning Commission. Open space also very common and promotes livability. Group home number at six is a state standard. Mr. Boyer asked about properties currently not in compliance. Mr. Klatt stated that the ordinance is not retroactive. They would be grandfathered as a non-conforming use. Asked about potential changes with building

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Council Member Nelson asked about the 15 day parking. Mr. Klatt explained it is already in code. Technically it would not allow even customers. Mr. Nelson asked about storage being restricted from a main street. Mr. Klatt stated that it is more related to control and access issue. More to regulate street traffic as opposed to use.

Mr. Nelson asked about music? Mr. Klatt explained that because of the mixed use, if next to residential structure, must be noise compliant so that residential uses are not over-burdened. Enforcement and whether ordinance is too limited was discussed. Council Member Bloyer recalled his Grand Ave. experience and does not want to restrict it. It was pointed out that there is also a noise ordinance that will play into it. Staff noted that the purpose is to expand use.

Mr. Nelson asked about accessory uses. It was explained that the purpose was to regulate the situation where the principal use does not include general business. The example of an construction equipment rental facility also sells small related items such as tow straps.

Mr. Nelson asked about golf courses and why limited to collector road. What about Tartan Park? Staff noted that 20th Street is actually a minor collector road. There was a small discussion of what defined a street as a collector road.

Mr. Nelson asked about alley access. Mr. Klatt said that should actually be removed. It does not apply to mixed use.

Mr. Nelson asked about solar panels and height restrictions for adjacent properties. Mr. Klatt said he would have to check into it. There may be some state language that the proposal was based on. Council Member Smith noted that neighborhood associations can restrict the use of solar panels. Hers just did that recently. There was a discussion about how deed covenants can be more restrictive than the city code. Mr. Klatt stated that if additional amendments were needed, staff would come back at later date.

MOTION: Council Member Bloyer moved TO APPROVE ORDINANCE 08-080, ESTABLISHING SPECIFIC DEVELOPMENT STANDARDS FOR MULTIPLE USE CLASSIFICATIONS IN THE LAKE ELMO ZONING CODE AND AMENDING IT BY STRIKING "OFFICE-RESIDENCE DISTRICT" AND ALSO STRIKING §154.310(C)(2),(3), AND (4). Council Member Nelson seconded the motion. MOTION PASSED 5-0.

MOTION: Mayor Pearson moved TO APPROVE RESOLUTION NO. 2013-44, AUTHORIZING SUMMARY PUBLICATION OF ORDINANCE 08-080. Council Member Bloyer seconded the motion. MOTION PASSED 5-0.

ITEM 14: APPROVE RESOLUTION FORMALLY ADOPTING A REVISED MOU BETWEEN THE CITY AND THE METROPOLITAN COUNCIL; RESOLUTION 2013-45

Planning Director Klatt provided summary of the negotiations addressing the Memorandum of Understanding. This resolution is a memorializing of those agreements. It would afford some additional flexibility and move back time-frame. Metropolitan Council afforded five more years to complete work. Will go back and formally adopt changes to MOU. Another important item is that

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the Met Council agreed to not impose wastewater inefficiency fees. The parties are looking to extend the development to 2040 instead of 2030. This change takes pressure off city. Met Council is willing to continue to work with City. The Council congratulated staff for the accomplishment.

MOTION: Council Member Smith moved TO ADOPT RESOLUTION NO. 2013-45, AUTHORIZING EXECUTION OF A REVISED MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF LAKE ELMO AND THE METROPOLITAN COUNCIL. Council Member Bloyer seconded the motion. MOTION PASSED 5-0.

ITEM 15: COUNCIL RETREAT UPDATE

City Administrator Zuleger explained the revised proposed retreat agenda. Because there was such a positive response to the last workshop, this retreat will be similar to that format where the council is much more interactive and engaged. It was the consensus of the council that the newly proposed format was preferred.

There was a discussion of when the retreat would take place. It was determined that Council will look at the weekends (Friday evening and Saturday morning) of July 19/20 or 26/27 and see which worked best for everyone's schedules.

No Formal Council Action

ITEM 16: PLANNING COMMISSIONER APPOINTMENTS

Planning Director Klatt summarized the current status of the appointment process. Both proposed candidates were interviewed immediately preceding the previous council meeting. It was noted that because the full commission is not usually in attendance, the alternate members end up participating as voting members.

MOTION: Council Member Park moved TO APPOINT DEAN DODSON AS A REGULAR PLANNING COMMISSIONER AND DALE DORSCHNER AS AN ALTERNATE PLANNING COMMISSION MEMBER. Council Member Smith seconded the motion. MOTION PASSED 5-0.

SUMMARY REPORTS AND ANNOUNCEMENTS

Council Member Nelson – Reported working with the Firefighters Relief Association board. They board would like to attend a June workshop and then a July Council meeting.

Council Member Smith suggested that council look at an additional stipend for extra meetings. The high and increasing number of meetings is growing more demanding, especially for members with families. Stipends should also be considered for the Planning Commission members. Would like it addressed at next Council meeting.

Mayor Pearson reported attending Gateway Corridor meeting; firefighter appreciation brunch; meeting with staff and developer; library board meeting. Judy Gibson resigned. He thanked Judy Gibson for her work. There is now an open position on Library Board. Invited applicants to apply.

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Council Member Bloyer asked that staff suspend action on parks survey until brought back to Council as part of regular agenda. He would like the Council to discuss the survey.

City Administrator Zuleger explained status of the survey work. Staff and parks survey subcommittee has worked on staff survey. Staff expects to get at least 500 back. Expected savings are about \$10,000-\$15,000. Mr. Zuleger gave a summary of the survey and work thus far.

There was concern expressed about the statistical significance and random sample being absent with staff survey. Survey integrity and security aspects were discussed. There was also concern about neighborhoods "loading up" the results. There was discussion about how some parks have never been developed and what the process is to get that neighborhood a park.

Council Member Park thanked staff for all the meetings attended.

City Administrator Zuleger reported attending groundwater/PFC meeting with MPCA. There is a report from MN Dept. of Health indicating a spike on well #1. It is still within enforcement regulations; readying water ordinance to submit to MnDNR. They are currently reviewing electronic versions; have been in developer meetings; Thanked City Engineer Griffin for all his recent work. Many long hours; Mr. Zuleger noted it's his 15th month here. He thinks city is doing well in communications and citizen engagement. Making many code updates because the code was in such disrepair. Just to bring to normal baseline. Infrastructure repairs, equipment updating/modernizing. Structural repair process needs to continue.

Associate City Attorney Brekken no report.

Planning Director Klatt reported zoning updates coming. Christ church lot split; RAD2 guidance documents; Olson Lake Trail comp plan to Met Council. Village Comp Plan and the MAC airport safety zones. Discussions with MAC. One issue is legal challenges that have happened to airport zoning and the model ordinances city used. Trying to negotiate with union pacific - a new crossing will be allowed, but will have to close 2 other crossings; still reviewing Savona plat. EAW coming to Council in June.

City Engineer Griffin reported Hwy 36 meeting with SRF- MnDOT June 11 workshop with Council; Update with trunk highway 5. Moving ahead with dividing up phases. Working collaboratively. This summer- restriping and resurfacing. Being done later this summer due to activity. City will take lead in public outreach. Alyssa MacLeod and Nick Johnson are coordinating that. Project improvements were not enough to be eligible for SIMS funding. Instead Washington County is taking lead on looking at cooperative agreement and planning turn lanes. MnDOT will be putting in center refuge. The city will be responsible for the flashing beacon. Discussion of what is being pursued - one or two signal lights. Once the crosswalk goes in, there will be a need for the connecting sidewalk;

Rain gardens were discussed. Council Member Bloyer asked whose responsibility it is to maintain the rain gardens. Mr. Griffin noted that it is typically the property owner, but issues can provide some shifting of the burden.

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Finance Director Bendel reported enhancing CIP reports in preparation for the 5/28 workshop; dealing with some auditor transition issues.

City Clerk Bell No report.

Meeting adjourned at 8:43 P.M.

LAKE ELMO CITY COUNCIL

ATTEST:

Mike Pearson, Mayor

Adam R. Bell, City Clerk



MAYOR AND COUNCIL COMMUNICATION

DATE: 6/04/2013

CONSENT

ITEM #: 3

AGENDA ITEM: Approve Disbursements in the Amount of \$128,369.43

SUBMITTED BY: Cathy Bendel, Finance Director

REVIEWED BY: Dean Zuleger, City Administrator

SUMMARY AND ACTION REQUESTED: As part of its Consent Agenda, the City Council is asked to approve disbursements in the amount of \$128,369.43. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

BACKGROUND INFORMATION: The City of Lake Elmo has fiduciary authority and responsibility to conduct normal business operation. Below is a summary of current claims to be disbursed and paid in accordance with State law and City policies and procedures.

Claim #	Amount	Description
ACH	\$ 9,821.33	Payroll Taxes to IRS & MN Dept of Revenue 5/30/13
ACH	\$ 5,523.94	Payroll Retirement to PERA 5/30/13
DD4642- DD4668	\$ 26,984.71	Payroll Dated (Direct Deposits) 5/30/13
ACH	\$ 2,173.31	Payroll Taxes to IRS & MN (City Council) 5/30/13
39923-39927	\$ 11,654.35	Payroll Dated (City Council) 5/30/13
1975-1987	\$ 780.00	Library Card Reimbursements 6/04/2013
39928-39962	\$ 71,431.79	Accounts Payable 6/4/2013
TOTAL	\$ 128,369.43	

STAFF REPORT: City staff has complied and reviewed the attached set of claims. All appears to be in order and consistent with City budgetary and fiscal policies and Council direction.

RECOMMENDATION: It is recommended that the City Council approve as part of the Consent Agenda proposed disbursements in the amount of \$128,369.43

Alternatively, the City Council does have the authority to remove this item from the Consent Agenda or a particular claim from this item and further discuss and deliberate prior to taking action. If done so, the appropriate action of the Council following such discussion would be:

**“Move to approve the June 04, 2013, Disbursements as
Presented *[and modified]* herein.”**

ATTACHMENTS:

1. Accounts Payable Dated 6/4/2013

SUGGESTED ORDER OF BUSINESS *(if removed from the Consent Agenda):*

- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates

Accounts Payable To Be Paid Proof List

User: denise
 Printed: 05/30/2013 - 12:00 PM
 Batch: 012-05-2013

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
ABRAHAMSON Nurseries										
25659	05/09/2013	154.23	0.00	06/04/2013	Arbor Day Trees		-			0000
101-450-5200-42250 Landscaping Materials										
25659 Total: 154.23										
ABRAHAMSON Total: 154.23										
ACEHARD Ace Hardware, Inc										
137178	05/28/2013	10.64	0.00	06/04/2013	Pesticide Measure Containers		-			0000
101-450-5200-42250 Landscaping Materials										
137178 Total: 10.64										
ACEHARD Total: 10.64										
AMDAHL Amdahl Chris										
9714	05/05/2013	22.50	0.00	06/04/2013	3 Keys for City Hall		-			0000
101-410-1320-44300 Miscellaneous										
9714 Total: 22.50										
AMDAHL Total: 22.50										
BERTELSON Bertelson's										
WO-854089-1	05/15/2013	33.44	0.00	06/04/2013	Admin - 2 D-ring Binder & return credit		-			0000
101-410-1320-42000 Office Supplies										
WO-854089-1 Total: 33.44										
WO-155335-1	05/21/2013	101.96	0.00	06/04/2013	Office Supplies - Administration		-			0000
101-410-1320-42000 Office Supplies										
WO-155335-1 Total: 101.96										
BERTELSON Total: 135.40										
CENTURYL CenturyLink										
5/19/2013	05/19/2013	120.03	0.00	06/04/2013	Phone Service - Library		-			0000
206-450-5300-43210 Telephone										

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POL	Line #
5/19/2013	05/19/2013	35.95	0.00	06/04/2013	Internet Service - Library		-			No	0000
206-450-5300-43250	Internet										
	5/19/2013 Total:	155.98									
	CENTURYL Total:	155.98									
CTYOAKDA City of Oakdale											
201305233688	05/23/2013	29.00	0.00	06/04/2013	CV 1- Oil Change		-			No	0000
101-420-2220-44040	Repairs/Maint Eqpt										
	201305233688 Total:	29.00									
201305233689	05/23/2013	29.00	0.00	06/04/2013	CV 2- Oil Change		-			No	0000
101-420-2220-44040	Repairs/Maint Eqpt										
	201305233689 Total:	29.00									
	CTYOAKDA Total:	58.00									
CTYROSEV City of Roseville											
217444	05/13/2013	100.00	0.00	06/04/2013	Online Laserfiche Train Registr		-			No	0000
101-410-1320-44370	Conferences & Training				Bell						
	217444 Total:	100.00									
	CTYROSEV Total:	100.00									
CUSTOMON Custom One Homes											
05232013	05/23/2013	5,000.00	0.00	06/04/2013	Refund of Escrow 11751 58th Street		-			No	0000
803-000-0000-22900	Deposits Payable										
	05232013 Total:	5,000.00									
	CUSTOMON Total:	5,000.00									
DELTA Delta Dental Of Mimosota											
5113713	05/15/2013	1,535.70	0.00	06/04/2013	June 2013 Dental Coverage		-			No	0000
101-000-0000-21706	Medical Insurance										
	5113713 Total:	1,535.70									
	DELTA Total:	1,535.70									
FDSOA FDSOA											
REF 18546	05/14/2013	85.00	0.00	06/04/2013	Membership Renewel-Fire Dept Safety		-			No	0000
101-420-2220-44330	Dues & Subscriptions				Assn						
	REF 18546 Total:	85.00									
	FDSOA Total:	85.00									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close PO Line #
FERGUSON Ferguson Waterworks, Inc #2516										
20603	05/13/2013	126.17	0.00	06/04/2013	Curb Stop Wrenches		-	No		0000
601-494-9400-42400	Small Tools & Minor Equipment									
	20603 Total:	126.17								
	FERGUSON Total:	126.17								
FIORILLO Fiorillo Megan										
Cable Operator	05/14/2013	34.38	0.00	06/04/2013	Cable Operation-5/13/13 CC		-	No		0000
101-410-1450-43620	Cable Operations				Workshop 2.5h					
	Cable Operator Total:	34.38								
	FIORILLO Total:	34.38								
FOCUS Focus Engineering, Inc.										
611-612	05/25/2013	2,310.26	0.00	06/04/2013	General Engineering		-	No		0000
101-410-1930-43030	Engineering Services									
611-612	05/25/2013	457.00	0.00	06/04/2013	Planning - General Engineering		-	No		0000
101-410-1910-43030	Engineering Services									
	611-612 Total:	2,767.26								
613	05/25/2013	855.00	0.00	06/04/2013	Building - General Engineering VRA		-	No		0000
101-420-2400-43030	Engineering									
613	05/25/2013	652.00	0.00	06/04/2013	Planning - General Engineering VRA		-	No		0000
101-410-1910-43030	Engineering Services									
613	05/25/2013	794.50	0.00	06/04/2013	PW- General Engineering VRA		-	No		0000
101-430-3100-43030	Engineering Services									
613	05/25/2013	156.00	0.00	06/04/2013	Water- General Engineering VRA		-	No		0000
601-494-9400-43030	Engineering Services									
613	05/25/2013	864.00	0.00	06/04/2013	Sewer- General Engineering VRA		-	No		0000
602-495-9450-43030	Engineering Services									
613	05/25/2013	259.00	0.00	06/04/2013	Surface Water- General Engineering VRA		-	No		0000
603-496-9500-43030	Engineering Services									
	613 Total:	3,580.50								
614	05/25/2013	538.62	0.00	06/04/2013	Transportation & Traffic Systems		-	No		0000
409-480-8000-43030	Engineering Services									
614	05/25/2013	344.28	0.00	06/04/2013	Street Maintenance		-	No		0000
409-480-8000-43030	Engineering Services									
614	05/25/2013	899.50	0.00	06/04/2013	Municipal Aid System		-	No		0000
409-480-8000-43030	Engineering Services									
614	05/25/2013	6,308.50	0.00	06/04/2013	Capital Improvement Planning		-	No		0000
409-480-8000-43030	Engineering Services									
614	05/25/2013	642.50	0.00	06/04/2013	2013 Seal Coat Project		-	No		0000
409-480-8000-43030	Engineering Services									
614	05/25/2013	265.50	0.00	06/04/2013	Trunk Highway 36 Corridor Planning		-	No		0000
409-480-8000-43030	Engineering Services									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
614	05/25/2013	177.00	0.00	06/04/2013	MNDOT Hilton Trail Exchange		-	No		0000
409-480-8000-43030	Engineering Services									
614	05/25/2013	265.50	0.00	06/04/2013	State Hwy 5 Traffic Mgmt & Safety Improv		-	No		0000
409-480-8000-43030	Engineering Services									
615	05/25/2013	9,441.40	0.00	06/04/2013	Sanctuary		-	No		0000
409-480-8000-43030	Engineering Services									
616	05/25/2013	45.00	0.00	06/04/2013	Lake Elmo Area Village Eng Support		-	No		0000
413-480-8000-43030	Engineering Services									
617	05/25/2013	1,135.50	0.00	06/04/2013	10th Street Infrastructure Planning		-	No		0000
420-480-8000-43030	Engineering Services									
618	05/25/2013	2,894.50	0.00	06/04/2013	Demontreville Highlands Area Street Impr		-	No		0000
419-480-8000-43030	Engineering Services									
619	05/25/2013	514.65	0.00	06/04/2013	Olson Lake Trail Sewer Extension Feasibi		-	No		0000
409-480-8000-43030	Engineering Services									
620	05/25/2013	1,080.56	0.00	06/04/2013	Inwood Ave Trunk Watermain		-	No		0000
601-494-9400-43030	Engineering Services									
621	05/25/2013	324.50	0.00	06/04/2013	Keats Ave Watermain 43%		-	No		0000
601-494-9400-43030	Engineering Services									
621	05/25/2013	5,414.32	0.00	06/04/2013	Keats Ave Street 57%		-	No		0000
409-480-8000-43030	Engineering Services									
622	05/25/2013	7,177.10	0.00	06/04/2013	Lennar I-94 West Corridor		-	No		0000
203-490-9070-43030	Engineering Services									
623	05/25/2013	12,591.42	0.00	06/04/2013	LE Ave Infrastructure 194 to 30th Street		-	No		0000
409-480-8000-43030	Engineering Services									
624	05/25/2013	685.21	0.00	06/04/2013	Water System funding Activities (Decds)		-	No		0000
409-480-8000-43030	Engineering Services									
625	05/25/2013	2,198.12	0.00	06/04/2013	Production Well Number 4		-	No		0000
601-494-9400-43030	Engineering Services									
626	05/25/2013	278.00	0.00	06/04/2013	Section 34 Water 40%		-	No		0000
601-494-9400-43030	Engineering Services									
626	05/25/2013	1,003.50	0.00	06/04/2013	Section 34 Sewer Extension 60%		-	No		0000
602-495-9450-43030	Engineering Services									
626	05/25/2013	1,946.98	0.00	06/04/2013			-	No		0000
602-495-9450-43030	Engineering Services									
626	05/25/2013	2,920.47	0.00	06/04/2013			-	No		0000
602-495-9450-43030	Engineering Services									
626	05/25/2013	4,867.45	0.00	06/04/2013			-	No		0000
602-495-9450-43030	Engineering Services									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
627	05/25/2013	118.00	0.00	06/04/2013	Water System Design Phasing Study		-			0000
601-494-9400-43030	Engineering Services									No
	627 Total:	118.00								
	FOCUS Total:	43,525.57								
<hr/>										
FXL FXL, Inc.										
June 2013	06/01/2013	2,000.00	0.00	06/04/2013	Assessment Services - June 2013		-			0000
101-410-1320-43100	Assessing Services									No
	June 2013 Total:	2,000.00								
	FXL Total:	2,000.00								
<hr/>										
HOLIDAYC Holiday Credit Office										
05/15/13	05/15/2013	388.97	0.00	06/04/2013	Fuel-Fire Department		-			0000
101-420-2220-42120	Fuel, Oil and Fluids									No
	05/15/13 Total:	388.97								
	HOLIDAYC Total:	388.97								
<hr/>										
LANDTITL Land Title Inc										
399458	05/21/2013	75.00	0.00	06/04/2013	Property Reports Reco Real Estate		-			0000
602-000-0000-16600	Infrastructure									No
	399458 Total:	75.00								
399459	05/21/2013	75.00	0.00	06/04/2013	Property Reports Tammy Diedrich		-			0000
602-000-0000-16600	Infrastructure									No
	399459 Total:	75.00								
399461	05/21/2013	75.00	0.00	06/04/2013	Property Reports Reco Real Estate		-			0000
602-000-0000-16600	Infrastructure									No
	399461 Total:	75.00								
399462	05/21/2013	75.00	0.00	06/04/2013	Property Reports Reco Real Estate		-			0000
602-000-0000-16600	Infrastructure									No
	399462 Total:	75.00								
	LANDTITL Total:	300.00								
<hr/>										
LINNER Linner Electric Company, Inc.										
230008	05/15/2013	472.55	0.00	06/04/2013	Lions & Pebble Tennis CT Light Repairs		-			0000
101-450-5200-44030	Repairs/Maint Imp Not Bldgs									No
	230008 Total:	472.55								
	LINNER Total:	472.55								
<hr/>										
LTG PWR L.T.G. Power Equipment										
165673	05/29/2013	264.42	0.00	06/04/2013	Toro Blades		-			0000
101-450-5200-44040	Repairs/Maint Eqpt									No

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close PO Line #
	165673 Total:	264.42								
	LIG PWR Total:	264.42								
McPhillli Mike McPhilllips Inc										
41440	05/17/2013	10,140.63	0.00	06/04/2013	Street Sweeping surface water protection		-	No		0000
603-496-9500-44010	Street Sweeping	10,140.63								
	41440 Total:	10,140.63								
	McPhillli Total:	10,140.63								
NCPERS 566200-NCPERS Minnesota										
5662613	06/01/2013	144.00	0.00	06/04/2013	June 2013 Deductions		-	No		0000
101-000-0000-21708	Other Benefits	144.00								
	5662613 Total:	144.00								
	NCPERS Total:	144.00								
NEXTEL Nextel Communications										
761950227-122	05/18/2013	113.99	0.00	06/04/2013	Cell Phone Services-Administration		-	No		0000
101-410-1940-43210	Telephone	223.12								
761950227-122	05/18/2013	44.67	0.00	06/04/2013	Cell Phone Services-Fire Dept		-	No		0000
101-420-2220-43210	Telephone	31.33								
761950227-122	05/18/2013	93.66	0.00	06/04/2013	Cell Phone Services-Building Dept		-	No		0000
101-420-2400-43210	Telephone	57.63								
761950227-122	05/18/2013	16.33	0.00	06/04/2013	Cell Phone Services-Public Works Dept		-	No		0000
101-430-3100-43210	Telephone	580.73								
761950227-122	05/18/2013	580.73	0.00	06/04/2013	Cell Phone Services-Parks Dept		-	No		0000
101-450-5200-43210	Telephone									
761950227-122	05/18/2013		0.00	06/04/2013	Cell Phone Services-Taxpayer Services		-	No		0000
101-410-1450-43210	Telephone									
761950227-122	05/18/2013		0.00	06/04/2013	Cell Phone Services-Planning Dept		-	No		0000
101-410-1910-43210	Telephone	580.73								
	761950227-122 Total:	580.73								
	NEXTEL Total:	580.73								
REEDKATR Reed Katrina										
05302013	05/31/2013	384.00	0.00	06/04/2013	Final Reimbursement of HSA-Daycare		-	No		0000
101-000-0000-21710	Health HSA	384.00								
	05302013 Total:	384.00								
	REEDKATR Total:	384.00								

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
RENLUNDT Replund Terry										
05/20/2013	05/22/2013	24.86	0.00	06/04/2013	Mileage-Building Dept-Relund T		-	No		0000
101-420-2400-43310	Mileage									
05/20/2013	05/22/2013	405.00	0.00	06/04/2013	Hourly Rate - Relund T		-	No		0000
101-420-2400-43150	Inspector Contract Services									
	05/20/2013 Total:	429.86								
	RENLUNDT Total:	429.86								
S&T S&T Office Products, Inc.										
01PU3559-2572	05/15/2013	237.80	0.00	06/04/2013	Office Supplies - Administration		-	No		0000
101-410-1320-42000	Office Supplies									
01PU3559-2572	05/15/2013	44.09	0.00	06/04/2013	Office Supplies -Planning		-	No		0000
101-410-1910-42000	Office Supplies									
01PU3559-2572	05/15/2013	9.15	0.00	06/04/2013	Office Supplies -Building		-	No		0000
101-420-2400-42000	Office Supplies									
	01PU3559-2572 Total:	291.04								
	S&T Total:	291.04								
SAMSLUB Sam's Club										
05/21/2013	05/21/2013	42.38	0.00	06/04/2013	Misc Station Supplies		-	No		0000
101-420-2220-42000	Office Supplies									
05/21/2013	05/21/2013	48.94	0.00	06/04/2013	City Hall "Speak Your Peace"		-	No		0000
101-410-1450-43510	Public Notices									
	05/21/2013 Total:	91.32								
	SAMSLUB Total:	91.32								
TASCH T. A. Schifsky & Sons Inc										
54810	05/15/2013	1,213.22	0.00	06/04/2013	Asphalt		-	No		0000
101-430-3120-42240	Street Maintenance Materials									
	54810 Total:	1,213.22								
	TASCH Total:	1,213.22								
TESSMAN Tessman Company Corp										
S175675-IN	05/20/2013	471.88	0.00	06/04/2013	Seed/Fertilizer/Blanket		-	No		0000
101-450-5200-42160	Chemicals									
	S175675-IN Total:	471.88								
	TESSMAN Total:	471.88								
VANGADOR Vang Adora										
CABLE OPERATOR05/21/2013		55.00	0.00	06/04/2013	Cable Operations-5/21/13 PC Meeting		-	No		0000
101-410-1450-43620	Cable Operations				4hrs					

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close PO Line #
CABLE OPERATOR Total:		55.00								
VANGADOR Total:		55.00								
<hr/>										
WAS-PH Washington County		37.95	0.00	06/04/2013	Flourescent Bulb Disposal		-		No	0000
05/23/2013	05/23/2013									
101-420-2220-44010	Repairs/Maint Bldg									
	05/23/2013 Total:	37.95								
	WAS-PH Total:	37.95								
<hr/>										
WAS-TRAN Washington County		154.98	0.00	06/04/2013	Winter Sign Installation		-		No	0000
75548	05/16/2013									
101-430-3120-42260	Sign Repair Materials	154.98								
	75548 Total:	154.98								
	WAS-TRAN Total:	154.98								
<hr/>										
WASHTAX Washington County		940.00	0.00	06/04/2013	2013 Accuvote & Automark Mnt Fee		-		No	0000
75274	05/03/2013									
101-410-1410-44300	Miscellaneous	940.00								
	75274 Total:	940.00								
	WASHTAX Total:	940.00								
<hr/>										
WESTCENT WCEC		1,500.00	0.00	06/04/2013	Refund of Escrow Job 7855		-		No	0000
05/23/2013	05/23/2013									
101-000-0000-32250	Utility Permits	1,500.00								
	05/23/2013 Total:	1,500.00								
	WESTCENT Total:	1,500.00								
<hr/>										
WSD WS&D Permit Service Inc		114.33	0.00	06/04/2013	Refund Cancelled Building Permit		-		No	0000
05/22/2013	05/22/2013									
101-000-0000-32210	Building Permits	114.33								
	05/22/2013 Total:	114.33								
	WSD Total:	114.33								
<hr/>										
ZACK Zack's, Inc.		41.88	0.00	06/04/2013	Marking Paint		-		No	0000
28677	05/21/2013									
601-494-9400-42270	Utility System Maintenance	382.39								
28677	05/21/2013									
101-450-5200-42150	Shop Materials	57.98								
28677	05/21/2013									
101-430-3100-42400	Small Tools & Minor Equipment									

Invoice #	Inv Date	Amount	Quantity	Pmt Date	Description	Reference	Task	Type	PO #	Close POLine #
		482.25								
		482.25								
ZACK Total:										
ZULEGER Zuleger Dean										
0523-05242013	05/29/2013	31.09	0.00	06/04/2013	Reimbursement Mileage - D Zuleger					No 0000
101-410-1320-43310	Mileage									
	0523-05242013 Total:	31.09								
	ZULEGER Total:	31.09								
	Report Total:	71,431.79								

MAYOR AND COUNCIL COMMUNICATION

DATE: 6/04/2013
CONSENT
ITEM #: 4

AGENDA ITEM: Skid Steer Trade/Upgrade
SUBMITTED BY: Mike Bouthilet
THROUGH: Dean Zuleger
REVIEWED BY: Cathy Bendel

SUGGESTED ORDER OF BUSINESS: *(if removed from consent)*

- Introduction of Item Staff
- Report/Presentation..... Staff
- Questions from Council to Staff Mayor Facilitates
- Public Input, if Appropriate Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates

SUMMARY AND ACTION REQUESTED:

It is respectfully requested the City Council, as part of the *Consent Agenda*, consider authorizing the trade in and upgrade of the 2008 skid steer. **As part of the Consent Agenda, no specific motion required.**

BACKGROUND AND STAFF REPORT:

The skid steer was on an annual municipal trade-in program for 10 years through the Bob Cat Corporation. In 2009 the program was suspended and we utilized the 2008 skid until the present. This is a rubber tire unit, with rubber tracks installed over the tires. The Goodyear tracks and tires are no longer available. The substitute track/tire system available for our current machine costs \$5,000.00

A use evaluation determined a significantly higher need in a track required environment over the tire only utilization. Tracks are preferred in ditches, roadsides, landscaping, storm water repairs, and parks. Tire preference is primarily on a road surface. A dedicated track machine also significantly upgrades the operational performance of the unit. The machine upgrade also increases HP, Torque, Breakout Force and Lift.

Funds for the trade-in would be allocated jointly through the street, parks, storm water enterprise, water enterprise, and waste water enterprise budgets.

RECOMMENDATION:

Staff recommends the City Council authorize the trade-in and upgrade of the 2008 skid steer to a 2013 T 590 Bobcat Compact Track Loader for \$21,182.50

ATTACHMENT(S):

1. *Product Quotation*



Product Quotation

Quotation Number: 18284D018340

Date: 2013-05-23 12:10:59

Ship to	Dealer	Bill To
City of Lake Elmo 3800 Laverne Ave N Lake Elmo, MN 55042 Phone: (651) 770-2537 Fax: (651) 777-6530	Tri-State Bobcat, Inc. 3101 Spruce St. Little Canada MN 55117 Phone: (651) 407-3727 Fax: (651) 217-5770	City of Lake Elmo 3800 Laverne Ave N Lake Elmo, MN 55042 Phone: (651) 770-2537 Fax: (651) 777-6530
----- Contact: Patrick Schoen Phone: 651-407-3727 Fax: 651-217-5770 Cellular: 612-356-8890 E Mail: patricks@tristatebobcat.com		

Description	Part No	Qty	Price Ea.	Total
T590 Bobcat Compact Track Loader	M0063	1	\$31,946.00	\$31,946.00
A91 Option Package	M0063-P01-A91	1	\$4,591.30	\$4,591.30
Air Ride Seat	M0063-R05-C11	1	\$209.30	\$209.30
16" Rubber Track, with Roller Suspension	M0063-R09-C04	1	\$2,035.60	\$2,035.60
74" Low Profile Bucket	6731421	1	\$792.68	\$792.68
--- Bolt-On Cutting Edge, 74"	6718007	1	\$245.00	\$245.00
Total of Items Quoted				\$39,819.88
Trade-in	2008 Bobcat S185 s/n 530360776 - 667 hrs - A91, Goodyear Rubber Tracks, 74" LP Bucket w/edge			(\$20,000.00)
Sales total before Taxes and Trades				\$19,819.88
Taxes:	State of Minnesota			\$1,362.62
Quote Total - US dollars				\$21,182.50

Notes:

All prices subject to change without prior notice or obligation. This price quote supersedes all preceding price quotes. Customer must exercise his purchase option within 30 days from quote date.

Customer Acceptance:

Purchase Order: _____

Authorized Signature:

Print: _____ Sign: _____ Date: _____



MAYOR AND COUNCIL COMMUNICATION

DATE: 6/04/2013

CONSENT

ITEM #: 5

AGENDA ITEM: Christ Lutheran Church Minor Subdivision – 3549 Lake Elmo Avenue

SUBMITTED BY: Kyle Klatt, Director of Planning

THROUGH: Dean Zuleger, City Administrator

REVIEWED BY: Planning Commission
Nick Johnson, City Planner

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item.....Staff
- Report/Presentation..... Staff
- Questions from Council to Staff..... Mayor Facilitates
- Public Input, if Appropriate..... Mayor Facilitates
- Call for Motion..... Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

PUBLIC POLICY STATEMENT

A Minor Subdivision is allowed as an exception to the City’s platting requirements in instances when a division of land results in no more than four parcels.

SUMMARY AND ACTION REQUESTED:

The City Council is being asked to consider a request from Christ Lutheran Church, 11194 36th Street North, for a Minor Subdivision to split off a portion of the parking lot associated with the former Lake Elmo Bank property at 3549 Lake Elmo Avenue North. The split is intended to allow the church to retain ownership of the majority of the parking lot on this site while selling the building to another party along with a small portion of the parking area next to the building. The City has previously granted a variance to allow the split, which was necessary because the parcels to be created are smaller than the minimum lot size allowed in a GB General Business District. The Planning Commission is recommending that the City Council approve the Minor Subdivision request and take the following action / with the following motion (should this item be removed from the consent agenda):

“Move to adopt Resolution No. 2013-46 approving a Minor Subdivision to allow the division of a parcel at 3549 Lake Elmo Avenue into two lots”

BACKGROUND AND STAFF REPORT:

Christ Lutheran Church acquired the former Lake Elmo Bank property sometime after the bank relocated along State Highway 5, and has previously leased out office space within the building while using the parking lot for people attending church events. This arrangement has worked out fairly well over the past several years because the peak parking demand associated with the office use falls outside of the church’s

peak parking periods on nights and weekends. The St. Croix Sensory business was in the building for several years, but has since relocated recently leaving the building vacant.

The applicant has been in discussions with potential buyers for the property, and at least one interested party has indicated that they will not need all of the parking on the site for their business. As a result, the Church would like to retain ownership of a majority of the parking lot if it does sell the building, which would allow them to retain control of the parking lot as an accessory to their main facility. The Church recently undertook a renovation of the parking lot at 3549 Lake Elmo Avenue North by resurfacing the entire lot and adding a new storm water infiltration feature in the middle of the property. The proposed lot split would keep the rain garden areas under the control of the Church.

The parcels to be created by the minor subdivision would be 0.42 acres (identified as Tract A on the attached survey including the building plus the smaller parking area) and 0.27 acres (identified as Tract B including parking and a rain garden). The minimum lot size within the City's GB district is 1.5 acres; however, the variance previously granted by the City will allow the minor subdivision to move forward. In fact, the City Council must consider the lot sizes noted above as compliant with the Zoning Ordinance because of the variance approval. In all other aspects of the request, the applicant meets the City's review and submittal requirements. Staff has attached Resolution No. 2013-07, approving the lot size variance, for consideration by the Council.

As part of the variance approval, the applicant is required to provide a shared parking easement over the entire parking area that would be reciprocal for both parcels. This means that the future building tenant would be able to use the Church's parking area on "Tract B" and the Church would be able to use the parking in front of the building on "Tract A". This is essentially how the parking area has been used in the past when the Church leased the building to the St. Croix Sensory business.

A shared parking easement has since been drafted by the Church and is attached to this memorandum for review by the Council. Although the easement as drafted does give the Church full usage of the parking areas during church events, this language should not be problematic for a commercial/office user since the Church's peak parking demands occur on weekends and weekday evenings.

The variance approval also requires that the applicant provide a drainage easement over the infiltration area since this area collects storm water from both of the parcels to be created by the minor subdivision. This easement is also attached for consideration.

Because both easements are not necessary until the minor subdivision is recorded with the County, Staff is recommending that the recording of the easements be included as a condition of approval. This will allow the Church to record the easements either at the same time or immediately after the property transaction has occurred.

A minor subdivision must be reviewed by the Planning Commission with final approval by the City Council. There is no public hearing required for this type of request.

PLANNING COMMISSION REPORT:

The Planning Commission reviewed the proposed Minor Subdivision at its meeting on May 29, 2013. The Commission unanimously recommended approved of the request as submitted and found that the lot split met all applicable City Code requirements and that it was consistent with the variance previously approved for the property.

The Planning Commission recommendation did include two conditions of approval as follows:

- 1) The Applicant shall execute and record a shared parking easement in a form acceptable the City Attorney prior to the transfer of either "Tract A" or "Tract B" to another party. This easement shall allow any future tenants of the building on Tract A to use the parking lot on Tract B during time periods when this lot is not used by the Applicant. The agreement shall be drafted to be reciprocal regarding the use of the parking stalls that will be retained by the future owners of Tract A.
- 2) The Applicant shall execute and record a drainage and utility easement across the storm water infiltration area in a form acceptable the City Attorney prior to the transfer of either "Tract A" or "Tract B" to another party.

RECOMMENDATION:

Based upon the above background information, Staff report and Planning Commission recommendation, it is recommended that the City Council approve the Minor Subdivision request by Christ Lutheran Church to split the parcel of land at 3549 Lake Elmo Avenue North into two new lots in accordance with the attached survey with the following motion (should this item be removed from the consent agenda):

"Move to adopt Resolution No. 2013-46 approving a Minor Subdivision to allow the division of a parcel at 3549 Lake Elmo Avenue into two lots"

ATTACHMENT(S):

1. Resolution No. 2013-46
2. Application Form
3. Application Narrative
4. Location Map
5. Certificate of Survey for Minor Subdivision
6. Proposed Drainage and Utility Easement
7. Proposed Shared Parking Easement
8. Resolution No. 2013-07 (Approving Lot Size Variance)

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

RESOLUTION NO. 2013-46

*A RESOLUTION APPROVING A MINOR SUBDIVISION FOR
CHRIST LUTHERAN CHURCH – 3549 LAKE ELMO AVE*

WHEREAS, the City of Lake Elmo is a municipal corporation organized and existing under the laws of the State of Minnesota; and

WHEREAS, Christ Lutheran Church, 11194 36th Street North (Applicant) has submitted an application to the City of Lake Elmo (City) for a Minor Subdivision to split an existing parcel located at 3549 Lake Elmo Avenue (PID 13.029.21.23.0053) into two separate parcels in accordance with the certificate of survey dated November 20, 2012 signed by Michael Cannon, License #40035, a copy of which is on file in the City of Lake Elmo Planning and Zoning Department; and

WHEREAS, the Lake Elmo Planning Department has reviewed the Minor Subdivision request for consistency with the City of Lake Elmo Zoning and Subdivision Ordinances; and

WHEREAS, the Lake Elmo Board of Adjustments and Appeals approved a variance request by the applicant to create two lots that do not meet the minimum lot size and minimum street frontage requirements of the Lake Elmo Zoning Ordinance on February 5, 2013; and

WHEREAS, the Lake Elmo Planning Commission reviewed the proposed Minor Subdivision at a meeting held on May 29, 2013; and

WHEREAS, the Lake Elmo Planning Commission has submitted its report and recommendation concerning the Minor Subdivision as part of a memorandum to the City Council from Planning Director Kyle Klatt for the June 4, 2013 Council Meeting; and

WHEREAS, the City Council reviewed the Applicant's Minor Subdivision request at a meeting held on June 4, 2013.

NOW, THEREFORE BE IT RESOLVED, that based on the testimony elicited and information received, the City Council of the City of Lake Elmo hereby approves the request by Christ Lutheran Church for a Minor Subdivision, provided the following conditions are met:

1. The Applicant shall execute and record a shared parking easement in a form acceptable the City Attorney prior to the transfer of either "Tract A" or "Tract B" to another party. This easement shall allow any future tenants of the building on Tract A to use the parking

lot on Tract B during time periods when this lot is not used by the Applicant. The agreement shall be drafted to be reciprocal regarding the use of the parking stalls that will be retained by the future owners of Tract A.

2. The Applicant shall execute and record a drainage and utility easement across the storm water infiltration area in a form acceptable the City Attorney prior to the transfer of either "Tract A" or "Tract B" to another party.

Passed and duly adopted this 4th day of June 2013 by the City Council of the City of Lake Elmo, Minnesota.

Mike Pearson, Mayor

ATTEST:

Adam Bell, City Clerk

Fee \$ _____

City of Lake Elmo DEVELOPMENT APPLICATION FORM

- Comprehensive Plan Amendment
- Zoning District Amendment
- Text Amendment
- Flood Plain C.U.P. Conditional Use Permit
- Conditional Use Permit (C.U.P.)
- Variance * (See below)
- Minor Subdivision
- Lot Line Adjustment
- Residential Subdivision Sketch/Concept Plan
- Site & Building Plan Review
- Residential Subdivision Preliminary/Final Plat
 - 01 - 10 Lots
 - 11 - 20 Lots
 - 21 Lots or More
- Excavating & Grading Permit
- Appeal
- PUD

APPLICANT: Christ Lutheran Church P.O. Box 310 Lake Elmo, MN 55042
(Name) (Mailing Address) (Zip)

TELEPHONES: 651-777-2881
(Home) (Work) (Mobile) (Fax)

FEE OWNER: same as above
(Name) (Mailing Address) (Zip)

TELEPHONES: " "
(Home) (Work) (Mobile) (Fax)

PROPERTY LOCATION (Address and Complete (Long) Legal Description):
3549 Lake Elmo Ave N., Lake Elmo
Lots 29 and 30, County Auditors Plat No. 8

DETAILED REASON FOR REQUEST: See attached letter

*VARIANCE REQUESTS: As outlined in Section 301.060 C. of the Lake Elmo Municipal Code, the Applicant must demonstrate a hardship before a variance can be granted. The hardship related to this application is as follows:

In signing this application, I hereby acknowledge that I have read and fully understand the applicable provisions of the Zoning and Subdivision Ordinances and current administrative procedures. I further acknowledge the fee explanation as outlined in the application procedures and hereby agree to pay all statements received from the City pertaining to additional application expense.

Jan Kelly 4/23/13
Signature of Applicant Date

Signature of Applicant Date



11194 36th Street North * Lake Elmo, MN 55042
Phone: 651/777-2881 * Fax:651/748-0145
Mailing: P.O. Box 310, Lake Elmo, MN 55042

April 23, 2013

Mr. Kyle Klatt
City of Lake Elmo Planner
3800 Laverne Avenue North
Lake Elmo, MN 55042

RE: Lot Line Adjustment, 3549 Lake Elmo Avenue North

Dear Mr. Klatt:

As has been discussed in meetings, phone conversations and by e-mail, Christ Lutheran Church (CLC) of Lake Elmo currently owns the property at 3549 Lake Elmo Avenue. The property currently consists of two parcels, Parcel 1: a 4,684 square foot single story building and associated 12 stall parking lot and access lanes; and Parcel 2: a 26 stall parking lot and rain garden area. CLC currently utilizes Parcel 1 for church office, meeting, and storage space, and Parcel 2 for weekend and event parking. The current legal description of the property is:

- Parcel 1: The South 40 feet of Lot 29 and all of Lot 30, County Auditor's Plat No. 8, as surveyed and platted and now on file in the Office of the Registrar of Titles of Washington County, Minnesota, being in the Village of Lake Elmo, Minnesota. Registered Property Certificate of Title No. 58428.
- Parcel 2: Lot 29 except the south 40 feet thereof, County Auditor's Plat No. 8, Washington County, Minnesota.
- The Parcel ID No. is 130-29-21-23-0053.

The entire property is currently zoned General Business and has been for sale or lease since being vacated by our previous tenant in August 2011. CLC was granted tax exempt status for the property by Washington County in August 2012.

In November 2012 CLC requested a variance to City Ordinance 154.051 regarding lot width and minimum acreage of commercially zoned properties in the Old Village area of Lake Elmo for the two parcels. At its February 5, 2013 regular meeting, the Lake Elmo City Council approved the variance request.

CLC is at this time requesting a lot line adjustment for the property as shown on the attached updated survey by Ulteig Engineers. The proposed new legal description is:

- Tract A: The South 46.00 feet of Lot 29 and all of Lot 30, COUNTY AUDITOR'S PLAT NO. 8, Washington County, Minnesota. Contains 18,155 Sq. Ft., or 0.42 Acres, more or less.
- Tract B: That part of Lot 29 lying north of the South 46.00 feet thereof, COUNTY AUDITOR'S PLAT NO. 8, Washington County, Minnesota. Contains 11,760 Sq. Ft, or 0.27 acres, more or less.

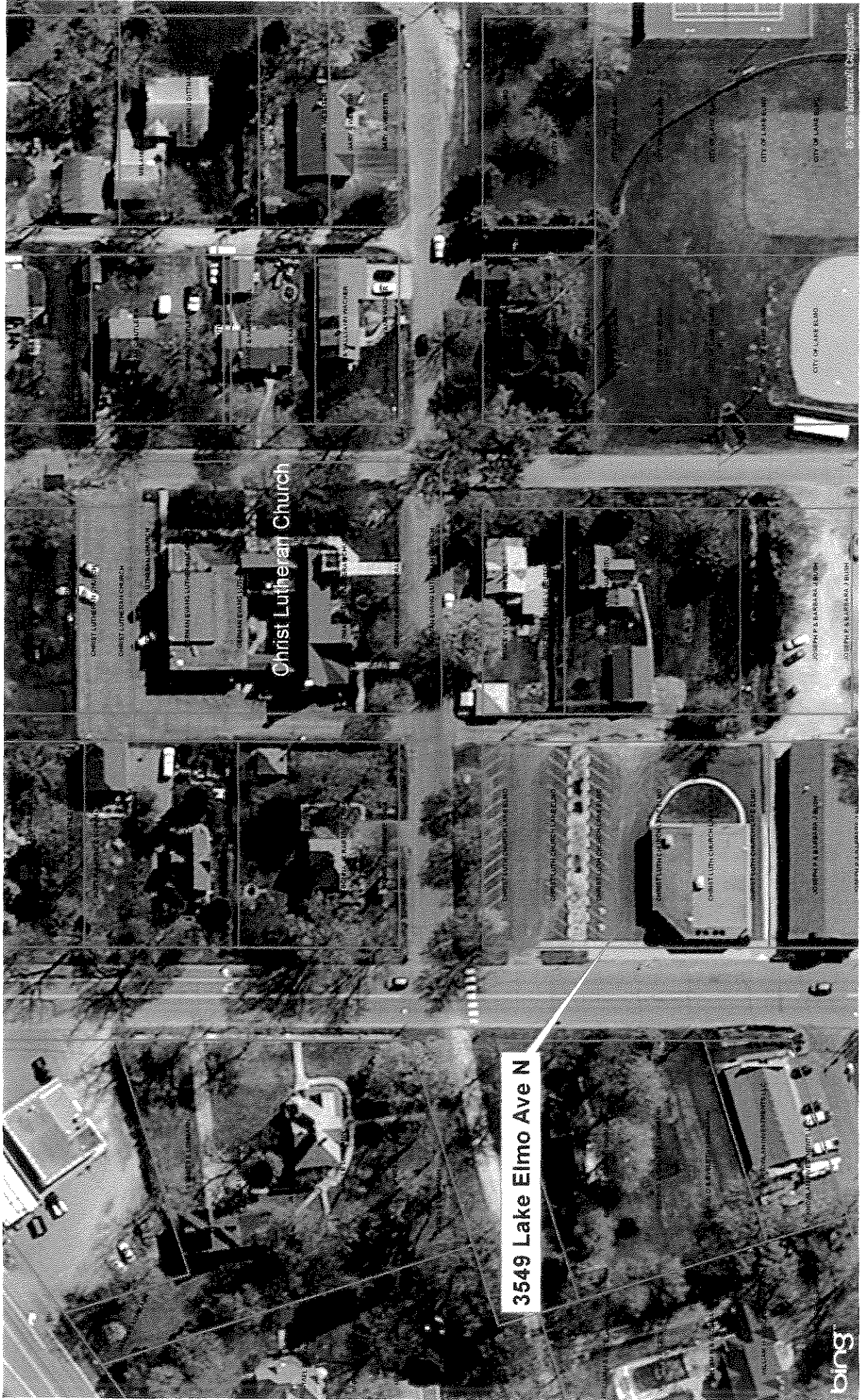
By adjusting the property line along the proposed boundary, CLC is retaining full ownership and maintenance responsibility of the rain garden installed at the property in 2011. As recommended by the City Council, CLC is willing to provide an easement to allow a potential buyer of Tract A (and future owners) the right to discharge storm water to the rain garden, and a mutual easement for the use of the Tract B parking lot by the owner of Tract A during normal business hours as needed and the use of the Tract A parking lot by CLC during weekends, evenings and special events. This is consistent with the current use of the parking lots, which are often used as a convenience parking lot by area residents and visitors. CLC is working on the proposed easement language and will forward it to the city when it is drafted.

CLC is looking forward to working with the City of Lake Elmo to complete the process of adjusting the lot lines on the 3549 Lake Elmo Avenue property to facilitate the potential sale of the commercial building (Tract A) and return it to the tax rolls. Please find attached the completed Development Application Form, updated survey, and application fee. If you have any questions please contact Jim Kelly at 651-201-4910 or Tim Beres at 612-940-8891.

Sincerely,

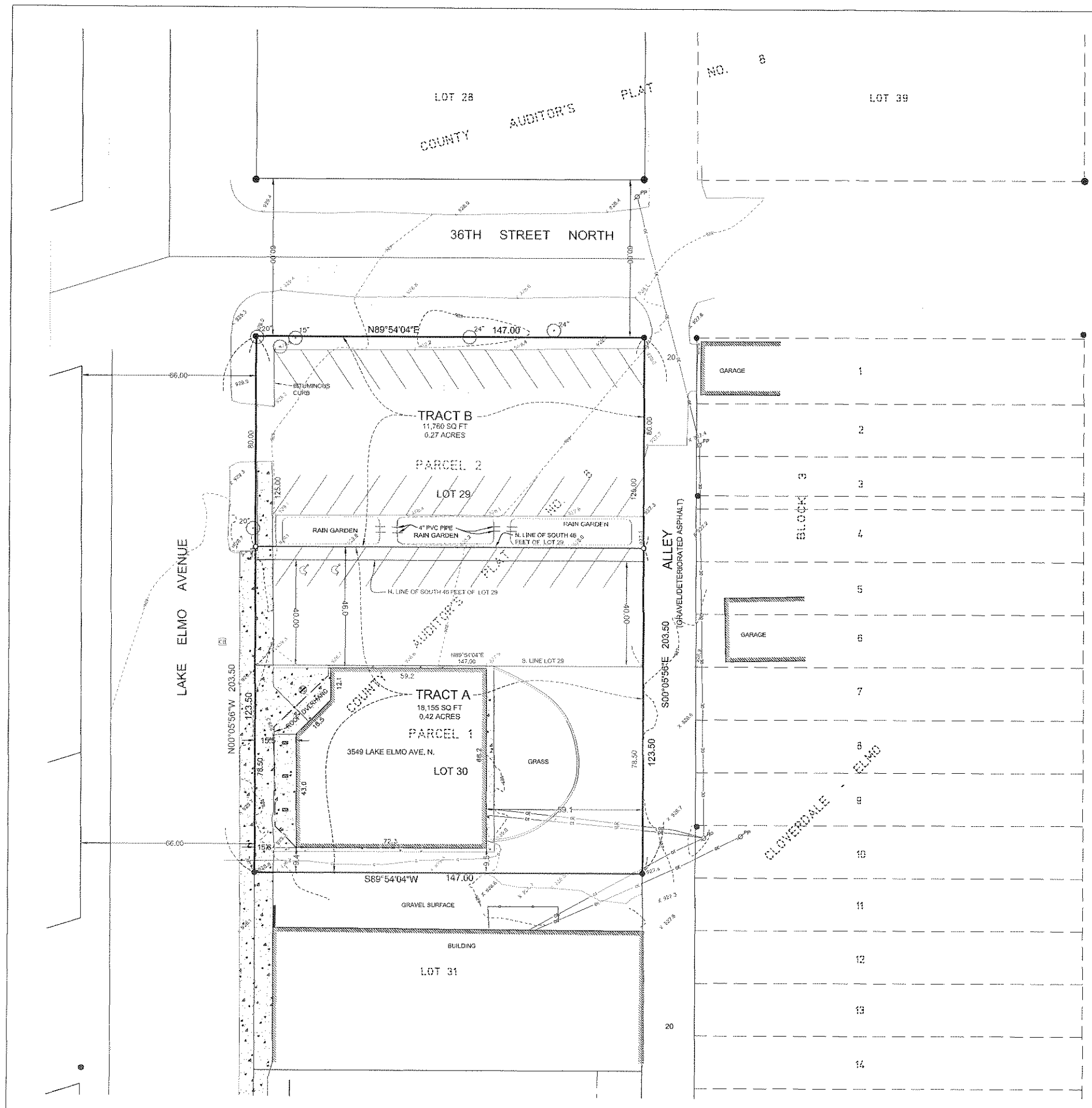


Diane Knoll
Congregation President
Christ Lutheran Church



3549 Lake Elmo Ave N

Christ Lutheran Church

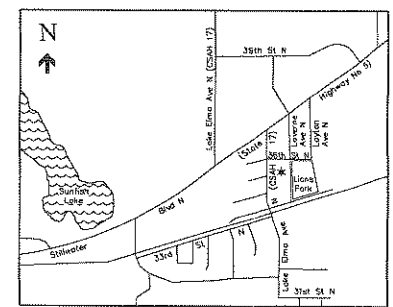


Parcel ID Number: 130-29-21-23-0053
 The property is zoned (GB) General Business under the applicable zoning regulations, and that the current setbacks from property lines are:
 Building:
 Front = 10 feet
 Side = 20 feet
 Side Corner = 50 feet
 Rear = 50 feet
 Height = 35 feet

LEGAL DESCRIPTIONS:
 Parcel 1:
 The South 40 feet of Lot 29 and all of Lot 30, County Auditor's Plat No. 8, as surveyed and platted and now on file in the Office of the Registrar of Titles of Washington County, Minnesota, being in the Village of Lake Elmo, Minnesota.
 Registered Property
 Certificate of Title No. 58428
 Parcel 2:
 Lot 29 except the South 40 feet thereof, County Auditor's Plat No. 8, Washington County, Minnesota.
 Abstract property.

PROPOSED LEGAL DESCRIPTIONS:
 TRACT A:
 The South 46.00 feet of Lot 29 and all of Lot 30, COUNTY AUDITOR'S PLAT NO. 8, Washington County, Minnesota.
 Contains 18,155 Sq. Ft. or 0.42 Acres, more or less.
 TRACT B:
 That part of Lot 29 lying north of the South 46.00 feet thereof, COUNTY AUDITOR'S PLAT NO. 8, Washington County, Minnesota.
 Contains 11,760 Sq. Ft. or 0.27 Acres, more or less.

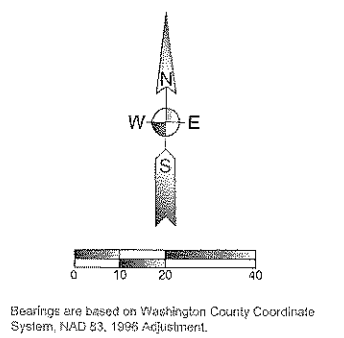
- LEGEND**
- IRON MONUMENT FOUND
 - REBAR SET W/PLASTIC CAP #40035
 - ☒ CATCH BASIN
 - ⚡ POWER POLE
 - ⚓ SIGN
 - ⚑ FLAG POLE
 - ⊙ DECIDUOUS TREE W/ TRUNK DIAMETER
 - or — OVERHEAD TELEPHONE
 - or — OVERHEAD ELECTRIC
 - or — UNDERGROUND GAS
 - or — WOOD FENCE
 - ▨ BITUMINOUS SURFACE
 - ▩ CONCRETE SURFACE



I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.
Michael E. Cannon
 Michael E. Cannon Lic. No. 40035
 Date: 11-20-12

Christ Lutheran Church
 PO Box 310
 Lake Elmo, MN 55042-031

Revision	Date	Description	By



4285 Lexington Ave. N., St. Paul, Minnesota 55126
 Phone: 651.415.3800 Fax: 651.415.2001
 Bismarck - Cedar Rapids - Denver - Detroit Lakes
 Fargo - Sioux Falls - St. Paul - Williston
 Web: www.ulteig.com
 Drawn By: MEC
 Checked By: MEC
 Approved By: MEC

Certificate of Survey
 3549 Lake Elmo Ave. N.
 Lake Elmo, MN 55042

Project Number: 12.02058
 Date: 11-20-12
 Sheets: 1 of 1

EASEMENT

THIS INSTRUMENT is made by Christ Lutheran Church, Grantor, in favor of _____, a Minnesota corporation, Grantee.

Recitals

A. Grantors are the fee owners of the following described property in Washington County, Minnesota (the "Property"):

That part of Lot 29 lying north of the South 46.00 feet thereof, County Auditors Plat No. 8, Washington County, Minnesota

B. Grantors desire to grant to the Grantee easements, according to the terms and conditions contained herein.

Terms of Easements

1. Grant of Easements. For good and valuable consideration, receipt of which is acknowledged by Grantors, Grantors grant and convey to the Grantee the following easements:

A perpetual easement for drainage and utility purposes over, under, across and upon that part of Washington County, Minnesota, which is described as follows:

The south 12.00 feet of that part of Lot 29 lying north of the South 46.00 feet thereof, County Auditors Plat No. 8, Washington County, Minnesota

According to the plat thereof on file in the office of the County Recorder in and for Washington County, Minnesota.

2. Scope of Easement. The perpetual easements granted herein include the right of the Grantor, its contractors, agents, and employees to enter upon the aforesaid easement tracts at all reasonable times for the purposes of locating, constructing, reconstructing, operating, maintaining, inspecting, altering and repairing within the described easement tracts public drainage and utilities over, across, through and under the lands described together with the right to excavate and refill ditches and/or trenches for the location of said public utilities and drainage.

The easements granted herein also include the right to cut, trim, or remove from the easement areas trees, shrubs, or other vegetation as in the Grantor's judgment unreasonably interfere with the easements or facilities of the Grantor, its successors or assigns.

3. Warranty of Title. The Grantors warrant they are the owners of the Property and have the right, title and capacity to convey the easements herein to the Grantee.

4. Environmental Matters. The Grantee shall not be responsible for any costs, expenses, damages, demands, obligations, including penalties and reasonable attorney's fees, or losses resulting from any claims, actions, suits or proceedings based upon a release or threat of release

ACCESS, RECIPROCAL CROSS EASEMENT AND
PARKING EASEMENT AGREEMENT

This ACCESS, RECIPROCAL CROSS EASEMENT AND PARKING EASEMENT AGREEMENT ("Agreement") is made and entered into this _____ day of _____, 201____, by and between CHRIST LUTHERAN CHURCH, a Minnesota tax-exempt organization ("CLC") and _____, a Minnesota _____ ("_____").

RECITALS

A. CLC is owner of that certain tract of land situated in the City of Lake Elmo, County of Washington, State of Minnesota, which tract is identified as that part of Lot 29 lying north of the South 46.00 feet thereof, County Auditors Plat No. 8 on Exhibit A attached hereto and made a part hereof ("Tract B").

B. _____ is the owner of that certain tract of land situated in the City of Lake Elmo, County of Washington, State of Minnesota, which tract of land is identified as the South 46.00 feet of Lot 29 and all of Lot 30, County Auditors Plat No. 8 on Exhibit A attached hereto and made a part hereof ("Tract A"), adjacent and to the south of Tract B. Tract A and Tract B are collectively referred to herein as the "Site," and individually as a "Tract" or respectively as "Tracts."

C. CLC owns and operates Tract B as a parking lot and rain garden and has current curb cut access to Lake Elmo Avenue and the city alley on the east side of the Tract.

D. _____ owns and operates Tract A as an ongoing business and has current curb cut access to Lake Elmo Avenue and the city alley on the east side of the Tract.

E. The parties hereto want to provide a reciprocal parking and related access easement in, over, upon, across and through those areas set forth on Exhibits A hereto.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby expressly acknowledged, the parties hereby covenant and agree as follows:

1. Vehicular and Pedestrian Cross Access Easements. CLC and _____ hereby each grant to the other a nonexclusive easement in the parking and sidewalk areas of Tract A and Tract B for pedestrian and vehicular traffic, without payment of any fees, over, upon, across and between each Tract and the public streets and alleys now or hereafter abutting or located on any portion of the Site, limited, however, to those portions of each Tract which are improved by either CLC or _____ from time to time for pedestrian walkways and vehicular access ways, respectively, and made available by each of them for general use by them and their permittees in conformity with this Agreement and in the areas delineated for parking and pedestrian use on Exhibit A hereto.

2. Parking Easement. CLC and _____ grant to each other a nonexclusive easement in and to the parking areas identified on Exhibit A hereto for access to and use for vehicular parking purposes by each other and their respective permittees, without payment of any fee or charge. Such parking easement shall consist of no more than CLC and _____ parking spaces and such pedestrian, vehicular and access easements identified on Exhibit A as is necessary for the full utilization of each of the parking easements. Furthermore, _____ nonexclusive easement in and to the parking area of CLC shall be limited to those days and times that the parking lot of _____ is unavailable or full and the parking area of CLC is both available and sufficient free parking spaces remain at CLC to accommodate _____ and/or its permittees. CLC's nonexclusive easement in and to the parking area of _____ shall be limited to those days and times that the parking lot of CLC is unavailable or full and the parking area of _____ is both available and sufficient free parking spaces remain at _____ to accommodate CLC and/or its

permittees. CLC's parking area shall be "unavailable" every Sunday morning commencing at 7:00 a.m. to 1:00 p.m. and every Wednesday evening commencing at 5:00 p.m. to 9 p.m. evening in the months of February, March and April. Additionally, CLC's parking area shall be "unavailable" the morning of Ash Wednesday, Good Friday and Christmas during the calendar year, or for other special events such as weddings or funerals with a 2 day notice. CLC will transmit to ___ on or around January 1 of every year while this agreement is in effect a schedule of all times and dates that its parking area will be unavailable due to holidays. ___ will transmit to CLC on or about January 1 of every year while this agreement is in effect a schedule of all times and dates that its parking area will be unavailable.

3. Unimpeded Access. The parties hereto agree that no barricade or other divider will be constructed between Tract A and Tract B to prohibit or discourage the free and uninterrupted flow of vehicular or pedestrian traffic for parking in the areas specifically designated for such purposes on Exhibit A hereto.

4. Easements Appurtenant. Each and all of the easements and rights granted or created herein are appurtenant to the affected portions of the Sites and none of the easements and rights may be transferred, assigned or encumbered except as an appurtenance thereto. For the purposes of such easements and rights, the particular areas of the Site which are burdened by such easements and rights shall constitute the servient estate. The easements contained in this Agreement are made for the direct, mutual and reciprocal benefit of the parties hereto, create mutual equitable servitudes upon each respective Tract in favor of the other Tract, constitute covenants running with the land and, except as otherwise provided, shall bind every person or entity having any fee, leasehold or other interest in any portion of the Site at any time, or from time to time.

5. Construction and Maintenance. Each of the parties hereto agree to improve the Parking Easement Areas and the Cross Easement Area located on Tract A or Tract B at such time as similar type improvements are made to the other parts of Tract A or Tract B. The parties shall maintain that portion of the easement areas which are situated on their respective Tract in good condition and repair.

6. Mutual Indemnification. Each party with regard to its respective Tract shall comply with all applicable laws, rules, regulations and requirements of all public authorities and shall indemnify, defend and hold the other party harmless from and against all claims, demands, losses, damages, liabilities and expenses and all suits, actions and judgments (including, but not limited to, costs and reasonable attorneys' fees) arising out of or in any way related to the failure to such party to maintain its portion of the Site in a safe and proper condition or occurring as a result of their own negligence or the negligence of their agents, heirs, successors or assigns. Each party hereby agrees to maintain customary levels of property and liability insurance covering their respective Tracts and to give each other prompt and timely notice of any claim made or suit or action commenced which in any way could result in indemnification hereunder.

7. Duration. The easements, covenants, restrictions and other provisions of this Agreement shall be of perpetual duration. This Agreement may be terminated, extended or amended only by the recording of an appropriate document in the Office of the Clerk and Recorder for Washington County, Minnesota, which document must be executed by holders of recorded interests within the entire Sites affected thereby as of the date of such document.

8. Not a Public Dedication. Nothing contained in this Agreement shall or shall be deemed to constitute a gift or dedication of any portion of the Sites to the general public or for the benefit of the general public or for any public purpose whatsoever, it being the intention of the parties that this Agreement will be strictly limited to and for the purposes expressed herein.

9. Recording. Fully executed counterparts of this Agreement shall be recorded in the Office of the Clerk and Recorder for Washington County, Minnesota.

10. Successors. The rights and obligations contained herein shall run with the title to the land within Tract A and Tract B and shall bind and inure to the benefit of the respective owners

of Tract A and Tract B and their respective heirs, successors and assigns.

11. Severability. In the event that any of the terms or conditions of this Agreement shall be deemed invalid, illegal or unenforceable in any respect, the validity of the remainder of this Agreement shall in no way be effected and shall remain in the full force and effect to the fullest extent permitted by law.

12. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and together which shall be deemed one and the same instrument.

13. Notice. All notices and other communications required or permitted to be given hereunder shall be in writing and shall be mailed by certified or registered mail, postage prepaid, hand delivered, or sent by a nationally recognized courier for overnight delivery addressed as follows (unless notice of a change of address is given pursuant hereto):

14. Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of Minnesota.

STATED DEED TAX DUE HEREON: NONE

Dated this ____ day of _____, 2013.

CLC:

Diane Knoll
Congregation President

_____:

Owner

STATE OF MINNESOTA)
) SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2013, by _____, Grantor.

Notary Public

NOTARY STAMP OR SEAL

P.I.D. #130-29-21-23-0053
3549 Lake Elmo Avenue N.
Lake Elmo, Minnesota 55042

Christ Lutheran Church
 PO Box 310
 Lake Elmo, MN 55042-0311

Exhibit A

Revision	Date	Description	By

"I, the undersigned, being a duly Licensed Professional Engineer in the State of Minnesota, do hereby certify that the above is a true and correct copy of the original survey as shown on the attached plans and that the same were prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota."

DATE: 11-20-12
 TIME: 10:00 AM
 PROJECT: 11-20-12
 SHEET: 1 OF 1
 DRAWN BY: MEC
 CHECKED BY: MEC
 APPROVED BY: MEC

LEGAL DESCRIPTION:
 The portion of the Lot 30, Tract A, 11-20-12, as shown on the attached plans and that the same were prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota."

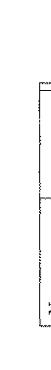
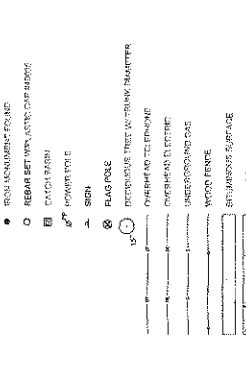
Project Name:
 Address:
 City:
 State:
 Zip:

Map Scale:
 North Arrow:
 Date:
 Time:

Tract A:
 Tract B:
 Parcel 1:
 Parcel 2:

Tract A:
 Tract B:
 Parcel 1:
 Parcel 2:

Legend:
 Iron Monument Found:
 Rebar Set with PVC Pipe Marking:
 Catch Basin:
 Power Pole:
 Sign:
 Flag Pole:
 Precast Concrete Tree Encircling Bracket:
 Overhead Electrical:
 Underground Gas:
 Wood Fence:
 Siting of Surface:
 Concrete Surface:



4065 Exchange Ave. N. St. Paul, Minnesota 55126
 Phone: 651.415.5000 Fax: 651.415.2001
 E-mail: sales@ulteig.com
 Website: www.ulteig.com
 Drawn By: MEC
 Checked By: MEC
 Approved By: MEC

Certificate of Survey
 3549 Lake Elmo Ave. N.
 Lake Elmo, MN 55042

Project 11-20-12
 Date: 11-20-12
 Sheet: 1 OF 1

11-20-12

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

RESOLUTION NO. 2013-07

***A RESOLUTION APPROVING A VARIANCE TO ALLOW CHRIST LUTHERAN
CHURCH TO SPLIT AN EXISTING LOT INTO TWO SEPARATE PARCELS THAT DO
NOT MEET MINIMUM LOT SIZE AND WIDTH REQUIREMENTS***

WHEREAS, the City of Lake Elmo is a municipal corporation organized and existing under the laws of the State of Minnesota; and

WHEREAS, Christ Lutheran Church, 11194 36th Street North (the "Applicant") has submitted an application to the City of Lake Elmo (the "City") for a variance to split the lot at 3549 Lake Elmo Avenue North into two separate parcels that do not meet the minimum area and lot width requirements of the GB – General Business zoning district; and

WHEREAS, notice has been published, mailed and posted pursuant to the Lake Elmo Zoning Ordinance, Section 154.017; and

WHEREAS, the Lake Elmo Planning Commission held a public hearing on said matter on January 14, 2013; and

WHEREAS, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated February 5, 2013; and

WHEREAS, the City Council considered said matter at its February 5, 2013 meeting.

NOW, THEREFORE, based on the testimony elicited and information received, the City Council makes the following:

FINDINGS

- 1) That the procedures for obtaining said Variance are found in the Lake Elmo Zoning Ordinance, Section 154.017.
- 2) That all the submission requirements of said Section 154.017 have been met by the Applicant.
- 3) That the proposed variance is to split the existing lot at 3549 Lake Elmo Avenue North into two separate parcels that do not meet the minimum area and lot width requirements of the GB – General Business zoning district. The proposed parcels would be 0.42 acres

and 0.27 acres in size, which is under the minimum lot size requirement of 1.5 acres. The proposed parcels would also be 80 and 123.5 feet in length, which is shorter than the minimum requirement of 150 feet.

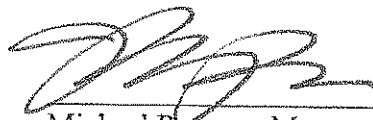
- 4) That the Variance will be located on property legally described as follows: Lots 39 and 40, County Auditor's Plat No. 8, as surveyed and platted and now on file in the Office of the Registrar of Titles of Washington County, Minnesota, being in the Village of Lake Elmo, Minnesota. More commonly known as 3549 Lake Elmo Avenue North.
- 5) That the strict enforcement of Zoning Ordinance would cause practical difficulties and that the property owner proposes to use the property in a reasonable manner not permitted by an official control. *Specific findings: That the proposed use is reasonable because the potential buyer of the former Lake Elmo Bank building has stated that they do not have a need for all of the parking provided on the site. Between the former bank building and the Christ Lutheran Church facility there is an expected amount of parking that will be using this property that will not change due to a change in ownership over a portion of the site.*
- 6) That the plight of the landowner is due to circumstances unique to the property not created by the landowner. *Specific findings: That the applicant's property is unique due to the large amount of parking that exceeds most other off-street parking lots in the downtown village area of Lake Elmo. The Zoning Ordinance does allow for waivers of parking requirements in the GB – General Business District and any future users would need to request such a waiver under if their parking needs exceeded the amount available.*
- 7) That the proposed variance will not alter the essential character of the locality in which the property in question is located. *Specific findings: That the proposed lot split will not change the current use of the site for offices and parking. Any potential impacts associated with a lack of parking for the office uses could be mitigated with a shared parking arrangement that allowed any potential building tenants to use the parking area outside of peak Church usage periods.*
- 8) That the proposed variance will not impair an adequate supply of light and air to property adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood. *Specific findings: No impacts above and beyond those considered normal for any other business use in the surrounding area would be expected should the variance be granted.*

CONCLUSIONS AND DECISION

Based on the foregoing, the Applicant's application for a Variance is granted, provided the following conditions are met:

1. The Applicant shall execute a shared-parking arrangement with the future owners of the former Lake Elmo Bank Building that will allow any future tenants of this building to use the parking lot to be retained by the Applicant during time periods when the parking lot is not used by the Applicant. The agreement shall be drafted to be reciprocal regarding the use of the parking stalls that will be retained by the future owners of the former Lake Elmo Bank Building.
2. The applicant shall provide for a drainage easement across the storm water infiltration area that collects storm water runoff from both of the parcels to be created by the lot split.

Passed and duly adopted this 5th day of February 2013 by the City Council of the City of Lake Elmo, Minnesota.



Michael Pearson, Mayor

ATTEST:


Adam Bell, City Clerk



MAYOR AND COUNCIL COMMUNICATION

DATE: 6/04/2013
CONSENT
ITEM #: 6

AGENDA ITEM: Adopt Liquor License Code Amendment
SUBMITTED BY: Adam Bell, City Clerk
THROUGH: Dean Zuleger, City Administrator
REVIEWED BY: Beckie Gumatz, Program Assistant

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item Staff
- Report/Presentation..... Staff
- Questions from Council to Staff.....Mayor Facilitates
- Public Input, if Appropriate.....Mayor Facilitates
- Call for MotionMayor & City Council
- Discussion.....Mayor & City Council
- Action on Motion.....Mayor Facilitates

SUMMARY AND ACTION REQUESTED:

Staff respectfully recommends the City Council adopt Ordinance 08-081, thereby amending the Lake Elmo Alcoholic Beverages Chapter of the Lake Elmo City Code in order to bring the current intoxicating liquor license regulations in line with current and historical city practices and existing facts. The specific recommendation is to repeal the proximity restrictions currently found in the code. **As part of the Consent Agenda, no specific motion is required.**

If removed from the *Consent Agenda*, the recommended motion to act on this request is as follows:

“Move to approve Ordinance 08-081, amending the Lake Elmo Alcoholic Beverages Code [as presented/modified therein].

BACKGROUND AND STAFF REPORT:

There are currently five city approved liquor licenses that have been issued and annually renewed in the Old Village area. Lake Elmo’s current code §111.22(c) prohibits regular intoxicating liquor licenses from being issued to a business within 600 feet from a “school, church, playground, or public park.” All five of the currently issued licenses downtown are within 600 feet of at least one of these places. Most of the liquor retail establishments have been in business for many years.

To date, Staff has not determined specifically when this language was added to the City Code. Minnesota statute §340A.509 authorizes cities to impose additional restrictions on retail licenses, and it is common for municipalities to have some type of proximity restriction language in the city code. However, each municipality is unique and has different needs.

The current businesses that possess intoxicating liquor licenses in violation of the Lake Elmo proximity restrictions are:

- Lake Elmo Inn
- Lake Elmo Inn Event Center
- Twin Point Tavern
- Lake Elmo Wine Company
- Village Wine and Spirits

Current city code § 111.20(A)(6) still provides that no license shall be issued, transferred, or renewed if the application thereof, to the satisfaction of the City Council, that issuance, transfer, or renewal would not be in the public interest. Minnesota law affords municipalities wide discretion in the issuance of liquor licenses. Minnesota courts do not consider liquor licenses, or the renewal thereof, as a right. The remaining city code language explicitly safeguards the Council's ability to deny any new or renewal application that it sees as problematic in any area of the city or for any reason.

If this recommended action, or another proposed resolution, is not approved, all five of the current downtown liquor licenses will be in violation of city code and should not be renewed without Council and staff disregarding the regulations. This proposed amendment brings the city code in line with the past practices of the city's liquor license issuance and the current existing business.

RECOMMENDATION:

Based on the foregoing information, Staff respectfully recommends the City Council adopt Ordinance 08-081, thereby amending the Lake Elmo Alcoholic Beverages Chapter of the Lake Elmo City Code in order to bring the current intoxicating liquor license regulations in line with current and historical city practices and existing facts. The specific recommendation is to repeal the proximity restrictions currently found in the code. As part of the Consent Agenda, no specific motion is required.

If removed from the Consent Agenda, the recommended motion to act on this request is as follows:

“Move to approve Ordinance 08-081, amending the Lake Elmo Alcoholic Beverages Code [as presented/modified therein].

ATTACHMENT(S):

1. Ordinance 08-081
2. Village Liquor License Map

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-081

AN ORDINANCE AMENDING THE ALCOHOLIC BEVERAGES CHAPTER OF THE BUSINESS
REGULATIONS OF CITY OF LAKE ELMO

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title XI:
Business Regulations; Chapter 111: Alcoholic Beverages; Intoxicating Liquor, as
follows:

§111.22 PLACES INELIGIBLE FOR LICENSE

(A) *General prohibition.* No license shall be issued for any place or any business
ineligible for the license under state law.

(B) *Delinquent taxes.* No license shall be granted for operation on any premises on
which taxes, assessments, or other financial claims of the city are delinquent and
unpaid.

~~(C) *Distance from school or church.* No license shall be granted within 600 feet of any
school, church, playground, or public park except for those temporary licenses
granted pursuant to § 111.17(B)(3).~~

SECTION 8. Effective Date. This ordinance shall become effective immediately upon
adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 9. Adoption Date. This Ordinance 08-081 was adopted on this 4th day of
June 2013, by a vote of ___ Ayes and ___ Nays.

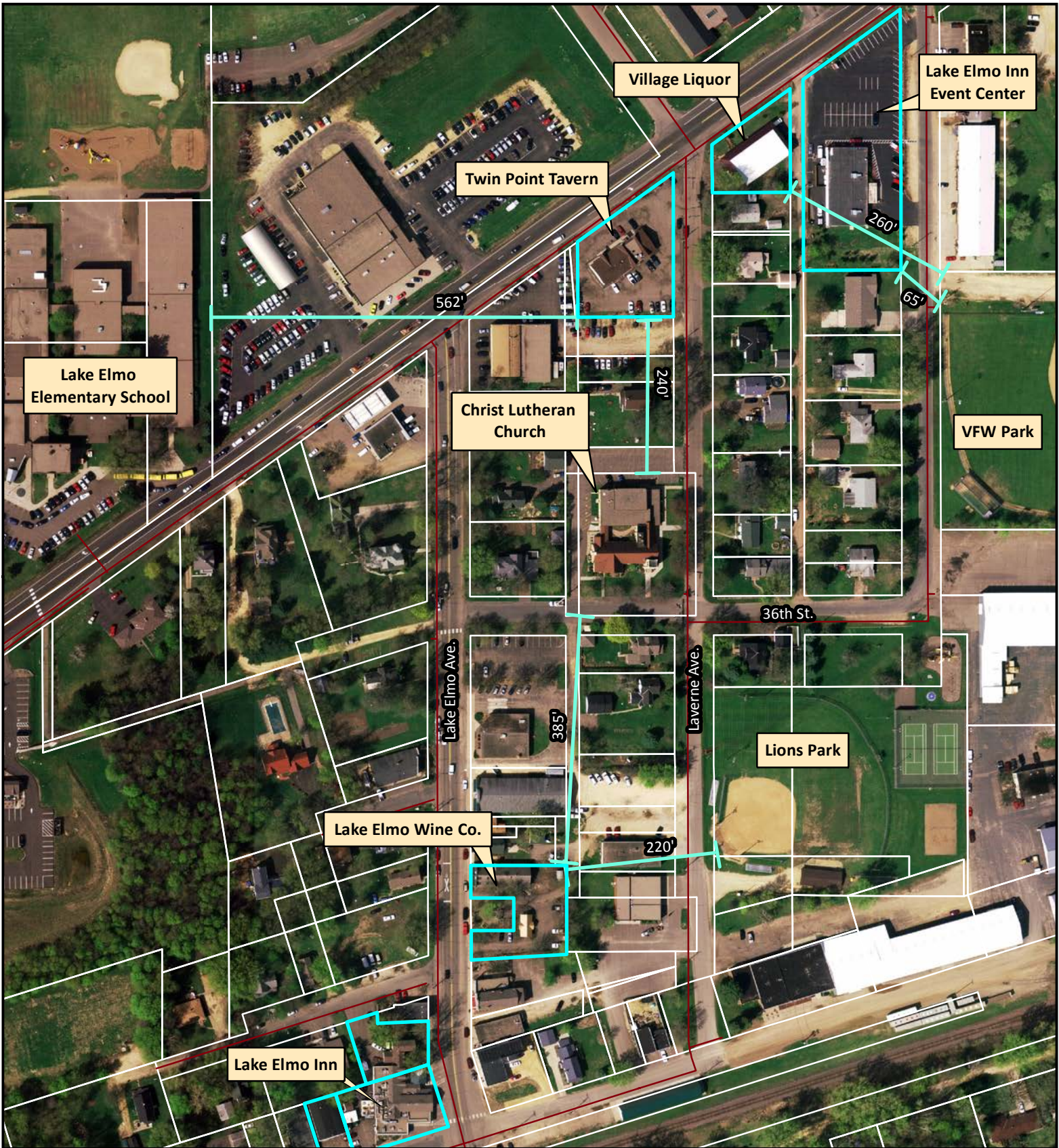
LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

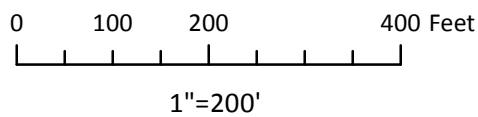
ATTEST:

Adam Bell, City Clerk

This Ordinance 08-081 was published on the ____ day of _____, 2013.



Downtown Liquor Licenses: Lake Elmo, MN



City of Lake Elmo
3-27-2013
Data Source:
Washington County, MN





MAYOR AND COUNCIL COMMUNICATION

DATE: 6/04/2013

CONSENT

ITEM #: 7

AGENDA ITEM: Approve Amendments to the Lake Elmo Firefighters Relief Association By-Laws

SUBMITTED BY: Brad Winkels, President LERA

THROUGH: Dean Zuleger, City Administrator

REVIEWED BY: Cathy Bendel, Finance Director

SUGGESTED ORDER OF BUSINESS (if removed from Consent):

- Introduction of Item..... Staff
- Report/Presentation..... Staff
- Questions from Council to Staff..... Mayor Facilitates
- Public Input, if Appropriate..... Mayor Facilitates
- Call for Motion..... Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

SUMMARY AND ACTION REQUESTED: Staff respectfully recommends the City Council approve the following amendments to the Lake Elmo Firefighters Relief Association By-Laws. **As part of the Consent Agenda, no specific motion is required.**

BACKGROUND AND STAFF REPORT: The Lake Elmo Firefighters Relief Association requests that the following amendments to the restated by-laws. The changes include:

- State Statutory Updates
- Allow salary payments to any Board of Trustees member
- Limit Beneficiary payment to named beneficiaries and minor children
- Revise deferred interest rate from 5% to 0%
- These revisions have been approved by the Board of Directors and the General membership of the Relief Association.

RECOMMENDATION: *Staff respectfully recommends the City Council approve the following amendments to the Lake Elmo Firefighters Relief Association By-Laws. As part of the Consent Agenda, no specific motion is required.*

ATTACHMENT(S):

1. Restated By-Laws including Appendices A, B, C

RESTATED BYLAWS
OF
LAKE ELMO FIREFIGHTERS
RELIEF ASSOCIATION

The Bylaws of the Relief Association are hereby amended in their entirety and restated effective as of _____, 20_____.

ARTICLE I
NAMES

As provided in the Articles of Incorporation, the name of this organization shall be the Lake Elmo Firefighters Relief Association (the "Association").

ARTICLE II
DEFINITIONS

General Definitions

Whenever appropriate, words used herein in the singular shall include the plural, the plural may be read as the singular, and the masculine shall include the feminine.

The following words and phrases when used herein shall have the following meanings except as otherwise required by the context in which they are used:

"Active Member" is a member of the Association who is eligible for benefits and is currently meeting the minimum firefighter and service standards with the Fire Department or the Fire Chief. As of July 1, 2006, Active Members must be Volunteer Firefighters as defined in Section 2.1 of the Plan attached hereto.

"Board of Trustees" or "Board" shall mean the Board of Trustees of the Relief Association, and shall perform the functions and assume the same duties as a Board of Directors under Minnesota Statutes, Chapter 317A.

"Deferred Member" is a member of the Association who has retired or been terminated from the Fire Department but has not taken a distribution of benefits.

"Fire Department" is the Fire Department serving the Municipality.

"General Fund" shall mean the fund established pursuant to Minnesota Statutes, Section 424A.06 that holds the funds received from dues, fines, initiation fees, entertainment revenues and any money or property donated, given, granted or devised by any person, for unspecified uses.

“Material Financial Interest” is a financial interest or expectation of any kind on the part of a Board member or Relative, which is substantial enough to reasonably affect the judgment of the Trustee who has a conflict of interest. The term “financial interest” includes any and all monetary expectations and exists when a Board member or Relative has rights (whether or not a Deferred Member or beneficiary) to be paid compensation, retiree benefits, or to have their expenses reimbursed or obligations or other liabilities repaid, etc. (See Article IX Fiduciary Responsibility.)

“Municipality” is the City of Lake Elmo.

“Municipal Trustees,” formerly known as ‘ex-officios,’ are members of the Board of Trustees designated solely by the Municipality and shall include the two appointed or elected officials and the fire chief, as further defined in Section 5.1 herein.

“Relative” is a member of one’s family and includes spouses, parents, children, siblings, in-laws, aunts, uncles, first cousins, step-parents, step-children, and may include other family members such as common-law partners or long-time companions, of a Trustee who has a conflict of interest. (See Article IX Fiduciary Responsibility.)

“Special Fund” shall mean the fund as defined in Section 2.1 of the Plan attached hereto.

“Supermajority” is required when there is a conflict of interest on an item to be voted on by the Board of Trustees because one or more Trustees have a Material Financial Interest. A Supermajority is the majority of those Trustees after subtracting the Trustee(s) who has a conflict of interest (e.g., Nine (9) Trustees less two (2) with a conflict = Seven (7). Supermajority would require four (4) Trustees to vote in favor to pass the motion). (See Article IX Fiduciary Responsibility.)

ARTICLE III PURPOSE

As provided in the Articles of Incorporation, the purpose of the Association is to provide retirement relief and other benefits to members and their dependents. For purposes of Chapter 424A of Minnesota Statutes, the Association is a governmental entity that receives and manages public funds to provide retirement and ancillary benefits for individuals providing the governmental services of firefighting and, if applicable, emergency response. The Association may also raise funds from private sources to furnish fire and emergency equipment for the Fire Department, and for other purposes deemed necessary and appropriate by the Association to the extent permitted by law. Benefits paid to members and their dependents shall be funded exclusively through governmental sources and, to the extent provided by State law, through restricted donations.

ARTICLE IV MEMBERSHIP

4.1 Admission. All firefighters of the Fire Department are members of the Association and shall be eligible for benefits, except as otherwise stated in these bylaws. An application for membership shall be completed on the Membership Application and Beneficiary Designation form to become eligible for benefits in the Association. Upon approval of the member's application, such member shall accrue service credit for all active service while in probationary status.

4.2 Membership Duties. The Association does not require membership duties.

4.3 Membership Dues. The Association does not require membership dues.

4.4 Member Voting Rights. Each Active Member shall be entitled to one (1) vote on any matter voted upon by the membership. Deferred Members are not entitled to vote. Voting by proxy/absentee ballot is permitted following the procedures set forth in Section 4.5.

4.5 Proxy/Absentee Ballot. *Member Voting*: If permitted by the Board prior to a meeting, voting members may cast votes by submitting an absentee ballot provided by the Board that is signed by the member and deposited in the ballot box set out by the Board. Submission of an absentee ballot shall constitute a proxy to the officer of the Association designated and authorized on the ballot who is bound to cast the member's vote in accord with the member's ballot choices. The member may withdraw his/her proxy/absentee ballot by attending a meeting and voting in person. Use of proxies/absentee ballots may only be used on items listed on the ballot and may not be used when trustees and/or officers are elected from the floor during the meeting.

Counting Ballots: If ballots were used because there were more than two candidates for any Trustee position up for election as indicated under Section 7.2, an officer of the Association who is not standing for election shall count the ballots as follows: All first choices are counted, and if no candidate wins a majority of first choices, then the last place candidate is eliminated. Ballots of voters who ranked the eliminated candidate first are redistributed to their next choice candidates, as indicated on each voter's ballot. Last place candidates are successively eliminated and ballots are redistributed to next choices until one candidate remains or a candidate gains a majority of votes.

In case of a tie resulting from the above procedure, the candidates receiving the two highest number of votes shall be placed into new balloting to be effected at the meeting. The previously submitted proxy/absentee ballots shall be recounted using the above procedures for the two candidates who have tied. Simultaneously, members present at the meeting will recast their vote for the two candidates who have tied. Additional balloting including the proxy/absentee ballots for said office shall continue until one candidate shall receive a majority of votes cast on a rebalot and he shall be elected to said office.

4.6 Separation. For records retention and administration of the Association, the Board may request that a Deferred Member complete and submit a Membership Separation Form.

4.7 Member Recognition. The Association may continue to honor members whose status has changed between volunteer/paid on-call and full- or part-time employee of the same Fire Department. The members shall adopt written policies and procedures, including any eligibility or types of recognition.

4.8 Termination. Any member who is terminated by the Fire Department or Municipality shall cease accruing benefits under the Association as of the date of termination.

ARTICLE V BOARD OF TRUSTEES

5.1 Composition. The Board of Trustees shall consist of nine (9) members. Six (6) trustees shall be elected from the membership of the relief association. There shall be three (3) officials drawn from the Municipality. The three (3) Municipal Trustees must be one (1) elected municipal official and one (1) elected or appointed municipal official, who are designated as municipal representatives by the municipal governing board annually, and the chief of the municipal fire department. The Municipal Trustees must be designated annually by the city council of the Municipality.

5.2 Duties. The Board of Trustees shall perform the functions and assume the same duties as a Board of Directors under Minnesota Statutes, Chapter 317A. In addition, the Board of Trustees shall:

- (a) Have exclusive control and management of all funds received by the Treasurer pursuant to the statutes of the State of Minnesota and all moneys or property donated, given, granted or devised for the benefit of the Association.
- (b) Examine the books, papers, funds, securities and property in the custody of the Treasurer, and general accounts, funds and securities, and property of the Association.
- (c) Examine and approve the validity of all claims prior to payment by the Treasurer.
- (d) Provide the forms on which members may submit claims to the Board of Trustees for their approval.
- (e) On an annual basis or more frequently as may be required to determine eligibility for benefits, confirm minimum firefighter and service standards pursuant to the Volunteer Firefighter definition in Section 2.1 of the Plan attached hereto.

- (f) Assume such additional duties as may be described in Article IX herein and in Association policies and procedures or required by state law including the establishment of any committee deemed necessary or appropriate.

ARTICLE VI OFFICERS

6.1 Number. The number of officers of the Association and their duties shall be as set forth below.

6.2 President. It shall be the duty of the President of the Association to:

- (a) Have general active management of the business of the corporation;
- (b) When present, preside at meetings of the Board and of the members;
- (c) See that orders and resolutions of the Board are carried into effect;
- (d) Sign and deliver in the name of the corporation bonds, contracts, or other instruments pertaining to the business of the corporation, except in cases in which the authority to sign and deliver is required by law to be exercised by another person or is expressly delegated by the articles or bylaws or by the Board to another officer or agent of the corporation;
- (e) Maintain records of and, when necessary, certify proceedings of the Board and the members; and
- (f) Perform other duties prescribed by the Board.

6.3 Pro Tem Officers. In the absence of the President and Vice President, if applicable, the Board of Trustees shall appoint an interim President from the existing Officers and/or Trustees other than the Municipal Trustees, who shall perform the duties applicable to the office.

6.4 Vice President. It shall be the duty of the Vice President to perform the duties of the President in the President's absence.

6.5 Secretary. It shall be the duty of the Secretary of the Association to:

- (a) Keep a record showing the correct addresses of all members and request the names of their beneficiaries.
- (b) Keep or cause to be kept an accurate record of all meetings of the Association and of all meetings of the Board of Trustees.
- (c) Conduct and direct the investigation of all claims.

- (d) Keep a record of all monies received and paid out by the Treasurer.
- (e) Provide access to the Association's Articles, Bylaws, minutes, and financial statement on the last annual accounting period to all members or all Board of Trustees (including the Municipal Trustees), for any proper purposes they may have, in accord with Minnesota Statutes, Section 317A.461.

6.6 Treasurer. It shall be the duty of the Treasurer of the Association to:

- (a) Receive and receipt all monies due the Association from members and other sources and to keep accurate accounts and records of all the money so received.
- (b) Have custody of all monies and securities belonging to the Association.
- (c) Furnish a surety bond in favor of the Association for the faithful performance of all duties involving the Association and for the safekeeping of, or accounting for, all monies and securities that may come into its possession. The bond shall be in an amount equal to at least 10% of the assets up to a maximum of \$500,000.
- (d) Pay all properly approved claims for benefits, and to pay all bills incurred in the way of necessary expenses in the conduct of the business of the Association and to keep accurate accounts and records of all the money so paid.

6.7 General Duties.

- (a) It shall be the duty of the President, along with the Treasurer to countersign all checks issued by the Association.
- (b) The officers shall annually prepare an annual financial report of the Association's receipts, disbursements, and balances in the Special and General Funds for the preceding calendar year on a form prescribed by the Office of the State Auditor. They shall transmit the report to the city clerk or clerk-treasurer of the Municipality for inspection, signature and transmission to the State Auditor pursuant to law.
- (c) Pursuant to the Volunteer Firefighter Relief Association Financing Guidelines Act of 1971, the officers of the Association shall, annually, determine the financial requirements of the Special Fund for the following year. The financial requirements of the relief association and the minimum municipal obligation must be included in the financial report or financial statement.

6.8 Compensation. As compensation for services to the Association by the officers, the membership may at the Annual Association meeting authorize payment of an aggregate salary expense payable from the Special Fund to one (1) or more of these officers. The amount shall be recommended by the Board to the membership and approved by the membership at their annual Association meeting.

ARTICLE VII ELECTIONS

7.1 Trustee Terms. The Trustees shall be elected to staggered two-year terms. There will be three (3) Trustees elected by the membership each year at the annual meeting of the Association, and begin their individual terms at the end of the meeting at which they are elected. Each appointed Municipal Trustee term is one (1) year or until the person's successor is qualified, whichever is later. The term of a Municipal Trustee shall terminate upon termination of the Trustee's position with the Municipality.

An individual Trustee may serve an unlimited number of terms.

7.2 Voting on Trustees. Each of the positions on the Board of Trustees who are not the Municipal Trustees shall be voted on separately by the Active Members in attendance at the annual meeting. No nominations of slates of candidates or cumulative voting shall be allowed. All votes unless specified prior to the vote, shall be conducted by a voice vote. A simple majority of those present at the meeting is needed to elect. If a simple majority cannot be determined by voice vote, the officer in charge of the vote shall ask for a show of hands or for a secret ballot. A trustee who was elected by the membership may be removed with or without cause by a simple majority vote of the Active Members in any subsequent annual, regular or special meeting.

If allowed by the Board of Trustees under Section 4.5, a proxy/absentee ballot may be used to perform "runoff voting" if there are more than two candidates for any Trustee position up for election and Active Members must rank candidates by order of preference. See Section 4.5 for counting ballots.

7.3 Officer Terms. The offices of President, Vice President, Secretary, and Treasurer shall be elected to two-year terms, and begin their individual terms at the end of the meeting at which they are elected.

The offices of President and Secretary shall be nominated and elected separately to a two-year staggered term in odd numbered years.

The offices of Vice President and Treasurer shall be nominated and elected separately to a two-year staggered term in even numbered years.

7.4 Voting on Officers. Officers are elected by the Active Members each year at the annual meeting of the Association from among the elected Trustees. Each position will be nominated and elected separately at this meeting. All votes unless specified prior to the vote, shall be conducted by a voice vote. A simple majority is needed for an officer to be elected. If a majority cannot be determined by voice vote, the officer in charge of the vote shall ask for a show of hands or for a secret ballot. Voting by proxy/absentee ballot will be allowed under Section 4.5.

An officer may be removed with or without cause by a simple majority vote of the Active Members in any subsequent annual, regular or special meeting.

No individual may hold more than one (1) officer position at one (1) time.

7.5 Officer and Trustee Vacancies. In the case of death, resignation or removal from office for any elected officer or Trustee of the Association, except a Municipal Trustee, the vacancy shall be filled by the Board of Trustees from the membership at a Board meeting to be duly called for the purpose of filling out this term. In the event an officer fails to retain his position as an elected Trustee, he must vacate his officer position pursuant to Minnesota Statutes, Chapter 424A Volunteer Firefighters' Retirement.

ARTICLE VIII MEETINGS

8.1 Annual Meeting of the Members. The annual (regular) meeting of the members shall be held on the first Sunday in March of each year except that if that day is a holiday, said meeting shall be held on the next succeeding Sunday. The place of the meeting shall be designated and may be changed from time to time by the Board of Trustees.

8.2 Regular Meetings of the Members. The members shall have no regular meetings.

8.3 Special Meetings of the Members. Special meetings of the members may be called at any time upon the written order of the President and one (1) other member of the Board of Trustees, or six (6) voting members of the Association. The place of the meeting shall be designated and may be changed from time to time by the Board of Trustees.

8.4 Notice of Meetings of the Members. A notice of every annual and any special meetings of the members shall include the date, time, place and purpose of the meeting and be *posted* on the bulletin board of the Association, or if no bulletin board, on the door of its usual meeting room; *and* in accord with Minnesota Statutes, Section 317A.433 Subd 4, business at a special membership meeting must be limited to the stated purpose; *and further* in accord with Minnesota Statutes Section 317A.435, each voting member shall be *provided* at least five (5), but not more than sixty (60) days, before the meeting, (excluding the date of the meeting) with notice setting forth the date, time, place, and purpose of the meeting.

8.5 Member Quorum. Forty (40) percent of the Active Members of the Association shall constitute a quorum for the transaction of business at their meetings.

8.6 Member Voting. Each Active Member present at the meeting shall be entitled to one (1) vote. All votes, unless specified prior to the vote, shall be conducted by a voice vote. If a majority cannot be determined by voice vote, the officer in charge of the vote shall ask for a show of hands or for a secret ballot. Voting by proxy/absentee ballot will be allowed under Section 4.5. A voting "majority" is majority of the quorum, not majority of the entire association membership.

8.7 Regular Meetings of the Board of Trustees. Meetings of the Board of Trustees shall be held on the second Monday of February, May, August and November except that if that

day is a holiday, said meeting shall be held on the next succeeding Monday. Meetings of the Board of Trustees shall be held at the Fire Station unless noticed for another place within the City as designated by the Board.

8.8 Special Meetings of the Board of Trustees. Special meetings of the Board of Trustees may be called at any time upon the written order of the President and one (1) other member of the Board of Trustees. The meeting shall be held at the Fire Station unless noticed for another place within the City as designated by the Board.

8.9 Notice of Meetings of the Board of Trustees. The association is governed by Minnesota Statutes, Section 13D.01 which requires that all meetings of the Association's Board of Trustees be open to the public with rare exceptions. All notices provided for in this Article shall comply with Minnesota Statutes, Section 13D.04 which requires at a minimum that:

- (a) a schedule of any regular meetings of the Board of Trustees be kept on file at the Association offices, and
- (b) for special meetings, a notice stating the date, time, place and purpose of the meeting be *posted* on the bulletin board of the Association, or if no bulletin board, on the door of its usual meeting room; *and* in accord with Minnesota Statutes, Section 317A.231, each Trustee shall be *provided* at least three (3), but not more than sixty (60) days, before the meeting, (excluding the date of the meeting) with notice setting forth the date, time, place, and purpose of the meeting.

8.10 Board Quorum. A majority of the Board of Trustees then in office shall constitute a quorum for the transaction of business at its meetings.

8.11 Board Voting. Unless the Articles or Bylaws specify otherwise, an action of the Board shall be effected by a majority vote of the Trustees present and eligible to vote once a quorum has been achieved. The officer in charge of a vote shall ask for a show of hands *but shall not allow* for a secret ballot *nor proxy*, and each vote shall be recorded in a public journal. No action shall be considered once a quorum has been lost.

8.12 Electronic Meeting Prohibited. Any meeting of the Board of Trustees or the membership by solely electronic means (e.g., e-mail, simulchat or phone conference) that is not accessible to the public at a set meeting location is prohibited.

8.13 Order of Business. At any annual, regular and all special meetings, the order of business shall be as follows:

- (a) Call to order by the President
- (b) Roll call (verify quorum)
- (c) Secretary's Report (reading of previous minutes)
- (d) Treasurer's Report
- (e) Report of the Board (member meeting)
- (f) Report of other committees (Board or member meeting)

- (g) Election of Trustees and Officers, if applicable (annual member meeting)
- (h) Old Business
- (i) New Business
- (j) Adjournment

ARTICLE IX FIDUCIARY RESPONSIBILITY

9.1 Board of Trustees. Each member of the Board of Directors, also acts as a trustee of the Special Fund. The Board of Directors therefore also acts as the Board of Trustees. The Board of Trustees is charged with administering retirement and ancillary benefits under the Special Fund, and the Trustees are fiduciaries subject to the standard of care set forth in Minnesota Statutes, Section 11A. 09 and Section 356A.04. This includes specifically assuming such additional duties as may be described in Association policies and procedures or required by state law, including:

- (a) adopting an investment policy;
- (b) providing written investment restrictions to brokers;
- (c) securing certificates of insurance; and
- (d) establishing a continuing education plan in order to keep abreast of their fiduciary responsibilities.

9.2 Prohibited Transactions. No fiduciary of the Association shall cause the Association to engage in a transaction if the fiduciary knows or should know that a transaction constitutes one (1) of the following direct or indirect transactions:

- (a) sale or exchange or leasing of any real estate between the Association and a Board member;
- (b) lending of money or other extension of credit between the Association and a Board member or member of the Association;
- (c) furnishing of goods, services, or facilities between the Association and a Board member;
- (d) transfer to a Board member, or use by or for the benefit of a Board member, of any assets of the Association. Transfer of assets does not mean the payment of Association benefits or administrative expenses permitted by law; or
- (e) sale, exchange, loan, or lease of any item of value between the Association and a fiduciary of the Association other than for a fair market value and as a result of an arm's-length transaction.

9.3 Fiduciary Responsibilities Apart from the Special Fund. Although the title "Trustee" is applied to members of the Board of Directors of the Association, the fiduciary

standard that Directors are subject to is two-tiered as a matter of State law. With respect to the Association's Special Fund, Trustees are required to meet a standard of care that applies to fiduciaries under Minnesota Statutes, Section 11A.09 and Section 356A.04, as described above. With respect to business and management decisions not including decisions related to the Special Fund, all Trustees are required to meet a standard of care that applies to nonprofit corporation Directors under Minnesota Statutes, Section 317A.251. These decisions include, but are not limited to, business decisions regarding fund-raising activities, and disposition of and management of the General Fund. Accordingly, in their decision-making and management, Trustees must discharge the duties of their position in good faith, in a manner the Director reasonably believes to be in the best interests of the Association, and with the care an ordinarily prudent person in a like position would exercise under similar circumstances. Directors are not, in accord with that same statutory section, considered "Trustees" with respect to the Association or with respect to property held or administered by the Association.

9.4 Conflict of Interest Procedures. When a member(s) of the Board of Directors has a conflict:

- (a) Each member of the Board of Directors, whether acting as a Director or as an Officer of the Association, has a duty to disclose to the Board (or to any committee of the Board) the material facts of any proposed transaction or action of the Association in which they or a Relative have a Material Financial Interest.
- (b) The disclosure required under (a) (above) *must be made, to the extent possible, prior to any consideration of such proposed transaction or action* by the Board of Directors or by any applicable committee of the Board of Directors. If a Board member does not recognize the existence of a conflict prior to the Board of Director's decision regarding the transaction, that person has a duty to disclose the material facts of the conflict as soon as the conflict is recognized.
- (c) The Board member having a conflict shall not participate in the deliberation or decision regarding the matter under consideration and shall leave the room during deliberations except when he has been invited by the Board or committee to participate, after consideration of the significance to the Association of the disclosed conflict. The Board of Directors or committee may also request that he provide the Association with any relevant information known to the Board member regarding the matter.
- (d) Any proposed transaction or action in which the Board of Directors has determined that a Director has a conflict of interest that is not "de minimis" is to be approved by a majority of all the Board of Directors then-serving who would be entitled to vote and who are not interested Board members at a meeting at which a quorum is present (i.e., by a Supermajority of the entire Board of Directors not including a Board member(s) who has a conflict of interest), even though the non-conflicted directors may constitute less than a quorum). Deliberations by the Board of Directors regarding the conflict shall be documented in Board minutes no later than 60 days following the subject

meeting. The votes of each Board member in support or in opposition to the transaction or action shall be noted.

- (e) All Board members are obligated to notify the Board of Directors if they believe another Board member has failed to disclose a conflict, and this procedure shall be followed by the Board of Directors in all such instances.

ARTICLE X FUNDS

10.1 Funds. All money received by the Association shall be kept in two (2) separate funds, the General Fund and the Special Fund. Disbursements from the funds shall be in accordance with Minnesota Statutes and Rules and the Bylaws of the Association.

10.2 General Fund. The funds received by this Association from: dues, donations, fines, initiation fees, entertainment revenues and any moneys donated for unspecified uses shall be kept in the General Fund and may be disbursed upon a majority vote of the membership or of the Board of Trustees for any purpose reasonably suited to promote the welfare of the Association and its members. All expenses shall be paid out of the General Fund, except as specifically authorized to be disbursed from the Special Fund. These records shall be open for inspection by any member of the relief association at reasonable times and places.

10.3 Special Fund. All funds received by this Association from any tax sources, membership dues, except for dues payable as contributions to the General Fund, and other money that may be directly donated or transferred to said funds, shall be kept in a separate account on the books of the Treasurer known as the Special Fund and shall be disbursed only for the following purposes:

- (a) Payment of members' service pension benefits in accordance with these Bylaws,
- (b) Payment of ancillary benefits in accordance with these Bylaws,
- (c) Payment of fees, dues and assessments to the Minnesota State Fire Department Association and to the Minnesota Area Relief Association Coalition,
- (d) Payment of insurance premiums to the Volunteer Firefighters Benefit Association, or an insurance company licensed by the State of Minnesota offering casualty insurance, and
- (e) All administrative expenses authorized under Minnesota Statutes, Section 69.80.

These records shall be public and open for inspection by any member of the relief association, any officer or employee of the state or municipality, or any member of the public, at reasonable times and places.

10.4 Deposits. All money belonging to this Association shall be deposited to the credit of the Association in such banks, trust companies, or other depositories as the Board of Trustees may designate. Board of Trustees shall make deposits in conformance with Minnesota Statutes, the Bylaws and the investment policy.

ARTICLE XI APPENDICES INCORPORATED IN BYLAWS

The following appendices attached hereto are expressly incorporated herein as a component of these Bylaws, with the same legal force and effect of Bylaws.

Appendix A: Bylaw Amendment History.

Appendix B: Lake Elmo Firefighters Relief Association Defined Benefit Lump Sum Retirement Plan.

Appendix C: Benefit Levels.

ARTICLE XII AMENDMENTS

12.1 Amendment of Articles of Incorporation by Members. Amendments to the Articles of Incorporation must be approved by a majority of the Board of Trustees and by a majority of the Active Members. The exception is changing the relief association's physical address; in that case, the Board of Trustees may amend the Articles of Incorporation without member approval. If an amendment is initiated by the Directors, proper notice of the proposed amendment must precede a meeting of the members at which the amendment will be considered and must include the substance of the proposed amendment. If an amendment is proposed, the members may demand a meeting of the Board of Trustees within 60 days for consideration of the proposed amendment if a regular meeting of the Board would not occur within 60 days.

12.2 Amendment of Articles of Incorporation by Board when Authorized by Members. When authorized by Active Members, the Articles of Incorporation may be amended by the Board of Trustees by the affirmative vote of a majority of the Trustees then in office, at a meeting for which notice of the meeting and the proposed amendment have been given. The members may prospectively revoke the authority of the Board to exercise the power of the members to amend the Articles, with the exception of amending the relief association's physical address, which the Board can amend without member approval. Nothing in this Section shall be construed to permit the Board to adopt, amend, or repeal provisions in the Articles that would alter the rights of the membership.

12.3 Amendment of Bylaws by Board. The Bylaws of the Association may be amended by the Board at any regular or special meeting of the Board by a vote of the majority present and voting, provided that a quorum is present; and provided further that a notice of date, time, place, purpose of the meeting and proposed amendment be *posted* on the bulletin board of the Association, or if no bulletin board, on the door of its usual meeting room, *and* in accord with

Minnesota Statutes, Section 317A.231, each Trustee has been *provided* at least three (3), but not more than sixty (60) days, before the meeting, (excluding the date of the meeting) with notice setting forth the date, time, place, purpose of the meeting and proposed amendment.

Board Limitations of Bylaw Amendments. Nothing in this section shall be construed to permit the Board to adopt, amend or repeal provisions regarding:

- (a) Amending in any way the definition of “Active Service” set forth in the Plan attached hereto
- (b) Decreasing any benefit level set forth in the Plan attached hereto
- (c) Changing the deferred interest percentage set forth in the Plan attached hereto
- (d) Changing the vesting schedule set forth in the Plan attached hereto
- (e) Membership (Article IV)
- (f) Compensation (Section 6.8)
- (g) Elections (Article VII)
- (h) Member Quorum (Section 8.5)
- (i) Revise the number of Members required to amend the Bylaws (Section 12.4)
- (j) or limit the right of at least ten percent of the membership to propose a resolution for action by the members to adopt, amend, or repeal Bylaws that the Board has taken action to adopt, amend or repeal pursuant to this section.

12.4 Amendment of Bylaws by Members. The Bylaws of the Association may be amended at any regular or special meeting by a vote of two-thirds of the Active Members present and voting, provided that a quorum is present; and provided further that notice of any proposed amendment(s) shall be given by posting or reading the same at any regular or special meeting not more than thirty-one (31) days preceding that upon which such amendment(s) are to be acted upon (excluding the date of the meeting).

12.5 Ratification of Amendments by Municipality. If the Association amends its bylaws to affect the amount of, the manner of payment of, or the conditions for qualification for service pensions or ancillary benefits or disbursements other than administrative expenses, it may be necessary to obtain ratification of the amendment by the Municipality as described in Section 8.1 of Appendix B.

APPENDIX A

LAKE ELMO FIREFIGHTERS RELIEF ASSOCIATION

Bylaw Amendment History

For a complete summary of the amendments and, if applicable, the Board's rationale and purpose for the change, refer to the Board of Trustee meeting minutes listed with the effective date of the applicable amendment listed hereunder.

Effective Dates	Meeting Minutes	Summary of Change
_____, 20____ (Document) _____, 20____ (Benefit level; see Appendix C)	_____, 20__ (Board of Trustees) _____, 20__ (Membership) See Appendix C for Municipality minutes	Restatement of Bylaws and Appendices in their entirety, moving from version 3 to version 7 of the MNFPC Bylaw Solution™.
August 17, 2010 (Document) December 5, 2000 (Benefit level; see Appendix C)	August 10, 2009 (Board of Trustees) August 3, 2010 (Membership) August 17, 2010 (Municipality)	Amend Bylaws and Appendices to: <ul style="list-style-type: none"> • Revise Year of Active Service definition (Plan: Appendix B Section 2.1)
November 19, 2008 (Document) December 5, 2000 (Benefit level; see Appendix C)	November 19, 2008 (Board of Trustees) November 19, 2008 (Membership) NR (Municipality)	Amend Bylaws and Appendices to: <u>language clarifications and enhancements</u> <ul style="list-style-type: none"> • Revise Surviving Spouse definition (Plan: Appendix B/D Section 2.1) • Correct reference to MN Statute Division on Marital Property in Alternate Payee definition (Plan: Appendix B/D Section 2.1)
August 1, 2007 (Document) December 5, 2000 (Benefit level; see Appendix C)	_____, 2007 (Board of Trustees) July 31, 2007 (Membership) November 5, 2007 (Municipality)	Restatement of Bylaws and Appendices in their entirety as part of subscribing to the MNFPC Bylaw Solution™ that provides model documents, administrative forms, and trustee support.

NA means not available.
 NR means not required.
 TBD means to be determined

APPENDIX B

LAKE ELMO FIREFIGHTERS RELIEF ASSOCIATION
DEFINED BENEFIT LUMP SUM RETIREMENT PLAN

These model documents are drafted to conform to Minnesota state laws relating to relief association pension plans for volunteer firefighters. The model documents are not drafted to meet the requirements of tax-qualified retirement plans under the Internal Revenue Code, and it is doubtful that the model documents can meet those requirements. **Minnesota Firefighter Pension Consultants, LLC (MNFPC, LLC) makes no representation regarding the status of the plans under federal or state tax laws. MNFPC, LLC recommends that Relief Associations consult their own tax advisors regarding the treatment of the plan and distributions from the plan under state and federal tax laws.**

MNFPC, LLC is not a law firm. We recommend review by your legal counsel of model documents before adoption.

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**LAKE ELMO FIREFIGHTERS RELIEF ASSOCIATION
DEFINED BENEFIT LUMP SUM RETIREMENT PLAN**

The Board of Trustees of the Relief Association amends and restates its existing defined benefit pension plan in its entirety for the benefit of its eligible members.

**ARTICLE I
NAMES, PURPOSE AND OTHER GENERAL INFORMATION**

- 1.1 Name of Municipality: City of Lake Elmo
- 1.2 Name of Fire Department: Lake Elmo Fire Department
- 1.3 Name of Relief Association: Lake Elmo Firefighters Relief Association
- Address: 3510 Laverne Avenue N, Lake Elmo, MN 55042
- 1.4 Federal Taxpayer Identification Number: 41-6077988
- 1.5 Name of Plan: Lake Elmo Firefighters Relief Association Defined Benefit Lump Sum Retirement Plan
- 1.6 Original Effective Date of Plan: November 6, 1962
- 1.7 Purpose. The purpose of the Plan is to provide benefits to eligible members of the Relief Association (Participants) and their lawful Beneficiaries.

**ARTICLE II
DEFINITIONS AND INTERPRETATION**

- 2.1 General Definitions. The following words and phrases when used herein shall have the following meanings except as otherwise required by the context in which they are used:
- (a) **“Accrued Benefit”** of a Participant shall mean the benefit determined under the terms of the Plan, as of a specified date.
 - (b) **“Active Service”** shall mean active service as defined by the Fire Department, as stated in its policies and procedures, except that Participants shall not receive credit for Active Service for periods during which the Participant is:
 - (i) a full- or part-time employee of the Fire Department who accrues pension service credit under the Public Employees Retirement Association of Minnesota Police and Fire Fund for the same firefighting service.

- (c) **“Alternate Payee”** shall mean a spouse or former spouse of a Participant who is recognized by a Domestic Relations Order as having a right to receive all, or a portion of, a Participant’s Beneficial Interest under the Plan, pursuant to Minnesota Statutes, Section 518.58, Subd. 4.
- (d) **“Beneficial Interest”** shall mean the amount of a Participant’s Accrued Benefit that is distributable to the Participant or the Participant’s Beneficiary in accordance with the terms of the Plan.
- (e) **“Beneficiary”** shall mean any person entitled to receive benefits that may be payable upon or after a Participant’s death.
- (f) **“Board of Trustees”** or **“Board”** shall mean the Board of Trustees of the Relief Association.
- (g) **“Break in Service”** shall mean a period as defined by the Fire Department in its policies and procedures, during which the Participant does not meet Active Service requirements. However, service restored pursuant to the uniformed services provisions of Article VII shall be considered Active Service and shall not be considered a Break in Service.
- (h) **“Bylaws”** shall mean the duly adopted bylaws of the Relief Association.
- (i) **“Code”** shall mean the Internal Revenue Code of 1986, and amendments thereto.
- (j) **“Disability”** or **“Disabled”** shall mean the inability of a Participant to engage in the performance of his or her duties by reason of a medically determinable physical or psychological impairment that can be expected to last for a continuous period of not less than twelve months or can be expected to result in death. Disability must have arisen out of or have been causally connected with an act of duty or a service related injury incurred while on leave for uniformed services under Article VII. A Participant’s Disability shall be determined by the Board in its sole discretion.
- (k) **“Disability Benefit”** shall mean the benefit, if any, paid to a Participant in lieu of a Retirement Benefit, pursuant to Section 4.4.
- (l) **“Domestic Relations Order”** shall mean any judgment, decree or order (including approval of a property settlement agreement) that complies with the provisions of Minnesota Statutes Sections 518.58 or 518.581.
- (m) **“Effective Date”** of the Plan shall be the effective date referenced on the first page of the Bylaws.
- (n) **“Entry Date”** shall mean the date of hire as defined in the Fire Department policies and procedures.

- (o) **“Participant”** shall mean a member of the Relief Association who has accrued or is accruing benefits under the Plan.
- (p) **“Plan Year”** shall mean the calendar year.
- (q) **“Qualification Procedures”** shall mean written procedures adopted by the Board of Trustees to:
 - (i) determine whether a Domestic Relations Order may be honored under the law and the terms of the Plan; and
 - (ii) to administer distributions under such orders.

The procedures shall be implemented within a reasonable time after receipt of a domestic relations order by the Board of Trustees. Qualification Procedures must permit an Alternate Payee to designate a representative for receipt of copies of notices sent to the Alternate Payee with respect to a Qualified Domestic Relations Order.

- (r) **“Qualified Recipient”** shall mean an individual who receives a lump sum distribution of pension or retirement benefits, including disability benefits, from the Relief Association for service performed as a Volunteer Firefighter, as it relates to Section 4.7 herein.
- (r) **“Resumption of Active Service Requirement”** shall mean the period of time equal to the period of time that elapsed between the Participant’s Separation Date and return to Active Service pursuant to Section 4.2.
- (s) **“Retirement Benefit”** shall mean the benefit payable to a Participant pursuant to Section 4.1, but only after the Participant has met all eligibility requirements of Section 4.1.
- (t) **“Separation Date”** shall mean the date of retirement or termination as defined in the Fire Department policies and procedures.
- (u) **“Special Fund”** shall mean the fund established pursuant to Minnesota Statutes, Section 424A.05 used to fund benefits under the Plan and for other purposes permitted by statute. The assets of the Special Fund shall be invested only in securities authorized by Minnesota Statutes, Section 69.775.
- (v) **“Supplemental Benefit”** shall mean the benefit paid to a Qualified Recipient pursuant to Minnesota Statutes, Section 424A.10, Subd. 2(a), as described in Section 4.7.
- (w) **“Supplemental Survivor Benefit”** shall mean the benefit, if any, paid to a Surviving Spouse or minor Surviving Children pursuant to Minnesota Statutes, Section 424A.10, Subd. 2(b), as described in Section 4.8.

- (x) **“Surviving Children”** shall mean any unmarried person under the age of 18 who is a natural or adopted child of a deceased Participant. The term also includes any child of the Participant who was conceived during the lifetime of, and who was born after the death of the Participant.
- (y) **“Surviving Spouse”** shall mean the spouse of a deceased Participant who was legally married to the Participant at the time of death.
- (z) **“Survivor Benefit”** shall mean the benefit paid to a Participant’s Beneficiary pursuant to Section 4.5.
- (aa) **“Volunteer Firefighter”** shall mean any person who:
 - (i) is engaged in providing emergency response services or delivering fire education or prevention services as a firefighter for the Fire Department or Municipality;
 - (ii) is trained in or is qualified to provide fire suppression duties or to provide fire prevention duties under Minnesota Statutes, Section 424A.001, Subd. 8; and
 - (iii) meets any other minimum firefighter and service standards established by the Fire Department or Municipality.
- (bb) **“Year of Active Service”** shall mean each 12-month period of Active Service commencing with a Participant’s Entry Date or anniversary thereof reduced by the Participant’s Break(s) in Service. This definition shall be used for the purposes of calculating the minimum funding requirements and computing benefits or service pensions payable. Service pensions will be prorated monthly for fractional Years of Active Service pursuant to Minnesota Statutes, Section 424A.02, Subd. 1.

2.2 Interpretation. The words defined in this Article 2 shall have the meanings assigned to them except where specified otherwise in this instrument. Whenever appropriate, words used herein in the singular shall include the plural, the plural may be read as the singular, and the masculine shall include the feminine.

ARTICLE III **VESTING**

3.1 Full Vesting of Accrued Benefit. A Participant shall have a fully vested and non-forfeitable interest in the Participant’s Accrued Benefit upon completion of 20 Years of Active Service.

3.2 Partial Vesting of Accrued Benefit. The following vesting schedule shall apply to a Participant with fewer than 20 Years of Active Service:

<u>Years of Active Service</u>	<u>Vested Percentage</u>
10 but less than 11	60%
11 but less than 12	64%
12 but less than 13	68%
13 but less than 14	72%
14 but less than 15	76%
15 but less than 16	80%
16 but less than 17	84%
17 but less than 18	88%
18 but less than 19	92%
19 but less than 20	96%
20 or more	100%

3.3 Determining Years of Active Service for Vesting. All Years of Active Service shall be taken into account for purposes of determining a Participant's vested Accrued Benefit, including Years of Active Service with the Fire Department prior to the Effective Date.

ARTICLE IV
BENEFITS

4.1 Retirement Benefit. (a) *Eligibility.* To be eligible to receive a Retirement Benefit a Participant must satisfy each of the following requirements:

- (i) Have retired or ceased Active Service with the Fire Department;
- (ii) Be at least 50 years of age;
- (iii) Have been a Volunteer Firefighter in the Fire Department;
- (iv) Have been a member in the Relief Association; and
- (v) Have the minimum Years of Active Service required for a non-forfeitable interest (vested) in the Participant's Accrued Benefit.

(b) *Amount.* If so provided in Section 3.2, a Participant's Retirement Benefit shall be determined as follows:

Years of Active Service credited to Participant	multiplied by	Benefit level in effect for Participant	multiplied by	Vesting percentage for completed Years of Active Service
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The benefit level is set forth in Appendix C. The Participant's benefit level will be the benefit level in effect at the Participant's Separation Date. However, if the Participant had a Break in Service, the Participant's benefit level shall be determined as described in Section 4.2.

Subject to the provisions of Section 8.1 of this Appendix B, benefit levels are subject to increase and shall be effective as of the agreed upon effective date, provided that such increase shall not apply to any Participant who ceased Active Service before the effective date of the increase.

Such Retirement Benefit shall not be paid before the later of the Participant's Separation Date or the date the Participant attains age 50. The Retirement Benefit shall be paid at the time requested by the Participant in a properly completed and accepted Retirement Benefit Payment Request Form.

4.2 Return To Service. (a) *Return to Service Before Payment of Retirement, Disability or Survivor Benefit.* If a Participant:

- (i) Ceases Active Service with the Fire Department (incurs a Separation Date),
- (ii) Has not received a Retirement Benefit distribution from the Plan of the Participant's vested Accrued Benefit, and
- (iii) Subsequently returns to Active Service after at least 60 days have elapsed, the Participant shall qualify for increases in the benefit level implemented during or after the Separation Date from Active Service and additional Years of Active Service only if the Participant remains in Active Service for the Resumption of Active Service Requirement. If the Participant has not met this requirement by the time of the Participant's later Separation Date, the Participant's benefit shall be the benefit level in effect at the time of the Participant's prior Separation Date and Years of Active Service in effect at the time of the Participant's prior Separation Date plus Years of Active Service after the Participant's resumption of Active Service.

A Participant whose period of Break in Service does not exceed 365 consecutive days is exempt from the minimum period of Resumption of Active Service Requirement.

(b) *Return to Service After Payment of Retirement Benefit.* If a Participant:

- (i) Ceases Active Service with the Fire Department (incurs a Separation Date)
- (ii) Receives a Retirement Benefit distribution from the Plan of the Participant's vested Accrued Benefit,
- (iii) Subsequently returns to Active Service after at least 60 days have elapsed, the Participant shall be credited with additional Years of Active Service. A Participant's Retirement, Disability or Survivor Benefit at the Participant's later Separation Date shall be determined as follows:

Years of <i>Additional</i> Active Service credited to Participant after the return to service	multiplied by	Benefit level in effect for Participant as of the subsequent Separation Date	multiplied by	Vesting percentage for completed <i>Additional</i> Years of Active Service
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No Participant may be paid a service pension twice for the same period of Active Service.

4.3 Deferred Interest.

The Board of Trustees shall adjust only a fully vested Participant's unpaid Retirement Benefit amount at an interest rate up to five percent, compounded annually. The interest rate shall be set by the Board of Trustees, subject to approval by the Municipality. Interest is payable from the first day of the month next following the date on which the Municipality has approved the deferred service pension interest rate established by the Board or from the first day of the month next following the date on which the Participant separated from active Fire Department service and Relief Association membership, whichever is later, to the last day of the month immediately before the month in which the Participant becomes eligible to begin receipt of, and applies for, the Retirement Benefit. The interest rate is set forth in Appendix C.

4.4 Disability Benefit. A Participant who becomes Disabled while in Active Service may be eligible for a Disability Benefit in lieu of a Retirement Benefit. A Participant who becomes Disabled while on leave for uniformed services under Article VII shall be deemed to have become Disabled while in Active Service. A Participant's Disability Benefit shall be determined as follows:

Years of Active Service credited to Participant	multiplied by	Benefit level in effect when Participant becomes Disabled
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The benefit level is set forth in Appendix C. Subject to the provisions of Section 8.1 of this Appendix B, such dollar amount is subject to increase and shall be effective as of the agreed upon effective date, provided that such increase shall not apply to any Participant who ceased Active Service before the effective date of the increase.

Any Disability Benefit paid in accordance with this Section 4.4 shall be in lieu of all rights to further service pension and survivors benefits.

The Participant shall be eligible to receive the Disability Benefit upon approval of the Board of Trustees. A written report of a physician of the Participant's choice shall be required for payment of a Disability Benefit. The report shall set forth the diagnosis and prognosis of the Disability, disease or injury of the Participant and its probable duration of permanence. A Participant's statement as to pain or other symptoms will not alone be conclusive evidence of Disability.

A Disability Benefit Payment Request form shall be submitted to the Board of Trustees within six months after such Participant's Separation Date with the Fire Department. The form shall

describe the nature and cause of such Disability. The form shall be under oath by the Participant or his/her immediate family. The determination of Disability shall be tabled until the next Board meeting so that a physician of the Participant's choice may examine the Participant. The Board of Trustees has the discretion to request that another doctor, selected by the Board of Trustees, examine the Participant. Final determination of Disability will be based on the reports of at least one doctor, and shall be determined by the Board of Trustees at the subsequent Board meeting.

If the Participant who applied for a Disability Benefit disagrees with the Board's determination, the Participant may, within sixty (60) days from notice of such action of the Board of Trustees, file a written appeal of the Board of Trustees' determination. The appeal will be decided under the appeal procedures described in Article V.

4.5 Survivor Benefit. (a) *Eligibility.* For a Participant's Beneficiary to be eligible to receive a Survivor Benefit, the Participant must have satisfied the following requirements:

- (i) Have died in Active Service with the Fire Department; or
- (ii) Have died prior to receiving his Retirement Benefit.

A Participant who dies while on leave for uniformed service under Article VII shall be deemed to have died while in Active Service.

(b) *Amount.* If a Participant in Active Service dies, the Participant's Beneficiary shall receive a lump sum payment equal to 100% of the Participant's Accrued Benefit.

The Survivor Benefit paid on behalf of a Participant in Active Service who dies before having completed five Years of Active Service shall be determined as if the Participant had completed five Years of Active Service.

If a Participant who has retired from or ceased Active Service dies, the Participant's Beneficiary shall receive a lump-sum Survivor Benefit determined as follows:

Years of Active Service credited to Participant	multiplied by	Benefit level in effect for Participant	multiplied by	Vesting percentage for completed Years of Active Service
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The Survivor Benefit level will be the benefit level in effect at the Participant's Separation Date. However, if the Participant had a Break in Service, the Survivor Benefit level shall be determined as described in Section 4.2.

Such Survivor Benefit shall be paid to the Participant's Beneficiary as soon as administratively feasible following the Participant's death and the approval of the Survivor Benefit Payment Request form.

A Participant's Beneficiary shall be as follows:

- (i) the Participant's Surviving Spouse; or
- (ii) if no Surviving Spouse, the Participant's Surviving Children or if so designated as a Beneficiary by the Participant, a trust for the benefit of the Participant's Surviving Children created under Chapter 501B; or
- (iii) if no Surviving Spouse or Surviving Children, the Participant's designated Beneficiary or Beneficiaries. To designate a Beneficiary, the Participant shall complete, sign and file with the Relief Association a designation of Beneficiary on a form to be provided by the Relief Association or by other written form acceptable to the Relief Association. On said form, the Participant shall designate a Beneficiary, which must be a natural person, or a designated trust created under Chapter 501B of the Minnesota Statutes that shall be paid any sum that may be payable on account of the Participant's death (reserving, however, to the Participant the power to change the designation of Beneficiary using the Change of Beneficiary Designation form); or
- (iv) if no designated Beneficiary or Beneficiaries, to the estate of the Participant.

If there is a Surviving Spouse, but no Surviving Children, the Surviving Spouse may waive in writing all or a part of the Survivor Benefit otherwise payable to the Surviving Spouse, in which event, the Survivor Benefit waived shall be paid as if the spouse had predeceased the Participant.

4.6 Funeral Benefit. No Funeral Benefit shall be paid under this Plan.

4.7 Supplemental Benefit. Upon payment of a lump sum distribution, the Relief Association must pay a Supplemental Benefit to the Qualified Recipient. The Supplemental Benefit may be paid from the Special Fund. The amount of the Supplemental Benefit equals ten percent of the lump sum distribution, excluding any interest paid during a period of deferral, but in no case may the Supplemental Benefit exceed \$1,000.

4.8 Supplemental Survivor Benefit. Upon payment of a Survivor Benefit, the Relief Association must pay a Supplemental Survivor Benefit to the Surviving Spouse, or, if none, the Surviving Child(ren) of a Participant who had at least one (1) month of Active Service. The Supplemental Survivor Benefit shall be paid in lieu of the Supplemental Benefit and shall be paid from the Special Fund. The amount of the Supplemental Survivor Benefit equals twenty (20) percent of the lump sum distribution, but in no case may the Supplemental Survivor Benefit exceed \$2,000.

4.9 Benefit Payment Requests. Requests for benefit payment shall be in writing and filed with the Relief Association not less than 90 days prior to the next Board meeting, unless permitted earlier by the Board. Such request shall be made on the appropriate form described below:

<u>Requested Benefit</u>	<u>Required Benefit Form</u>
Retirement	Retirement Benefit Payment Request
Survivor	Survivor Benefit Payment Request
Disability	Disability Benefit Payment Request (if applicable)

Requests for Plan benefits shall be considered valid when approved by the Board. Upon approval of the request, the Board shall pay the Participant within 90 days and provide notices to the Participant as required by state or federal law with respect to pension or benefit payments, including, if required, the Special Tax Notice Regarding Plan Payments.

4.10 Forms of Payment. Plan benefits payable to a Participant or Beneficiary shall be made in single lump sum payment. The Participant shall specify that the payment be made in the manner of:

- (a) a check payment payable to the Participant or Beneficiary, subject to federal income tax withholding, as may be required; or
- (b) a direct rollover to an individual retirement account described in Section 408(a) of the Code to the extent permitted by law, or
- (c) a transfer to the Participant's account in the Minnesota Deferred Compensation Plan, to the extent permitted by law and the Minnesota Deferred Compensation Plan.

No other forms of distributions are allowed under the Plan.

4.11 Maximum Limitation on Benefits. Notwithstanding any provision of the Plan to the contrary, a Participant's benefit under the Plan shall not exceed the maximum amount permitted under Section 415 of the Code. Service pensions shall be further limited to the maximum amounts payable pursuant to Minnesota Statutes, Section 424A.02, Subd. 3.

4.12 Required Distributions. Notwithstanding any provision of the Plan to the contrary, a Participant's benefit shall be paid to the Participant by April 1 of the calendar year following the later of the calendar year in which the Participant attains age 70½ or ceases Active Service. Such distributions shall be determined and made in accordance with Section 401(a)(9) of the Code and regulations promulgated there under, including the minimum distribution incidental benefit requirement of Treasury Reg. Section 1.401(a)(9)-2, the provisions of which are incorporated herein by reference.

4.13 Unclaimed Benefits. If the Relief Association is unable with reasonable effort to locate a Participant or person/estate entitled to a Survivor Benefit under the Plan or applicable law, the benefit distributable to such Participant or person/estate shall be forfeited and will be credited to the Special Fund. Efforts to locate a Participant or person/estate must be documented. Forfeiture shall occur no earlier than thirty-six (36) months after the Board concludes the Relief Association was unable to locate such Participant or person/estate despite reasonable efforts to do so.

ARTICLE V APPEALS PROCEDURE

5.1 Right of Appeal. In the event the Board of Trustees denies a written request for a Retirement, Disability or Survivor Benefit, the Participant or Beneficiary whose request was denied (a "claimant") shall be entitled to appeal the determination.

5.2 Denial of Benefits. If a written request is not approved, the Board shall return the form to the claimant within 30 days, noting which requirements the claimant does not meet. Thereafter, the claimant shall be furnished with the opportunity to be heard by the Board, on the question of whether the claimant meets all of the eligibility requirements. A claimant who intends to appeal must furnish the Board with a written notice of appeal within 30 days of receiving an adverse determination.

5.3 Review Procedure. Upon receipt of the written notice of appeal, the Board of Trustees shall hold a special meeting within 60 days. Timely notice of the meeting shall be given to the claimant at least 15 days prior to the special meeting. The claimant shall have the reasonable opportunity to be heard by the Board of Trustees at the special meeting with regard to the negative determination. The Board shall decide the appeal and shall give the claimant written notice of its decision.

The exhaustion of these claims procedures is mandatory for resolving every claim and dispute arising under these Bylaws. Any legal action to recover benefits or to enforce or clarify rights under the Bylaws must be commenced in the proper forum within 120 days after the claimant has exhausted the claims procedures. For all purposes, knowledge of all facts that the Participant knew or reasonably should have known shall be imputed to every claimant who is or claims to be a beneficiary of the Participant or otherwise claims to derive an entitlement by reference to the Participant. The Board has full discretion to determine benefit claims under the Bylaws. Any interpretation, determination or other action of the Board shall be subject to review only if it is arbitrary or capricious or otherwise an abuse of discretion. Any review of a final decision or

action of the Board shall be based only on such evidence presented to or considered by the Board at the time it made the decision that is the subject of review.

ARTICLE VI

CLAIMS AGAINST BENEFICIAL INTEREST

6.1 Nonassignability. No Participant or Beneficiary shall have any transmissible interest in the Plan or in the Participant's separate Beneficial Interest therein, either before or after the vesting thereof, or in any of the assets comprising the same prior to actual payment and distribution thereof, and shall have no power to alienate, dispose of, pledge or encumber the same, while in the possession or control of the Plan, nor shall the Plan recognize any assignment thereof, either in whole or in part, nor shall the interest of any Participant or Beneficiary be subject to attachment, garnishment, execution or other legal process while in the hands of the Plan, except as provided in Minnesota Statutes, Section 518A.53 or as otherwise provided herein.

6.2 Charge for Litigation. In the event that any Participant or any person claiming by or through a Participant should commence any equitable or legal proceedings against the Relief Association, the result of which is adverse to the plaintiff, or in the event that the Relief Association should find it necessary to commence any such proceeding against any Participant or any person claiming by or through a Participant, the result of which is adverse to the defendant, the cost to the Relief Association of defending or bringing the proceeding, as the case may be, shall be charged, to the extent possible and permitted by law, to the Accrued Benefit of the Participant and only the excess of such cost over the amount of the Participant's Accrued Benefit shall be included as an expense of administration.

6.3 Domestic Relations Orders. Notwithstanding any provision to the contrary herein, the Board of Trustees may assign the interest of a Participant in the Plan to an Alternate Payee pursuant to a Domestic Relations Order. In the event the Plan receives a Domestic Relations Order with respect to a Participant's Beneficial Interest in the Plan, the following provisions shall apply:

- (t) The Board shall promptly give written notification to the Participant and to the Alternate Payee of receipt of a domestic relations order and of Plan Qualification Procedures. The Board shall then proceed with Qualification Procedures to determine whether the order is a Domestic Relations Order and can be honored. The Board shall then notify the Participant and Alternate Payee (or the Alternate Payee's designated representative) of its determination.
- (u) Disputed funds shall be disposed of as follows:
 - (i) During the period in which the Qualification Procedures are in progress, the Board shall separately account for any amounts that would be payable to an Alternate Payee if the Domestic Relations Order can be honored.

- (ii) If it is determined the Domestic Relations Order can be honored within the 18-month period commencing on the date payments are to begin under the order, the Board shall pay the amounts designated in the order, including any interest, to the Alternate Payee.
- (iii) If the Board determines that the Domestic Relations Order cannot be honored or if the 18-month period described in (ii) above elapses and the qualification dispute has not been resolved, the Board shall pay the segregated amounts, together with earnings or losses, if required, to the persons who would have received the amounts if the order had not been issued.
- (iv) If an order is qualified after expiration of the 18-month period described in (ii) above, payment of benefits to an Alternate Payee shall proceed prospectively and the Plan shall not be liable to an Alternate Payee for benefits attributable to the period prior to qualification.
- (v) Payment of benefits pursuant to a Domestic Relations Order shall be made only as permitted under the Plan. Payment to an Alternate Payee may not commence until the Participant submits a valid Retirement Benefit Payment Request form and the Participant's benefit becomes payable.
- (w) If a Domestic Relations Order does not address and determine the payment of the Supplemental Benefit payable under Section 4.7 in connection with the payment of a Retirement Benefit, the Supplemental Benefit shall be divided between the Participant and the Alternate Payee in the same proportion as the Retirement Benefit is so divided. In addition, the Board cannot honor a Domestic Relations Order requiring that Supplemental Survivor Benefits be paid to anyone other than the persons listed in Section 4.8 in the order there listed.
- (x) To the extent permitted by law and except as otherwise provided under a Domestic Relations Order, the Board may, on a uniform basis, charge the reasonable and necessary expenses associated with the review of a Domestic Relations Order and the implementation of a Domestic Relations Order to the accounts of the Participant and Alternate Payee.

ARTICLE VII

UNIFORMED SERVICE (MILITARY SERVICE)

Subject to restrictions stated in this section, a Participant who is absent from firefighting service due to service in the uniformed services, as defined in the Uniformed Services Employment and Reemployment Rights Act ("USERRA"), will be granted Active Service credit under the Plan for the period of the uniformed service, not to exceed five years, unless a longer period is required under USERRA.

To be eligible for such credit, the Participant must return to firefighting service with coverage by the Relief Association (or by the successor to the Relief Association) upon discharge from service in the uniformed service within the time frame required in USERRA. However, Active Service credit is not authorized if the Participant separates from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions.

Active Service credit is not authorized if the Participant fails to provide notice to the Fire Department that the Participant is leaving to provide service in the uniformed service, unless it is not feasible to provide that notice due to the emergency nature of the situation.

If the Participant does not return to Active Service with the Fire Department within the time frame required in USERRA, then except as otherwise provided in the following sentence, it shall be conclusively presumed that the Participant's Active Service terminated as of the date that the leave for uniformed services began. A Participant who dies or becomes Disabled while the Participant is on leave for uniformed services shall be deemed to have returned to Active Service and shall be deemed to have accrued years of Active Service during the period of leave for uniformed services.

ARTICLE VIII **RIGHT TO AMEND, DISCONTINUE OR TERMINATE**

8.1 Amendment. Except as herein otherwise limited, the Relief Association shall have the right to amend this Plan, pursuant to Section 12.3 of the Bylaws, at any time to any extent that it may deem advisable. Such amendment will be stated in an instrument in writing executed by the Relief Association. Upon adoption and execution of such instrument, this Plan shall be deemed to have been amended in the manner therein set forth, and Participants shall be bound thereby.

If the Special Fund does not have a surplus over full funding pursuant to Minnesota Statutes, Section 69.772, Subd. 3, clause (b), or Minnesota Statutes 69.773, Subd. 4, and if the Municipality is required to provide financial support to the Special Fund pursuant to Minnesota Statutes, Section 69.772 or 69.773, no amendment that would affect the amount of, the manner of payment of, or the conditions for qualification for service pensions or ancillary benefits or disbursements other than administrative expenses authorized pursuant to Minnesota Statutes 69.80 payable from the Special Fund shall be effective until it has been ratified by the governing body or bodies of the Municipality.

If the Municipality is not required to provide financial support to the Special Fund, the Relief Association may adopt an amendment of the Plan that increases or otherwise affects the service pensions or ancillary benefits payable from the Special Fund without municipal ratification so long as the changes do not cause the amount of the resulting increase in the accrued liability of the Special Fund to exceed 90 percent of the amount of the prior surplus over full funding and the changes do not result in the financial requirements of the Special Fund exceeding the expected amount of the future fire state aid to be received by the Relief Association.

The financial requirements are to be determined by the Board of Trustees following the preparation of an estimate of the expected increase in the accrued liability and annual accruing liability of the Relief Association attributable to the change. If the Relief Association adopts or

amends the Plan without municipal ratification, and, subsequent to the amendment or adoption, the financial requirements of the Special Fund are such so as to require financial support from the Municipality, the provision that was implemented without municipal ratification shall no longer be effective without municipal ratification, and any service pensions or ancillary benefits payable with respect to the unapproved increase shall no longer be effective as of the January 1 of the year for which the Schedules I and II for the municipal contribution became due, and as of that January 1, service pensions or ancillary benefits shall be paid only in accordance with provisions of the Plan as amended or adopted with municipal ratification.

8.2 Consolidation and Plan Benefits. The Relief Association has not been consolidated with another relief association pursuant to Minnesota Statutes, Section 424B.02.

8.3 Termination of Plan. Upon dissolution of the Relief Association, after the settlement of nonbenefit legal obligations of the Special Fund, the Board shall transfer the remaining assets of the Special Fund, as securities or in cash, as applicable, to the chief financial official of the Municipality. The Board shall also compile a schedule of Participants to whom a service pension is or will be owed, any Beneficiary to whom a benefit is owed, the amount of the service pension or benefit payable based on the Bylaws and state law and the service rendered to the date of the dissolution, and the date on which the pension or benefit would first be payable under the Bylaws and state law.

The Municipality receiving the remaining assets of the Special Fund shall establish a separate account in the municipal treasury to function as a trust fund for Participants and their Beneficiaries eligible for Plan benefits. Upon submission of the proper form, on or after the initial date on which the service pension or benefit is payable, the municipal treasurer shall pay the pension or benefit due, based on the schedule described above and the other records of the dissolved Relief Association. The trust fund must be invested and managed consistent with Minnesota Statutes Section 69.775 and Chapter 356A. Upon payment of the last service pension or benefit due and owing, any remaining assets in the trust fund may be transferred to the general fund of the municipality. If the Special Fund had an unfunded actuarial accrued liability upon dissolution, the Municipality is liable for that unfunded actuarial accrued liability.

ARTICLE IX MISCELLANEOUS

9.1 Governing Law. This Plan shall be construed, administered, and governed in all respects under the laws of the State of Minnesota, except as preempted by federal law.

If any Minnesota laws are applicable solely to the Relief Association, then an Appendix F will be included to describe such laws.

9.2 Binding Effect. This Plan shall be binding upon and inure to the benefit of the heirs, personal representatives, successors and assigns of any and all of the parties hereto.

9.3 Effective Date Application. If a member's Separation Date is prior to the Effective Date, the member's status and benefit under the Plan, if any, attributable to Active Service, shall be

determined and paid in accordance with the provisions of the Plan in effect at the Separation Date.

If a member had a Separation Date prior to the Effective Date, but returns to complete a Year of Active Service that ends after the Effective Date, the member's status and benefits under the Plan for all Active Service shall be determined in accordance with the provisions of the Plan in effect at the subsequent Separation Date.

9.4 Authority of Board of Trustees. The Board of Trustees shall have full power, authority and discretion to do each and every act and thing which it is specifically required or permitted to do under the provisions of the Plan and to determine conclusively for all parties all questions arising in the interpretation or administration of the Plan.

APPENDIX C

LAKE ELMO FIREFIGHTERS RELIEF ASSOCIATION

Benefit Levels

Benefit Level Effective Date	Benefit Level per Year of Active Service	Interest Rate for Deferred Pension Benefit	Date Benefit Approved by Municipality
December 5, 2000	\$3,100	5%	December 5, 2000

NA means not applicable.

NR means not required.

TBD means to be determined



MAYOR AND COUNCIL COMMUNICATION

DATE: 6/04/2013
CONSENT
ITEM #: 8
MOTION *Consent Agenda*

AGENDA ITEM: Special Event Permit – Go Commando Adventure Race/Team Ortho Foundation
SUBMITTED BY: Adam Bell, City Clerk
THROUGH: Dean A. Zuleger, City Administrator
REVIEWED BY: Kyle Klatt, Planning Director
Greg Malmquist, Fire Chief
Beckie Gumatz, Program Assistant

SUMMARY AND ACTION REQUESTED: As part of the Consent Agenda City Council is respectfully requested to consider approval of a special event permit issued to Team Ortho Foundation, Inc. for their event the *Go Commando Adventure Race* being held at Green Acres on July 13 & 14, 2013. *As part of the Consent Agenda, no specific motion is required.*

If removed from the *Consent Agenda*, the recommended motion to act on this request is as follows:

“Move to approve a Special Event Permit issued to Team Ortho Foundation to conduct the Go Commando Adventure Race at Green Acres from 8:00 a.m. to 4:00 p.m. on July 13 and 14, 2013.

FISCAL IMPACT: None – all costs associated with the event will be borne by the applicant. There are no anticipated public expenses associated with the event.

BACKGROUND INFORMATION: The applicant has successfully submitted a special event permit application, a diagram detailing the event, the certificate of insurance required by city code and the permit application fee of \$75. The event being proposed is an adventure race with an anticipated 3,000 participants. Security and crowd control will be provided by the Washington County Sheriff’s department and first aid will be provided by the Team Ortho Medical Team. Live entertainment will be provided between the hours of 8:00 a.m. and 3:00 p.m. the day of the event. There will be no parking at the site – all participants will park at the Washington County Fairgrounds and be bussed to the event location. All clean-up and trash hauling will be provided by Team Ortho. The event is expected to draw 1,000 spectators.

A special event permit has been deemed necessary for this event because it will involve more than 100 participants within a 24-hour period and is a privately-sponsored event. The Temporary Special Event ordinance also lists a series of information that must be provided or requirements that must be met in order to conduct the event, which include the following:

- **Maximum Number of People:** 3000 competitors, 1000 spectators, and 100 volunteers
- **Sound Equipment:** Yes, music provided by local bands, four hours each session

- **Sanitary Facilities:** 40 portable restroom units & 20 trash containers
- **Security:** provided by Washington County Sheriff's Department
- **Food Service:** Various food trucks on-site with individual food service licenses
- **Fire Protection:** None required; Lake Elmo Fire Department will be providing some contracted for services.
- **Duration of Special Event:** July 13 & 14, 2013, between 8:00 a.m. and 4:00 p.m. (with additional hours for setup and tear-down 12 days prior to and one day after event)
- **Cleanup Plan:** Complete clean-up including trash haul away
- **Waivers:** None requested
- **Insurance:** Certificate of Insurance provided

In addition to the above requirements, the applicant has indicated that they will have Team Ortho Medical Team on sight for first aid.

RECOMMENDATION: Based upon the above background information and staff report, it is recommended that the City Council approve as part of the *Consent Agenda*, a Special Event Permit for *Go Commando Adventure Race* sponsored by Team Ortho Foundation to conduct a race at Green Acres on July 13 & 14, 2013 by undertaking the following action: *As part of the Consent Agenda, no specific motion is required.*

The council always has the right to remove an item from the *Consent Agenda* for further discussion. If the council so chooses to remove this item from the *Consent Agenda*, the recommended motion to act on this request is as follows [subject to any modification]:

“Move to approve a Special Event Permit issued to Team Ortho Foundation to conduct the Go Commando Adventure Race at Green Acres from 8:00 a.m. to 4:00 p.m. on July 13 and 14, 2013.

ATTACHMENTS:

1. Special Event Permit Application submitted by Team Ortho Foundation
2. Event Course Diagram
3. Event Set-Up Plan Diagram
4. Certificate of Insurance



Special Event Permit Application

I. Title and Brief Description of Event

GO COMMANDO ADVENTURE RACE
→ OBSTACLE COURSE / MUD RUN 5K

II. Applicant Information

The applicant is responsible for answering all questions, including inquiries from media and citizens.

Applicant: RUD TRNKA Title: RACE DIRECTOR

Address: 2906 2ND ST N MINNEAPOLIS, MN 55411

Business/Organization: TEAM ORTHO FOUNDATION

Daytime Phone: _____ Mobile Phone: 612 310 7252 Emergency Phone: _____

III. Event Timetable

A. Requested day and date: 7-13-13 - 7-14-13

B. Requested Hours of Operation, from 08:00 (a.m.)/p.m. to 4:00 a.m./(p.m.)

C. Set up beginning day and date 7-1-13, time 8:00 (a.m.)/p.m.

D. Dismantle by day and date 7-15-13, time 6:00 a.m./(p.m.)

E. Anticipated number of participants: 3,000; and spectators: 1,000

IV. Insurance

Attach to this application either an insurance policy or a certificate of insurance including the policy number and showing liability amounts. The policy must state that any outside area to be used for an event is covered. The policy must also show evidence that the requested event is not excluded from insurance liability.

V. Check All Items that Apply to your Event

- Use of a Public Facility (note facility): _____;
- Event participant and/or spectator parking areas (describe): WASHINGTON CO. FAIRGROUNDS
- Entertainment or stage location (provide to-scale drawings);
- Construction or erection of temporary structures (may need permit: check with planning department);
- Trash containers (indicate # and locations): 20 SCATTERED AROUND COURSE;
- Portable toilet facilities (indicate # and locations): 40 IN PARKING AREA;
- First aid facilities (indicate who is providing): TEAM ORTHO MEDICAL STAFF;
- Parade and/or parade floats (may need permit);
- Fireworks and/or pyrotechnics site (may need permit, check with the fire department);
- Cooking facilities, open flame, or vehicle fuels (may need permit, check with fire department);
- Electricity (indicate source and plan): LOCAL POWER & GENERATORS;
- Other (please describe): _____

VI. Food, Beverages, and/or Entertainment

A. If your event includes music, live entertainment, sound amplification or any other noise impact, please describe, including the intended hours of the music, sound or noise.

THERE WILL BE A STAGE WITH LIVE MUSIC NEAR THE CHALET. ADDITIONALLY, THERE WILL BE AMPLIFIED DJ MUSIC ON THE COURSE. MUSIC WILL RUN FROM 8-3

B. Will alcoholic beverages be served? Yes No

C. Name of liquor establishment: _____

D. For service of alcohol outside a licensed premise, include a diagram showing the defined area of the alcohol concession service and attach a copy of your certificate of liquor liability insurance covering the limits of the alcohol service area.

E. If serving alcohol, describe how you will ensure that alcohol will be possessed and consumed only by those persons 21 years or older. Describe all security measures in place.

ALL PARTICIPANTS ARE ID'ED BEFORE REACHING THE
EVENT SITE. THOSE OF AGE ARE GIVEN A WRISTBAND
WHILE THOSE UNDER AGE ARE MARKED WITH A LARGE
"X" ON BOTH HANDS

F. Will food and/or non-alcoholic beverages be served? Yes No

G. If yes, describe sanitation and food-handling procedures:

WASHING STATIONS WILL BE PROXIMAL TO FOOD AND ALL
HANDLERS WILL BE WEARING GLOVES.

H. If yes, you will need to have a Temporary Food License from Washington County. Attach a copy of your Temporary Food License to this application.

I. If you intend to cook food in the event area, describe your area layout, including fuel or electrical sources to be used:

VII. Vendors or Concessionaires

List what vendors/concessionaires you will have at your event and list their Sales Tax ID Number:

VIII. Security and Safety Procedures

A. Describe your proposed procedures for security and crowd control:

B. If the event is to occur at night, describe how you will light the event area in order to increase the safety of participants and spectators coming to and leaving the event:

N/A

IX. Clean-up

List persons responsible for clean-up duties:

TEAM ORTHO STAFF AND Hired TEMPORARY LABOR WITH HELP FROM VOLUNTEERS. KEY CONTACT PERSON IS BOA TRNKA

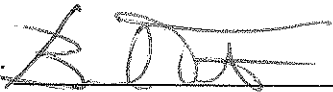
X. Mitigation of Impacts on Others

Describe how you intend to mitigate the impacts of the special event on businesses, churches, neighbors, motorists, and others:

THIS EVENT WILL NOT IMPACT ANY BUSINESSES. NEIGHBORS WILL BE NOTIFIED VIA LETTER 30 DAYS BEFORE EVENT AND WILL BE GRANTED FREE ADMISSION TO SPECTATE

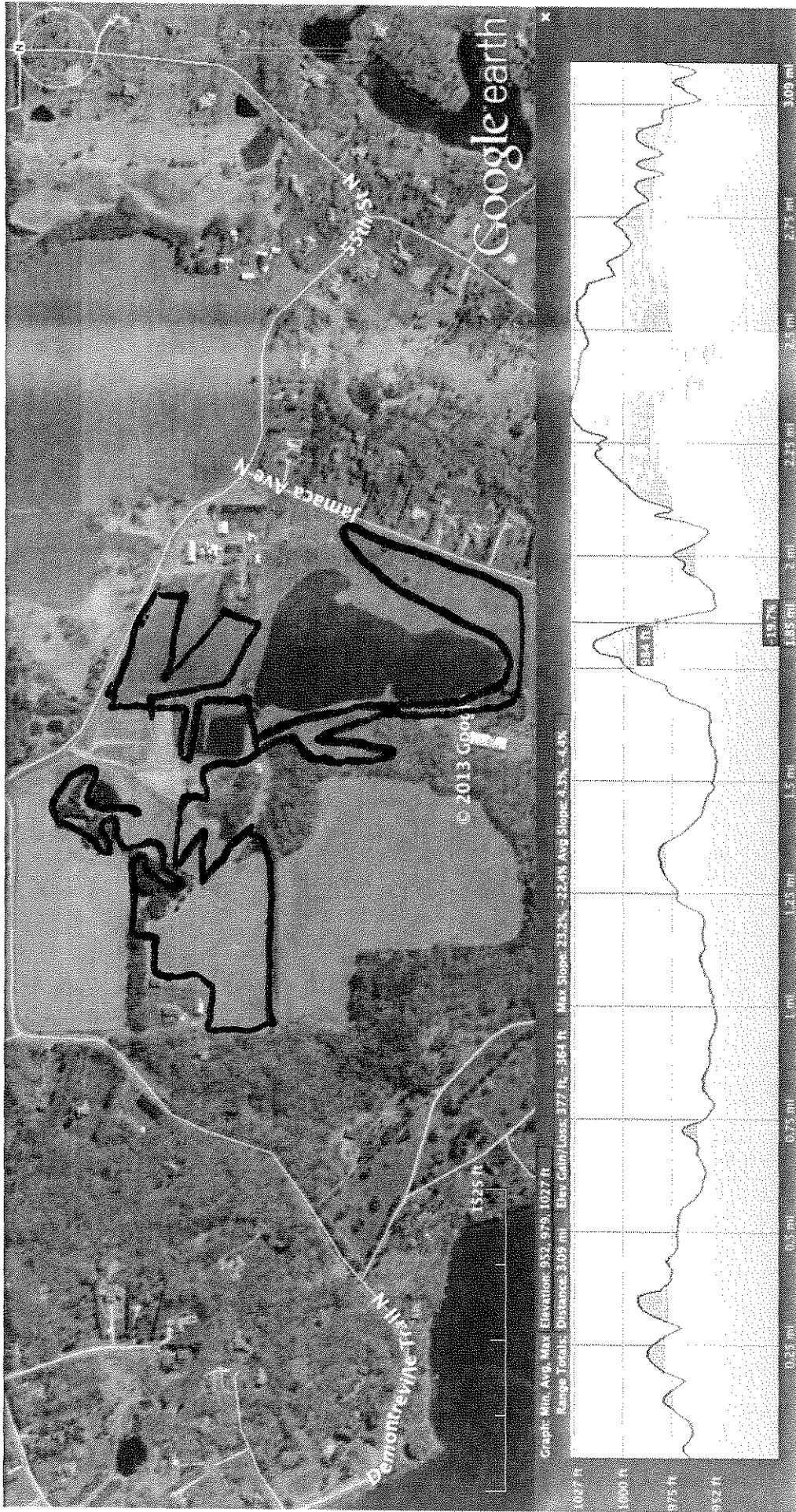
Note: Any condition which causes adverse impacts may be cause to revoke the Special Events Permit

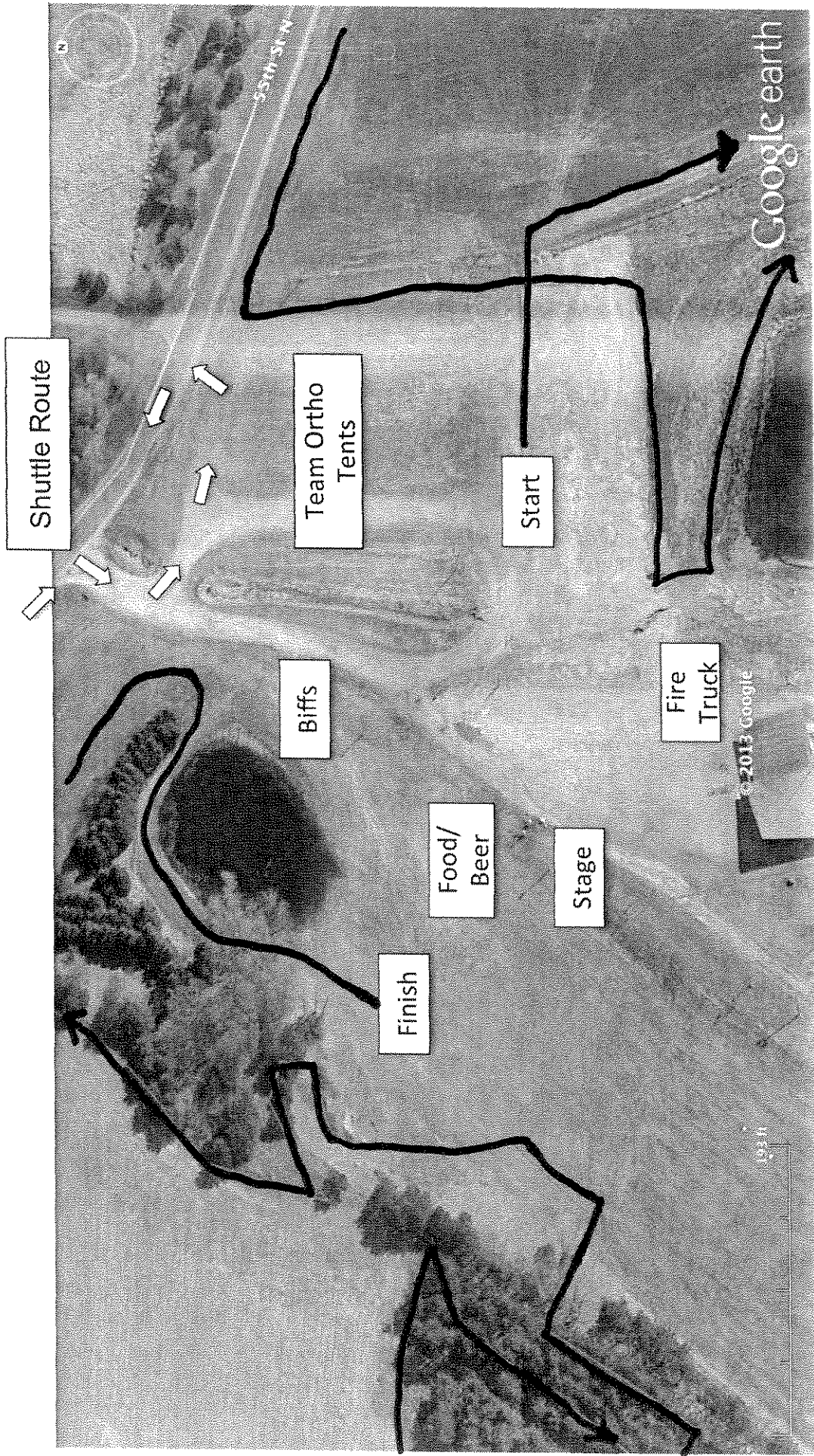
Applicant Signature:



Date of Application:

5/24/13







CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
05/28/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Advance Insurance Agency, Inc. 5241 Viking Drive Ste 200 Edina, MN 55435		CONTACT NAME: PHONE (A/C, No, Ext): 952.831.1928 FAX (A/C, No): 952.831.0572 E-MAIL ADDRESS: PRODUCER CUSTOMER ID #: 00033866	
INSURED TEAM ORTHO FOUNDATION 2906 N 2ND ST MINNEAPOLIS, MN 55411		INSURER(S) AFFORDING COVERAGE NAIC # INSURER A: NSI 15350 INSURER B: West Bend INSURER C: INSURER D: INSURER E: INSURER F:	

COVERAGES CERTIFICATE NUMBER: NSI 13/14 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	X	NS01440392	04/16/2013	04/16/2014	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 200,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJ-JECT <input type="checkbox"/> LOC					
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS		NS01440392	04/16/2013	04/16/2014	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE		NU01440393	04/16/2013	04/16/2014	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000
	DEDUCTIBLE RETENTION \$ 0					
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/> N/A				<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
	Liquor Liability		NS01869881	05/01/2013	04/16/2014	Aggregate \$1,000,000 Occurrence \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

RE: Go Commando Race July 13, 2013

Green Acres is included as additional insured on the General Liability if required in a written contract per policy form WB1890.

CERTIFICATE HOLDER		CANCELLATION	
Green Acres 8989 55th Street North Lake Elmo, MN 55042		SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.	
		AUTHORIZED REPRESENTATIVE Erik Johnson	

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MAYOR AND COUNCIL COMMUNICATION

DATE: 6/04/2013
CONSENT
ITEM #: 9
MOTION *Consent Agenda*

AGENDA ITEM: Approve Temporary Liquor License – Team Ortho Foundation, Inc.
SUBMITTED BY: Adam Bell, City Clerk
THROUGH: Dean A. Zuleger, City Administrator
REVIEWED BY: Beckie Gumatz, Program Assistant

SUGGESTED ORDER OF BUSINESS (if removed from Consent):

- Introduction of Item..... City Clerk
- Questions from Council to Staff, if any.....Mayor Facilitates
- Public input, if applicable.....Mayor Facilitates
- Call for Motion.....Mayor & City Council
- Discussion, if any.....Mayor & City Council
- Action on Motion.....Mayor Facilitates

SUMMARY AND ACTION REQUESTED: As part of the Consent Agenda City Council is respectfully requested to consider approval of a temporary on-sale liquor license issued to Team Ortho Foundation, Inc. for their event the *Go Commando Adventure Race* being held at Green Acres on July 13-14, 2013, subject to approval of the Director of Alcohol and Gambling Enforcement. *As part of the Consent Agenda, no specific motion is required.*

BACKGROUND INFORMATION: Pursuant to Lake Elmo City Code Chapter 111.17 Section B3 temporary on-sale licenses shall be issued only to clubs, charitable, religious or other non-profit organizations in existence for at least three years and shall authorize the on-sale of intoxicating liquor in connection with a social event sponsored by the licensee and subject to the restrictions imposed by MN Statute 340A.

STAFF REPORT: Team Ortho Foundation, Inc. located at 1170 15th Avenue SE, Minneapolis, MN 55414 is planning to hold their *Go Commando Adventure Race* on July 13 and 14, 2013 at Green Acres located at 8989 55th Street North. They have requested an on-sale temporary special event liquor license to allow for the safe sale of alcoholic beverages at the event. Please find attached the request from Team Ortho Foundation, Inc. The event will be held from 8:00 a.m. through 4:00 p.m. at Green Acres. Security will be present during the entire event. Team Ortho Foundation, Inc. has successfully submitted an application, certificate of insurance for liquor liability, and paid the \$25 license fee.

RECOMMENDATION: Based upon the above background information and staff report, it is recommended that the City Council approve a temporary on-sale liquor license issued to Team Ortho Foundation, Inc. for their *Go Commando Adventure Race* being held at Green Acres on July 13 and 14, 2013, subject to approval of the Director of Alcohol and Gambling Enforcement. *As part of the Consent Agenda, no specific motion is required.*

ATTACHMENTS:

1. MN Department of Public Safety Application for Temporary Liquor License
2. Certificate of Insurance
3. Proof of Non-Profit Status – 501(c)(3)



Minnesota Department of Public Safety
ALCOHOL AND GAMBLING ENFORCEMENT DIVISION
 444 Cedar Street Suite 133, St. Paul MN 55101-5133
 (651) 201-7507 Fax (651) 297-5259 TTY (651) 282-6555
 WWW.DPS.STATE.MN.US



#2

**APPLICATION AND PERMIT
 FOR A 1 TO 4 DAY TEMPORARY ON-LIQUOR WINE LICENSE**

TYPE OR PRINT INFORMATION

NAME OF ORGANIZATION <u>TeamOrtho Foundation</u>	DATE ORGANIZED <u>2-4-2004</u>	TAX EXEMPT NUMBER <u>20-0685151</u>
STREET ADDRESS <u>2906 2ND ST N</u>	CITY STATE <u>MINNEAPOLIS MN</u>	ZIP CODE <u>55411</u>
NAME OF PERSON MAKING APPLICATION <u>BUD TRNKA</u>	BUSINESS PHONE <u>(612) 310-7252</u>	HOME PHONE <u>()</u>
DATES LIQUOR WILL BE SOLD <u>7-13 & 7-14</u>	TYPE OF ORGANIZATION CLUB <input type="checkbox"/> CHARITABLE <input type="checkbox"/> RELIGIOUS <input type="checkbox"/> OTHER NONPROFIT <input checked="" type="checkbox"/>	
ORGANIZATION OFFICER'S NAME <u>BUD TRNKA</u>	ADDRESS <u>2906 2ND ST N MPLS, MN 55411</u>	
ORGANIZATION OFFICER'S NAME	ADDRESS	
ORGANIZATION OFFICER'S NAME	ADDRESS	

Location license will be used. If an outdoor area, describe

GREEN ACRES RECREATION
8989 55TH ST. N
LAKE ELMO, MN 55042

Will the applicant contract for intoxicating liquor service? If so, give the name and address of the liquor licensee providing the service.

Will the applicant carry liquor liability insurance? If so, please provide the carrier's name and amount of coverage.

YES WEST BEND / N. S. I. \$50,000 / \$100,000

APPROVAL

APPLICATION MUST BE APPROVED BY CITY OR COUNTY BEFORE SUBMITTING TO ALCOHOL & GAMBLING ENFORCEMENT

CITY/COUNTY LAKE ELMO, MN

DATE APPROVED _____

CITY FEE AMOUNT \$25⁰⁰

LICENSE DATES _____

DATE FEE PAID 5/31/2013

[Signature]

APPROVED DIRECTOR ALCOHOL AND GAMBLING ENFORCEMENT

NOTE: Submit this form to the city or county 30 days prior to event. Forward application signed by city and/or county to the address above. If the application is approved the Alcohol and Gambling Enforcement Division will return this application to be used as the License for the event

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

IRS

Date: SEP 14 2004

Employer Identification Number:
20-0635151

DLN:

17053167044024

Contact Person:

SIRIJUN MAYI

ID# 31449

Contact Telephone Number:

(877) 829-5500

Accounting Period Ending:

December 31

Public Charity Status:

170(b)(1)(A)(vi)

Form 990 Required:

Yes

Effective Date of Exemption:

February 4, 2004

Contribution Deductibility:

Yes

Advance Ruling Ending Date:

December 31, 2008

TEAM ORTHO FOUNDATION INC
C/O JOHN LARSON
701 PARK AVE MC 862B
MINNEAPOLIS, MN 55416

Dear Applicant:

We are pleased to inform you that upon review of your application for tax exempt status we have determined that you are exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code. Contributions to you are deductible under section 170 of the Code. You are also qualified to receive tax deductible bequests, devises, transfers or gifts under section 2055, 2106 or 2522 of the Code. Because this letter could help resolve any questions regarding your exempt status, you should keep it in your permanent records.

Organizations exempt under section 501(c)(3) of the Code are further classified as either public charities or private foundations. During your advance ruling period, you will be treated as a public charity. Your advance ruling period begins with the effective date of your exemption and ends with advance ruling ending date shown in the heading of the letter.

Shortly before the end of your advance ruling period, we will send you Form 8734, Support Schedule for Advance Ruling Period. You will have 90 days after the end of your advance ruling period to return the completed form. We will then notify you, in writing, about your public charity status.

Please see enclosed Information for Exempt Organizations Under Section 501(c)(3) for some helpful information about your responsibilities as an exempt organization.

If you distribute funds to other organizations, your records must show whether they are exempt under section 501(c)(3). In cases where the recipient organization is not exempt under section 501(c)(3), you must have evidence the funds will be used for section 501(c)(3) purposes.

Letter 1045 (DO/CG)

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
05/28/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Advance Insurance Agency, Inc. 5241 Viking Drive Ste 200 Edina, MN 55435		CONTACT NAME: PHONE (A/C, No, Ext): 952.831.1928 FAX (A/C, No): 952.831.0572 E-MAIL ADDRESS: PRODUCER CUSTOMER ID #: 00033866	
INSURED TEAM ORTHO FOUNDATION 2906 N 2ND ST MINNEAPOLIS, MN 55411		INSURER(S) AFFORDING COVERAGE NAIC # INSURER A: NSI 15350 INSURER B: West Bend INSURER C: INSURER D: INSURER E: INSURER F:	

COVERAGES CERTIFICATE NUMBER: NSI 13/14 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR Y/N	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	X	NS01440392	04/16/2013	04/16/2014	EACH OCCURRENCE \$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJ <input type="checkbox"/> LOC					DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 200,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS		NS01440392	04/16/2013	04/16/2014	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ \$
	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$ 0					EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory In NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N				<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
	Liquor Liability		NS01869881	05/01/2013	04/16/2014	Aggregate \$1,000,000 Occurrence \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

RE: Go Commando Race July 13, 2013
 Green Acres is included as additional insured on the General Liability if required in a written contract per policy form WB1890.

CERTIFICATE HOLDER Green Acres 8989 55th Street North Lake Elmo, MN 55042	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE Erik Johnson



MAYOR AND COUNCIL COMMUNICATION

DATE: 6/04/2013
REGULAR
ITEM #: 10

AGENDA ITEM: Municipal Separate Storm Sewer System (MS4) Permit – Annual Public Meeting and Accept the 2012 MS4 Annual Report
SUBMITTED BY: Ryan Stempski, Assistant City Engineer
THROUGH: Dean A. Zuleger, City Administrator
REVIEWED BY: Jack Griffin, City Engineer
Adam Bell, City Clerk
Mike Bouthilet, Public Works

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item..... City Engineer
- Report/Presentation..... Assistant City Engineer
- Questions from Council to Staff..... Mayor Facilitates
- Public Input, if Appropriate..... Mayor Facilitates
- Call for Motion..... Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

SUMMARY AND ACTION REQUESTED:

The City Council is respectfully requested to conduct the Annual Public Meeting required by the MS4 Permit and receive public input and comments. After receiving a staff presentation and public comments, it is respectfully requested that the Council accept the 2012 MS4 Annual Report and authorize staff to submit this report to the MPCA by June 30, 2013. The recommended motion for this action is as follows:

“Move to accept the Municipal Separate Storm Sewer System (MS4) Annual Report for 2012, and authorize staff to submit this report to the MPCA by June 30, 2013.”

BACKGROUND INFORMATION:

The MS4 General Permit is mandated by the federal regulations under the Clean Water Act and administered by the Minnesota Pollution Control Agency. A municipal storm sewer system (MS4) is a conveyance or system of conveyances (roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, and storm drains) owned by a municipality. The MS4 program gives owners or operators of MS4’s approval to discharge storm water to lakes, rivers and wetlands in Minnesota. The MS4 General Permit focuses on reducing the pollution that enters these public systems and discharges to wetlands, streams and lakes (“waters of the state”). By federal rule,

storm water systems in urban areas are labeled Mandatory MS4s. The City of Lake Elmo is a Mandatory MS4 City.

As a MS4 City, Lake Elmo was required to obtain and comply with a National Pollutant Discharge and Elimination System (NPDES) storm water permit. To meet these requirements the City prepared and implemented a five year Storm Water Pollution Prevention Program (SWPPP) beginning in 2006 and extending through 2010. The permit period/program was extended indefinitely until the MPCA reissues a new five year program (to be effective August 1, 2013).

The SWPPP specifies and outlines a series of best management practices intended to satisfy the permit requirements for each of six minimum control measures. The six minimum control measures are:

1. Public Education and Outreach
2. Public Involvement and Participation
3. Illicit Discharge Detection and Elimination
4. Construction Site Storm Water Controls
5. Post-Construction Storm Water Management for development and redevelopment
6. Pollution Prevention/Good Housekeeping for Municipal Operations

STAFF REPORT:

As part of the on-going permit requirements as a mandatory MS4 City, Staff has prepared the 2012 MS4 Annual Report and will present a summary report to the City Council and general public. The City must hold an Annual Public Meeting to encourage public discussion and participation regarding its storm water quality and steps it is taking to address the MS4 Permit requirements. Notice of this meeting was posted at City Hall and published in the Oakdale-Lake Elmo Review on May 1, 2013 (see attachment no. 1). Public input received will be considered for updating the City's Storm Water Pollution Prevention Program (SWPPP) and the meeting minutes will be incorporated into the City's final report. The 2012 MS4 Annual Report must be submitted to the MPCA by June 30, 2013. A copy of the City's Storm Water Pollution Prevention Program (SWPPP) is available on the City website.

The Annual Public Meeting is scheduled to be held as part of the regular City Council meeting at City Hall. The agenda for this meeting will include:

- A Presentation about implementation of the City's Storm Water Pollution Prevention Program in 2012,
- Affording interested persons an opportunity to make oral statements concerning the Storm Water Pollution Prevention Program,
- Consideration of relevant written materials that interested persons submit concerning the Storm Water Pollution Prevention Program; and,
- Consideration of public input in making adjustments to the 2013 implementation plan for the Storm Water Pollution Prevention Program.

2012 MS4 REPORT HIGHLIGHTS:

The City's annual implementation of its Storm Water Pollution Prevention Program (SWPPP) addresses all permit requirements through six minimum control measures as outlined below.

MCM 1 and 2: Public Education & Outreach, Public Involvement & Participation: In 2012, the City renewed its contract with the East Metro Water Resource Education Program (EMWREP), which

continues to be a high value, low cost solution to address many of the educational and public outreach requirements of the City's permit program. A copy of the 2012 EMWREP Annual Report has been included as attachment No. 2. Lake Elmo Staff used EMWREP as a primary resource to create educational materials for the public on storm water best management practices (available at City Hall, in City Newsletters, or on the City's website).

MCM 3: Illicit Discharge Detection and Elimination: The city prepared and adopted an Illicit Discharge Detection and Elimination ordinance in June, 2012. As part of the MS4 Outfall Inspections, Public Works staff inspected potential contamination sites within the City (mining sites, sites with large stockpiles, etc.). No known illicit discharges were recording in 2012. A list of subsurface sewage treatment systems (SSTS) with known problems was provided in 2012 by Washington County. The City will continue to work with the County to address these issues with property owners.

MCM 4: Construction Site Storm Water Controls: Enforcement of building and construction site erosion control continues to be a high priority to bring builders/contractors into compliance through check lists and enforcement guidelines. In 2012, there were 4 violations cited to builders for non-compliance to the City's Erosion and Sediment Control Ordinance.

MCM 5: Post-Construction Storm Water Management for development and redevelopment: Engineering staff continued to compile information to update the Engineering Design Standards Manual for Private Developments, including storm water management and storm water BMPs. The engineering design standards manual was adopted in early 2013.

Seventeen (17) rain gardens were constructed in 2012 as part of the city's street improvement program. During project design, staff looks for opportunities to address storm water quality issues in sensitive high priority areas. Additional storm water management initiatives are implemented as the opportunities arise, including rain garden credit programs for additional lot impervious surface area.

MCM 6: Pollution Prevention/Good Housekeeping for Municipal Operations: The Public Works Department completed inspection of 25% (minimum 20% required) of the MS4 Outfalls again this spring. They completed inspections in the west and southwest area of the City. Inspections and follow-up maintenance prioritization lists are documented for future work orders. Public Works maintains a list of storm water maintenance activities completed throughout the year (structure repair, street sweeping, ditch cleanout, BMP maintenance, and drainage issues, etc.).

MS4 GENERAL PERMIT UPDATE:

Significant changes to the MS4 permit program requirements are anticipated in 2013. Staff actively monitors and tracks permit program changes and legislation related to storm water management.

On May 21, 2013, the Minnesota Pollution Control Agency (MPCA) reissued the General Permit for discharges of stormwater associated with small Municipal Separate Storm Sewer Systems (MS4s). The new permit becomes effective on August 1, 2013, following over three years of extensive stakeholder meetings, public notice periods and substantial permit modifications.

As an existing MS4, Lake Elmo is required to submit a 2013 permit reissuance that includes an application and new Stormwater Pollution Prevention Program (SWPPP) document; completed in the form provided by the MPCA. The new SWPPP document must be submitted within 150 days of the effective date of the new permit (December 29, 2013).

The new SWPPP document is intended to include additional conditions for managing stormwater and must contain a number of improvements and changes from the 2006 permit. Municipalities reauthorized to discharge stormwater under the recently reissued permit will be required to update their existing stormwater programs to include practices that will better protect Minnesota's water resources. Some of the more notable requirements include:

- Impaired waters – The city will be required to meet obligations set forth in 7 different Total Maximum Daily Load (TMDL) studies as completed by others. TMDL studies focus on preventing or reducing the discharge of specific pollutants identified as causing or contributing to a water quality impairment, as defined by the U.S. Environmental Protection Agency.
- Illegal discharges – Mapping of the city storm sewer system will be expanded to include all pipes between 12 inches and 24 inches in diameter (currently includes 24 inches and larger) to better facilitate tracking, investigating and eliminating illegal discharges.
- Municipal Operations – The city will be required to prepare a detailed inventory and system map of all storm water discharge water bodies (storm water ponds, wetlands, creeks, etc.); and prepare a documented stormwater maintenance plan.
- Post Construction Facilities – The new permit will mandate a stormwater discharge volume control requirement for new development and redevelopment activities. The intent is to ensure that developers and contractors implement stormwater control measures that mimic natural conditions (infiltration, evapotranspiration, water reuse, etc.) so that post-construction stormwater runoff volume is not greater than pre-construction runoff volume.

In 2013, staff will be working to update the City's Storm Water Pollution Prevention Program to comply with the new MS4 Permit requirements and associated deadlines.

RECOMMENDATION:

Staff is recommending that the City Council accept the MS4 Annual Report for 2012, and authorize staff to submit this report to the MPCA by June 30, 2013. The recommended motion for this action is as follows:

“Move to accept the Municipal Separate Storm Sewer System (MS4) Annual Report for 2012, and authorize staff to submit this report to the MPCA by June 30, 2013.”

ATTACHMENTS:

1. Notice of MS4 Annual Public Meeting
2. 2012 MS4 Annual Report
3. EMWREP Annual Report

**CITY OF LAKE ELMO
NOTICE OF ANNUAL PUBLIC MEETING
ON THE CITY STORM WATER POLLUTION PREVENTION PROGRAM**

Notice is hereby given that the City Council of Lake Elmo will meet at City Hall at 7:00 p.m. on Tuesday, June 4, 2013, to conduct a public meeting to encourage public discussion and participation regarding its storm water quality and Storm Water Pollution Prevention Program (SWPPP).

A 1987 Amendment to the Federal Clean Water Act required implementation of a two-phase comprehensive national program to reduce pollution from storm water runoff. A National Pollutant Discharge Elimination System (NPDES) permit from the Minnesota Pollution Control Agency (MPCA) is required as part of this program. The permit identifies a number of measures that must be met or implemented by each community. The six minimum measures are:

- Public Education and Outreach
- Public Involvement and Participation
- Illicit Discharge Detection and Elimination
- Construction Site Storm Water Controls
- Post-Construction Storm Water Management for development and redevelopment
- Pollution Prevention/Good Housekeeping for Municipal Operations

The City's Storm Water Pollution Prevention Program specifies best management practices intended to satisfy the permit requirements for each of the minimum measures. As part of this program, the City is required to hold an annual meeting to encourage public discussion and participation regarding its storm water quality and steps it is taking to address the six minimum control measures. A copy of the SWPPP is available on the City website or by contacting the City Engineer. An annual report will be submitted to the MPCA in June 2013. The minutes of the annual public meeting will be incorporated into the City's annual report.

The meeting will be held as part of the regular city council meeting at City Hall. The agenda for this meeting will include:

- 1) A Presentation about implementation of the City's Surface Water Pollution Prevention Program in 2012,
- 2) Affording interested persons the opportunity to make oral statements concerning the Storm Water Pollution Prevention Program,
- 3) Consideration of relevant written materials that interested persons submit concerning the Storm Water Pollution Prevention Program; and,
- 4) Consideration of public input in making adjustments to the 2013 implementation plan for the Storm Water Pollution Prevention Program.

DATED: April 23, 2013

**BY ORDER OF THE LAKE ELMO CITY CLERK
Adam Bell, City Clerk**

(Published in the Oakdale-Lake Elmo Review on May 1, 2013)



Minnesota Pollution
Control Agency

520 Lafayette Road North
St. Paul, MN 55155-4194

MS4 Annual Report for 2012

Municipal Separate Storm Sewer Systems (MS4s)

Reporting period January 1, 2012 to December 31, 2012

Due June 30, 2013

Doc Type: *Permitting Annual Report*

Instructions: By completing this mandatory MS4 Annual Report form, you are providing the Minnesota Pollution Control Agency (MPCA) with a summary of your status of compliance with permit conditions, including an assessment of the appropriateness of your identified best management practices (BMPs) and progress towards achieving your identified measurable goals for each of the minimum control measures as required by the MS4 Permit. If a permittee determines that program status or compliance with the permit can not be adequately reflected within the structure of this form additional explanation and/or information may be referenced in an attachment. This form has significant limitations and provides only a snap shot of MS4 compliance with the conditions in the permit. After reviewing the information, MPCA staff may need to contact the permittee to clarify or seek additional information.

Submittal: This MS4 Annual Report must be submitted electronically to the MPCA using the submit button at the end of the form, from the person that is duly authorized to certify this form. All questions with an asterisk (*) are required fields (these fields also have a red border), and must be completed before the form will send. A confirmation e-mail will be sent in response to electronic submissions.

If you have further questions, please contact one of these MPCA staff members (toll-free 800-657-3864):

- Scott Fox 651-757-2368 scott.fox@state.mn.us
- Claudia Hochstein 651-757-2881 claudia.hochstein@state.mn.us
- Cole Landgraf 651-757-2880 cole.landgraf@state.mn.us
- Dan Miller 651-757-2246 daniel.miller@state.mn.us
- Rachel Stangl 651-757-2879 rachel.stangl@state.mn.us

General Contact Information (*Required fields)

*Name of MS4: City of Lake Elmo *Contact name: Ryan Stempski
*Mailing address: 3800 Laverne Avenue N
*City: Lake Elmo *State: MN *Zip code: 55042
*Phone (including area code): 651.747.3915 *E-mail: ryan.stempski@focusengineeringinc.com

Minimum Control Measure 1: Public Education and Outreach [V.G.1] (*Required fields)

A. The permit requires each permittee to implement a public education program to distribute educational materials to the community or conduct equivalent outreach activities about the impacts of stormwater discharges on water bodies and steps that the public can take to reduce pollutants in stormwater runoff. [Part V.G.1.a]

Note: Please indicate which of the following distribution methods you used. Indicate the number distributed in the spaces provided (enter "0" if the method was not used or "NA" if the data does not exist):

Media type	Number of media	Number of times published	Circulation/ Audience
Example: Brochures:	3 different brochures	published 5 times	about 10,000
Brochures:	3 different brochures	always available at City Hall	about 3,500
Newsletter:	Lake Elmo Newsletter	published 5 times	about 7,000
Posters:			
Newspaper articles:	Lillie Review & Valley Life	published 52 articles	about 3,500
Utility bill inserts:			
Radio ads:			
Television ads:			
Cable Access Channel:			
Other: Websites / Social Media	4 different locations	Continuous	about 2,000
Other:			
Other:			

- B. *Do you use a website as a tool to distribute stormwater educational materials? Yes No
 What is the URL: www.lakeelmo.org & www.mnwcd/emwrep
- C. If you answered yes in question B. above, do you track hits to the website? Yes No
 How many hits were to the stormwater webpage: Google Analytics available in 2013
- D. *Did you hold stormwater related events, presentations to schools or other such activities? Yes No
 If yes, please describe:
 Annual Rain Garden Neighborhood Meeting
- E. *Have specific messages been developed and distributed during this reporting year for Minimum Control Measure (MCM):
 MCM 1: Yes No MCM 4: Yes No
 MCM 2: Yes No MCM 5: Yes No
 MCM 3: Yes No MCM 6: Yes No
- F. *Have you developed partnerships with other MS4s, watershed districts, local or state governments, educational institutions, etc., to assist you in fulfilling the requirements for MCM 1? Yes No
- G. List those entities with which you have partnered to meet the requirements of this MCM and describe the nature of the agreement(s): *(Attach a separate sheet if necessary.)*
 East Metro Water Resources Education Program - Contract to provide education and public outreach
 Washington Conservation District - Assist in rain garden outreach and education
- H. *Have you developed methods to assess the effectiveness of your public education/outreach program? Yes No
 If yes, please describe:
 Number of Property Owners enrolled in the Annual Rain Garden Program
 Phone Calls Tracked to City Hall Regarding Storm Water Pollution Prevention Program

Minimum Control Measure 2: Public Participation/Involvement [V.G.2] (*Required fields)

- A. *Did you hold a public meeting to present accomplishments and to discuss your Stormwater Pollution Prevention Program (SWPPP)? [Part V.G.1.e] Yes No
 If no, explain:
- B. What was the date of the public meeting (mm/dd/yyyy): 06/05/2012
- C. How many citizens attended specifically for stormwater (excluding board/council members and staff/hired consultants)? 0
- D. Was the public meeting a stand-alone meeting for stormwater or was it combined with some other function (City Council meeting, other public event, etc.)? Stand-alone Combined
- E. *Each permittee must solicit and consider input from the public prior to submittal of the annual report. Did you receive written and/or oral input on your SWPPP? [Part V.G.2.b.1-3] Yes No
- F. *Have you revised your SWPPP in response to written or oral comments received from the public since the last annual reporting cycle? [Part V.G.2.c] Yes No
 If yes, describe: *(Attach a separate sheet if necessary.)*

Minimum Control Measure 3: Illicit Discharge Detection and Elimination [V.G.3] (*Required fields)

The permit requires permittees to develop, implement, and enforce a program to detect and eliminate illicit discharges as defined in 40 CFR 122.26(b)(2). You must also select and implement a program of appropriate BMPs and measurable goals for this minimum control measure.

- A. *Did you update your storm sewer system map? Yes No
 If yes, please explain which components (ponds, pipes, outfalls, waterbodies, etc.) were updated/added:

Note: The storm sewer system map was to be completed by June 30, 2008. [Part V.G.3.a]

- B. *Have you modified the format in which the map is available? Yes No
 C. If yes, indicate the new format:
 Hardcopy only GIS system CAD Other system: _____
 D. *Did you inspect for illicit discharges during the reporting year? Yes No
 E. If you answered yes in question D above, did you identify any illicit discharges? Yes No
 F. If you answered yes in question E above, how many illicit discharges were detected during the reporting period: _____
 G. If you answered yes in question F above, did the illicit discharge result in an enforcement action? Yes No
 If yes, what type of enforcement action(s) was taken (check all that apply):
 Verbal warning Notice of violation Fines Criminal action
 Civil penalties Other (describe): _____

Minimum Control Measure 4: Construction Site Stormwater Runoff [V.G.4] (*Required fields)

The permit requires that each permittee **develop, implement, and enforce a program** to reduce pollutants in any stormwater runoff to your small MS4 from construction activities within your jurisdiction that result in a land disturbance of equal to or greater than one acre, including the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb one or more acres. [Part V.G.4.]

- A. The permit requires an erosion and sediment control ordinance or regulatory mechanism that must include sanctions to ensure compliance and contains enforcement mechanisms [Part V.G.4.a]. Indicate which of the following enforcement mechanisms are contained in your ordinance or regulatory mechanism and the number of actions taken for each mechanism used during the reporting period (enter "0" if the method was not used or "NA" if the data does not exist). **Check all that apply.**

Enforcement mechanism	Number of actions	
<input checked="" type="checkbox"/> Verbal warnings	#	4
<input checked="" type="checkbox"/> Notice of violation	#	4
<input type="checkbox"/> Administrative orders	#	
<input checked="" type="checkbox"/> Stop-work orders	#	0
<input type="checkbox"/> Fines	#	
<input checked="" type="checkbox"/> Forfeit of security of bond money	#	0
<input type="checkbox"/> Withholding of certificate of occupancy	#	
<input checked="" type="checkbox"/> Criminal actions	#	0
<input checked="" type="checkbox"/> Civil penalties	#	0
<input type="checkbox"/> Other:	#	

- B. *Have you developed written procedures for site inspections? Yes No
 C. *Have you developed written procedures for site enforcement? Yes No
 D. *Identify the number of active construction sites greater than an acre in your jurisdiction during the reporting period year: 1
 E. *On average, how frequently are construction sites inspected (e.g., weekly, monthly, etc.)? Weekly
 F. *How many inspectors, at any time, did you have available to verify erosion and sediment control compliance at construction sites during the reporting period: 1

Minimum Control Measure 5: Post-construction Stormwater Management in New Development and Redevelopment [V.G.5] (*Required fields)

The permit requires each permittee to develop, implement, and enforce a program to address stormwater runoff from new development and redevelopment projects within your jurisdiction that disturb an area greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale that discharge into your small MS4. Your program must ensure that controls are in place that would prevent or reduce water quality impacts. You must also select and implement a program of appropriate BMPs and measurable goals for this minimum control measure.

Note: The MS4 permit requirements associated with this minimum control measure were required to be fully developed and implemented by June 30, 2008.

- A. *Have you established design standards for stormwater treatment BMPs installed as a result of post-construction requirements? Yes No
- B. *Have you developed procedures for site plan review which incorporate consideration of water quality impacts? Yes No
- C. *How many projects have you reviewed during the reporting period to ensure adequate long-term operation and maintenance of permanent stormwater treatment BMPs installed as a result of post-construction requirements? [Part V.G.5.b. and Part V.G.5.c]. 6
- D. *Do plan reviewers use a checklist when reviewing plans? Yes No
- E. *How are you funding the long-term operation and maintenance of your stormwater management system? (Check all that apply)
 - Grants Stormwater utility fee Taxes Other: _____

Minimum Control Measure 6: Pollution Prevention/Good Housekeeping for Municipal Operations [V.G.6] (*Required fields)

The permit requires each MS4 to develop and implement an operation and maintenance program that includes a training component and has the ultimate goal of preventing or reducing pollutant runoff from municipal operations. Your program must include employee training to prevent and reduce stormwater pollution from activities, such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and stormwater system maintenance.

- A. *Indicate the total number of structural pollution control devices (for example-grit chambers, sumps, floatable skimmers, etc.) within your MS4, the total number that were inspected during the reporting period, and calculate the percent inspected. Enter "0" if your MS4 does not contain structural pollution control devices or none were inspected. Enter "NA" if the data does not exist:

	*Total number	*Number inspected	*Percentage
*Structural pollution control devices:	4	4	100
- B. *Did you repair, replace, or maintain any structural pollution control devices? Yes No

- C. *For each BMP below, indicate the total number within your MS4, how many of each BMP type were inspected and the percent inspected during the reporting period. Enter "0" if your MS4 does not contain BMPs or none were inspected. Enter "NA" if the data does not exist:

Structure/Facility type	*Total number	*Number inspected	*Percentage
*Outfalls to receiving waters:	126	31	25
*Sediment basins/ponds:	69	10	15
*Total	195	41	21

- D. Of the BMPs inspected in C. above, did you include any privately owned BMPs in that number? Yes No
- E. If yes in D. above, how many: _____

Section 7: Impaired Waters Review (*Required fields)

The permit requires any MS4 that discharges to a Water of the State, which appears on the current U. S. Environmental Protection Agency (EPA) approved list of impaired waters under Section 303(d) of the Clean Water Act, review whether changes to the SWPPP may be warranted to reduce the impact of your discharge [Part IV.D].

- A. *Does your MS4 discharge to any waters listed as impaired on the state 303 (d) list? Yes No
 - B. *Have you modified your SWPPP in response to an approved Total Maximum Daily Load (TMDL)? Yes No
- If yes, indicate for which TMDL: _____

Section 8: Additional SWPPP Issues (*Required fields)

A. *Did you make a change to any BMPs or measurable goals in your SWPPP since your last report? [Part VI.D.3.] Yes No

B. If yes, briefly list the BMPs or any measurable goals using their unique SWPPP identification numbers that were modified in your SWPPP, and why they were modified: (*Attach a separate sheet if necessary.*)

C. *Did you rely on any other entities (MS4s, consultants, or contractors) to implement any portion of your SWPPP? [Part VI.D.4.] Yes No

If yes, please identify them and list activities they assisted with:

East Metro Water Resource Education Program (EMWREP) - Assisted & provided resources for education, meetings, newsletter articles and mailings for MCM 1 and 2.

Washington Conservation District - Assistance in Rain Garden BMP's (technical support and outreach).

Owner or Operator Certification (*Required fields)

The person with overall administrative responsibility for SWPPP implementation and Permit compliance must certify this MS4 Annual Report. This person must be duly authorized and should be either a principal executive (i.e., Director of Public Works, City Administrator) or ranking elected official (i.e., Mayor, Township Supervisor).

*Yes - *I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete (Minn. R. 7001.0070). I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment (Minn. R. 7001.0540).*

*Name of certifying official: Dean A. Zuleger

*Title: Lake Elmo City Administrator

*Date: _____

(mm/dd/yyyy)

Submit



2012 Annual Report

Background: The East Metro Water Resource Education Program (EMWREP) is a partnership that was formed in 2006 to develop and implement a comprehensive water resource education and outreach program for the east metro area of St. Paul, MN. 2012 EMWREP partners included Brown's Creek, Carnelian-Marine-St Croix, Comfort-Lake Forest Lake, Rice Creek, Ramsey-Washington Metro, South Washington, and Valley Branch Watershed Districts, Middle St. Croix Watershed Management Organization, the cities of Cottage Grove, Dellwood, Forest Lake, Lake Elmo, Stillwater, Willernie, West Lakeland Township, Washington County and the Washington Conservation District. A map and list of current EMWREP partners can be found at www.mnwcd.org/cleanwater.

Purpose: The purpose of the shared education program is to provide education about the impacts of non-point source pollution on local lakes, rivers, streams, wetlands and groundwater resources and to engage people in projects that will help to protect and improve water quality in the region. In addition to educating the public, EMWREP also provides training for city, county and watershed staff and local elected officials.

Partnership Structure: EMWREP is guided by a steering committee comprised of representatives from each of the partner organizations. The committee generally meets twice a year to provide recommendations on the program budget and activities. The EMWREP educator sends a quarterly e-newsletter to all partners' staff, council members and board members, and communicates one-on-one with individual partners on projects throughout the year. The EMWREP education plan is revised every two to three years to accommodate changing priorities and new target audiences. In addition, the EMWREP educator prepares an annual report on program activities and provides outreach data and statistics for partners' MS4 Permit reports. All EMWREP reports, plans, print materials and news articles are available on-line at www.mnwcd.org/emwrep.

Accolades: In 2012, the Minnesota Association of Watershed Districts recognized EMWREP as the Watershed Program of the Year.

2013 Plans: In 2013, Woodbury has joined the EMWREP partnership and the Ramsey-Washington Metro Watershed District has increased its level of participation. EMWREP will continue efforts to protect and improve local water resources through education and outreach. Planned activities for 2013 include nearly a dozen clean-water landscaping workshops for area residents, two well water testing clinics, three seminars for city, county and watershed staff and officials, and direct outreach to key neighborhoods where watershed issues have been identified.

Summary of 2012 EMWREP Education Programs:

General Education Campaign: EMWREP engages in a number of activities aimed at increasing awareness of water resource issues, promoting a conservation ethic among local residents, and catalyzing behavior change. Many of these activities are accomplished in partnership with existing government, non-profit, and community based groups, as well through local media outlets. The general education campaign is also used to promote targeted outreach efforts and partner BMP programs.

Ongoing public education efforts in 2012 included community events, children's education events, newspaper columns, press releases, city newsletter articles, websites and social media. Special activities included helping to plan the Girl Scouts of the River Valleys' 100 Year Anniversary service event and hosting a presentation of the Mississippi State of the River Report in St. Paul Park.

EMWREP continued to play an active role in coordination of WaterShed Partners activities, including a floating workshop on Pool 2 of the Mississippi River in June and an Education Roundtable in November. In addition, EMWREP worked with National Park Service, Washington County Parks and Belwin Nature Conservancy to begin building a resource network of water educators in the lower St. Croix Basin.

Blue Thumb Program: The Blue Thumb – Planting for Clean Water® program (www.BlueThumb.org) is a dynamic coalition of more than 85 partner organizations working together to raise awareness about stormwater pollution and encourage homeowners to plant native gardens, raingardens and shoreline projects to protect surface and groundwater resources.

During 2012, EMWREP hosted Blue Thumb workshops in Cottage Grove, Forest Lake and Afton, organized neighborhoods parties in Lake Elmo, May Twp, Stillwater and Stillwater Twp, and participated in several local events, such as the 20th Annual Family Means St. Croix Valley Garden Tour. Blue Thumb partners had prominent exhibit space in the Eco Experience at the Minnesota State Fair and coordinated the Landscape Revival and Native Plant Sale in June.

EMWREP uses Blue Thumb as a marketing tool to promote partner BMP programs. In 2012, EMWREP also provided support for targeted outreach in Lake Elmo (VBWD), Stillwater's Lily Lake neighborhood (MSCWMO) and Woodbury's Powers and Colby Lake neighborhoods (SWWD).

Rural Outreach: EMWREP conducts educational activities to engage rural landowners in projects that protect water resources and also provides support for targeted outreach for watershed projects and programs. Workshops and outreach materials are designed to leverage interest in birds and wildlife, weed management and other topics of interest to engage people in planting projects that also reduce non-point source water pollution.

In 2012, EMWREP conducted two workshops for horse owners, held a buckthorn workshop in Afton, helped to coordinate water testing clinics in Denmark and Scandia, and participated in local community events. Shared education staff also provided targeted outreach assistance for Trout Brook (SWWD).

Blue Biz: The Blue Biz program consists of a website (www.cleanwaterMN.org/businesses) and outreach materials that partners can use to engage commercial property owners in BMP projects. Shared education staff also conduct outreach to specific property owners as needed.

In 2012, EMWREP conducted outreach to two properties in Cottage Grove that were part of the Hwy 61 subwatershed analysis project: the former Hollywood Video and the new Famous Daves.

Stormwater U: Stormwater U is a technical training series for municipal staff and contractors, including engineers, planners, inspectors and public works. Stormwater U workshops are hosted in collaboration with University of Minnesota Extension and the Minnesota Erosion Control Certification Program.

2012 Stormwater U activities included a BMP introductory workshop for local communities and a winter maintenance workshop for contractors.

NEMO: The Northland NEMO program (Non-point Education for Municipal Officials - www.northlandnemo.org) provides local elected officials and decision makers with resources and information to make informed decisions about land use and water quality in their communities. Northland NEMO is hosted by the University of Minnesota Extension and EMWREP is one of more than a dozen partner organizations. Program offerings include several basic presentations, as well as the interactive Watershed Game.

In 2012, EMWREP gave a NEMO presentation to the Washington County Planning Advisory Committee and Board of Appeals and also helped to facilitate discussions about the Lake St. Croix TMDL at the Washington Water Consortium meeting.

MS4 Toolkit: EMWREP developed the MS4 Toolkit (www.cleanwatermn.org/MS4toolkit) with a grant from the Minnesota Pollution Control Agency in 2009. The toolkit includes educational materials that partners can use to meet the six minimum control measures in the MS4 permit, such as brochures, posters, slide shows, training videos and more. In addition to the on-line materials, training videos for parks and public works staff and pop-up banners for community events are available partners to borrow. EMWREP continues to provide basic website maintenance for the MS4 toolkit.

2012 Program Activities and Highlights

Public Education: Ongoing public education efforts in 2012 included community events, children's education events, newspaper columns, press releases, city newsletter articles, websites and social media. Special activities included helping to plan the Girl Scouts of the River Valleys' 100 Year Anniversary service event and hosting a presentation of the Mississippi State of the River Report in St. Paul Park.

EMWREP continued to play an active role in coordination of WaterShed Partners activities, including a floating workshop on Pool 2 of the Mississippi River in June and an Education Roundtable in November. In addition, EMWREP is working with National Park Service, Washington County Parks and Belwin Nature Conservancy to build a resource network of water educators in the lower St. Croix Basin.

Community events: EMWREP participated in dozens of local community events, including:

- Perro Creek Clean-up (Bayport)
- Mahtomedi Rite of Spring
- St. Croix Basin Conference (River Falls)
- Explore Your Parks Day (Lake Elmo Regional Park)
- Family Means Garden Tour (West Lakeland Twp.)
- Waterfest (Lake Phalen)
- Belwin Bison Release (Afton)
- Cottage Grove Safety Camp
- Tamarack Swamp Nature Preserve Tour (Woodbury)
- Washington County Fair
- Washington County Bluegrass Festival (Lake Elmo Regional Park)
- Newport Community Buckthorn Pull
- Trout Unlimited Banquet (Lake Elmo)



Hundreds of people attended RWMWD's WaterFest at Lake Phalen.

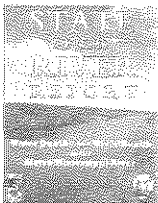
Student Programs: EMWREP participated in the following children's education events:

- Da Vinci Festival, Stillwater ISD - Jan. 7 (2500 K-12 students and parents)
- MN Youth Outdoor Expo, Hugo, May 19-20 (2500 children and parents)
- OH Anderson Field Day, Mahtomedi - May 11 (100 3rd-5th grade students)



Woodbury Girl Scouts show off their new service event badges.

Girl Scouts 100 Year Anniversary Events: EMWREP helped Girl Scouts of the River Valleys' to plan community clean-ups for clean water to celebrate their 100-Year Anniversary. In the East Metro, Girl Scouts organized clean-ups near Forest Lake, Big Marine Lake, Square Lake, White Bear Lake, Lake Phalen, Beaver Lake, and at Ojibwe Park in Woodbury and Hamlet Park in Cottage Grove. Region-wide, girls marked 6,872 storm drains and distributed 50,000 door hangers. To learn more about the event, go to www.girlscoutsv.org/about-us/girl-scouts-centennial/centennial-day-of-service.



Mississippi State of the River Report: On December 4, EMWREP partners South Washington Watershed District, Cottage Grove and Washington County hosted a special presentation of the State of the River Report for people living in southern Washington County. Approximately 35 people attended the workshop, held at Hidden Harbor Marina in St. Paul Park. The following week, Dakota Soil and Water Conservation District hosted a State of the River presentation in Hastings, which drew in folks from southern Washington County as well. In addition to learning about the report, workshop attendees also took home information about cost-share grants for clean water planting projects

Newspaper articles: EMWREP coordinator Angie Hong writes weekly articles (52 per year) for several local papers. These articles can be found on-line at the East Metro Water blog <http://eastmetrowater.areavoices.com>. In addition, the articles were printed in the following papers:



- Valley Life - 49,000 readers in Stillwater, Bayport, Oak Park Heights, Stillwater Township, Afton, Lakeland, Marine, Hugo, Lake Elmo, Houlton, Somerset and New Richmond.
- Lillie Reviews –34,392 readers in Oakdale, Lake Elmo, North St. Paul, Maplewood, White Bear Lake, White Bear Township, Gem Lake, Western Mahtomedi, and Landfall. (Articles are occasionally printed in Lillie owned papers outside the EMWREP area as well, reaching another 83,608 readers.)
- South Washington County Bulletin – 8616 readers in Cottage Grove, St. Paul Park, Newport and Grey Cloud.
- Oakdale Patch – on-line newspaper with 6700 monthly readers, 800 facebook followers and 620 Twitter followers
- Stillwater Patch - on-line newspaper with 6434 monthly readers, 2000+ facebook followers and 800+ Twitter followers
- Woodbury Patch – on-line newspaper with 8243 monthly readers, 1820 facebook followers and 1100+ Twitter followers

Press releases: Several other papers print press releases and news articles from EMWREP one to five times per year, including:

- Hugo Citizen - 10,000 readers
- Forest Lake Times – 13,029 readers
- Scandia Messenger – 1075 readers
- Woodbury Bulletin – 7811 readers
- Pioneer Press – 185,736 weekday readers

City newsletter articles: Information about water resources and EMWREP partner activities reached more than 175,000 people through community newsletters in 2012. Below are some of the topics covered in these newsletters:

- Afton (pop. 2800) – newsletter
 - Jan – conservation farming practices
 - March – Blue Thumb and buckthorn workshops
 - April - Blue Thumb and buckthorn workshops
 - May – Nitrate water testing clinic
 - June – results of nitrate water testing clinic
 - July – low-mow lawns
 - October – St. Croix River TMDL
- Bayport (pop. 3200) – newsletter
 - March – Perro Creek Clean-up
 - June – Perro Creek Clean-up
- Baytown (pop. 1970) - “Baytown Neighbors” goes to 140 households)
 - May – Nitrate water testing clinic
- Cottage Grove (pop. 34,000) - newsletter
 - Jan – rain barrel sale
 - Feb – Blue Thumb workshop, rain barrel sale
 - March – Where does water come from?
 - May – car washing
 - June – Green lawns for Blue Water
 - Sept – Keeping our water clean
 - Oct – Leaf raking
 - Nov – Mississippi River Report
- Lake Elmo (pop. 7647) - newsletter
 - Spring – water conservation, raingardens, tree sale, erosion and sediment control, illicit discharge, spring cleaning for clean water, rain barrel sale

- Lake St. Croix Beach (pop. 1051) - [newsletter](#)
 - Jan – septic systems, raingardens, road salt
 - Feb - septic systems, raingardens, road salt
 - March – septic systems, raingardens, road salt, lawn care
 - April – “Good bug, bad bug”
 - May - “Good bug, bad bug”
 - June - “Good bug, bad bug”
 - July - “Good bug, bad bug”, algae blooms
 - September – septic systems, road salt
- Lakeland (pop. 1830) - [newsletter](#)
 - April – grass clippings
 - May – grass clippings
 - June – “Green lawns for blue water”, grass clippings
 - July – grass clippings
 - Aug – grass clippings
 - Sept – grass clippings
 - Oct – Updates and progress on restoring the St. Croix River
- Mahtomedi (pop. 8000) - [newsletter](#)
 - April – June: Mahtomedi honored at Road Salt Symposium
 - July – Sept.: water conservation
 - Oct – Dec: Girl Scouts Day of Service, yard waste disposal
- Newport (pop. 3435) - [newsletter](#)
 - Spring – community buckthorn pull
 - Fall – community buckthorn pull, sealing unused wells
 - Winter – community buckthorn pull
- Oak Parks Heights (pop. 4724) - [newsletter](#)
 - Second quarter – “Review the Past, Planning for the Future” – WCD
 - Third quarter – “Green lawns for blue water”
- Oakdale (pop. 27,300)
- Stillwater (pop. 18,000)
- West Lakeland (pop. 3547) - [newsletter](#)
 - March – Tree and rain barrel sale
 - Dec. – Horse workshop
- Woodbury (pop. 57,345) - [newsletter](#)
 - April / May - Streets to streams
 - Aug. – Native plant sale
 - Nov. – stormwater pollution prevention



Websites and Social Media: EMWREP uses several websites to provide information and resources for the public and also uses social media, such as facebook, twitter and the East Metro Water blog to reach people in the community:

- In 2012, the Washington Conservation District website (www.mnwcd.org) received 11,356 visits from 6,518 visitors. EMWREP programs and partners are featured on several pages within the website, including www.mnwcd.org/cleanwater, www.mnwcd.org/emwrep, www.mnwcd.org/gowild and www.mnwcd.org/water_blue_thumb. WCD has 100+ followers on facebook.
- The Blue Thumb website (www.BlueThumb.org) received 28,108 visits from 22,625 visitors. Blue Thumb has 700+ friends on facebook.
- The Clean Water Minnesota website (www.cleanwatermn.org) received 4,277 visits from 3639 visitors.
- The East Metro Water Blog (www.eastmetrowater.areavoices.com) had 7,584 visits in 2012.

WaterShed Partners: EMWREP is one of 65 partners in the WaterShed Partners, an innovative, dynamic coalition of public, private and non-profit organizations in the Twin Cities metro area that work collaboratively to teach residents how to care for area waters. WaterShed Partners coordinates the Clean Water Minnesota Media Campaign, maintains the www.cleanwatermn.org website and MS4 Toolkit, and has prominent exhibit space in the DNR Building at the Minnesota State Fair.



On June 13, WaterShed Partners conducted a floating workshop on Pool 2 of the Mississippi River, which was well attended by representatives from Washington County and EMWREP communities. During the workshop, speakers discussed the Mississippi Makeover Project and plans for preventing the spread of Asian Carp.

Another WaterShed Partners endeavor that EMWREP lent assistance towards was the November Education Roundtable event. Using a "world café" conversation approach, roundtable participants identified and discussed four priority areas for WaterShed Partners to work on in 2013: 1) Providing partners with tools and research to help them better understand audiences and create effective messaging; 2) Providing tools and resources to help MS4 entities conduct education; 3) Collaborating on k-12 education; and 4) Collaborating on education about aquatic invasive species.

The 2012 WaterShed Partners and Media Campaign annual report can be found at www.cleanwatermn.org.

St. Croix Educators Resource Network: During the fall of 2012, EMWREP began working with National Park Service, Washington County Parks and Belwin Nature Conservancy to develop a resource network for people and organizations doing water resource education in the lower St. Croix Basin. The initial kick-off meeting, held on Oct. 25, brought together more than 30 people from local units of government, non-profit and community groups, nature centers, parks and schools to discuss how we can work together to better protect the St. Croix River and other water resources in the basin.

During 2013, EMWREP will continue to work towards developing this new resource network in order to reach new audiences with our education messages and better promote and publicize EMWREP partner programs and projects.



Blue Thumb: During 2012, EMWREP conducted Blue Thumb workshops in Cottage Grove, Forest Lake and Afton, organized neighborhoods parties in Lake Elmo, May Twp, Stillwater and Stillwater Twp, and participated in several local events, such as the 20th Annual Family Means St. Croix Valley Garden Tour. EMWREP also provided support for targeted outreach in Lake Elmo (VBWD), Stillwater's Lily

Lake neighborhood (MSCWMO) and Woodbury's Powers and Colby Lake neighborhoods (SWWD). Blue Thumb had prominent exhibit space in the Eco Experience at the Minnesota State Fair and coordinated the Landscape Revival and Native Plant Sale in June.

Workshops and presentations: In 2012, EMWREP conducted the following Blue Thumb workshops and presentations:

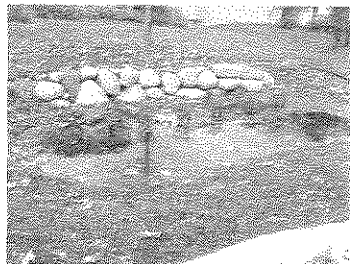
- Workshops
 - All Saints Lutheran in Cottage Grove, Feb. 28
 - Gander Mountain in Forest Lake, March 13
 - Afton City Hall, April 12
- Presentations:
 - Delta Kappa Gamma in Lake Elmo, April 2
 - Sunset Lake Association in Hugo, June 6
 - Lake Elmo Rotary, July 18

Neighborhood Parties

- RCWD "train-the-trainer" event (April 18) for citizen advisory committee members, resource teachers, and Bald Eagle Lake Association. Participants learned about the Blue Thumb program and how to hold neighborhood parties to educate community members about raingardens, shoreline plantings and TMDL projects.
- Neighborhood parties were held for Lake Demontreville (VBWD) and Square Lake (CMSCWD) on June 13 and July 17 to educate shoreline property owners and promote native shoreline plantings.
- Stillwater Twp. sponsored an "Evening on the Prairie" on Aug. 7 and more than 40 local residents attended to learn about planting prairies.
- A lake and garden neighborhood tour was held on Aug. 15 in BCWD's Croixwood neighborhood to highlight two recent residential raingarden projects and a large shoreline habitat planting on municipal property.



Nora Olson hosted the Stillwater Twp. prairie workshop on her three acre prairie.



Above: One of the new Colby Lake raingardens shortly after planting.

Targeted neighborhood outreach: Last year, shared education staff conducted targeted outreach in Lake Elmo (VBWD), Stillwater's Lily Lake neighborhood (MSCWMO), and Woodbury's Powers and Colby Lake neighborhoods (SWWD). Outreach activities included mailings, open house events and door-knocking. As a result, 50 new stormwater retrofit practices will be installed in these four neighborhoods:

- 14 residential right-of-way raingardens in Lake Elmo
- 8 residential right-of-way raingardens in Stillwater's Lily Lake subwatershed
- 25 residential right-of-way raingardens in Woodbury's Colby Lake subwatershed
- 2 large bioretention projects at the Fire Station and Townhomes in Woodbury's Power's Lake subwatershed

Blue Thumb Partner Events: The Blue Thumb program partnership, which includes more than 70 public and private partners in the upper Midwest, participated in the following large events in 2012:

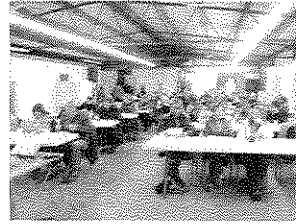
- Minneapolis Home and Garden Show - March
- Living Green Expo – May
- Landscape Revival – June
- Minnesota State Fair – August

EMWREP assisted with promotions, coordination and volunteer recruitment for these events in addition to providing support for maintenance of the Blue Thumb website, and creating and distributing print materials.

Rural Outreach: In 2012, EMWREP conducted two workshops for horse owners, held a buckthorn workshop in Afton, helped to coordinate water testing clinics in Denmark and Scandia, and participated in local community events. We also provided targeted outreach assistance for Trout Brook (SWWD).

Horse Workshops: EMWREP coordinated two workshops to educate horse owners and boarders about protecting surface and groundwater resources.

- The Jan. 24 workshop, held at the Washington County Fairgrounds brought in 65 attendees and included presentations on veterinary care, nutrition, mud management, pasture management and rotational grazing for horses.
- On May 3, an on-site workshop was held at Rick-a-Shay Ranch in CLFLWD where a runoff management project was installed in 2011.



Above: Horse owners learned about protecting water resources.

Buckthorn Workshop: Held in Afton on April 5, this workshop provided residents with information about controlling buckthorn, replanting with native plants, and controlling runoff and erosion on wooded properties.

Water Testing Clinics: EMWREP partnered with Washington County Department of Public Health and the Environment to offer free nitrate well water-testing clinics in Denmark Twp. (June 4) and Scandia (June 5).

Community Events: In 2012, EMWREP attended the following community events for rural landowners:

- Hugo Feed Mill open house
- Stillwater Twp. small farms workshop

Targeted outreach: During the fall, EMWREP conducted targeted outreach to several property owners in the Trout Brook subwatershed (SWWD) that were identified in the Top50P! project. Outreach activities included a mailing, phone calls and in-person visits to meet with several of the landowners. Outreach for this project will continue in spring of 2013.

Blue Biz: In 2012, EMWREP conducted outreach to two properties in Cottage Grove that were part of the Hwy 61 subwatershed analysis project: the former Hollywood Video and the new Famous Daves.

Stormwater U: 2012 Stormwater U activities included a BMP introductory workshop for local communities and a winter maintenance workshop for contractors.

Best Management Practices Workshops: In 2012, EMWREP began planning a four-part Stormwater U workshop series in conjunction with the University of Minnesota Extension. The first of these workshops was held in December at the Hugo City Hall and was a half-day BMP introductory course for city staff and officials.

Winter Maintenance Workshop: On Oct. 23, EMWREP partner Ramsey-Washington Metro Watershed District hosted a MPCA certification training to teach contractors how to reduce chloride impacts during winter road and parking lot maintenance. In advance of this training, EMWREP gathered contact information for contractors in the East Metro area and promoted the workshop through email and direct mail.

MPCA Certification: Contractor certification workshops for turf maintenance and winter roads and parking lots maintenance have been held several times over the past four years in various locations around the state. As a result, hundreds of staff from private companies, counties and municipalities, school districts, and churches around the metro area have been trained and certified in best management practices to protect water resources. In the EMWREP area we now have:

- 173 contractors certified in winter road and parking lot maintenance, including staff from the following local communities:
 - Forest Lake
 - Hugo
 - Landfall
 - Mahtomedi
 - Maplewood
 - Stillwater
 - St. Paul Park
 - Woodbury
 - Washington County
- 74 contractors certified in summer turf grass maintenance, including staff from:
 - Lakeland
 - Mahtomedi
 - Maplewood
 - North St. Paul
 - Oakdale
 - Stillwater
 - White Bear Lake
 - Woodbury
 - Washington County Parks

Find the full list of EMWREP area certified contractors for summer and winter maintenance at www.mnwcd.org/water_education/city_staff.php.

NEMO: In 2012, EMWREP gave a NEMO presentation to the Washington County Planning Advisory Committee and Board of Appeals and also helped to facilitate discussions about the Lake St. Croix TMDL at the Washington Water Consortium meeting.

Washington County presentation: On October 23, EMWREP educator Angie Hong gave a presentation to the Washington County Planning Commission and Board of Appeals about the Benefits of a Healthy Watershed. The goal of the presentation was to build knowledge about local water resources and provide information about policies, plans and practices that impact surface waters in the county so that advisory board members can make informed decisions. Topics addressed included:

- The impacts of development on lakes, streams, rivers and wetlands
- Impervious surfaces and their impact on stormwater runoff and water resources
- Local, state and federal programs, rules and regulations relating to surface water management (ie. Watershed plans, TMDLs, etc.)
- County level plans, policies and practices that can protect Washington County surface waters

Water Consortium St. Croix TMDL Discussion: During the December Water Consortium meeting, Angie Hong facilitated a series of small group discussions about the Lake St. Croix TMDL. During these discussions, the group addressed four questions:

1. How can nested lake and stream TMDL's help to meet Lake St. Croix TMDL goals? What do we need to do to ensure our efforts address both sets of goals and that LGUs get credit for both?
2. What role do communities have in meeting TMDL goals? How do MS4 permits and non-degradation support this? What about non-regulated communities?
3. Do our current watershed rules and development rules help to move towards Lake St. Croix TMDL goal? How do we make sure they do?
4. How do BMP cost share programs and Capital Improvement Projects (CIPs) fit into the Lake St. Croix TMDL?

In 2013, the Water Consortium will continue to discuss the Lake St. Croix TMDL and the roles that different entities play in meeting the water quality goals outlined in the TMDL.

MS4 Toolkit: During 2012, EMWREP continued to provide basic website maintenance for the MS4 toolkit.

MS4 STORMWATER POLLUTION PREVENTION PROGRAM
Correlating Minimum Control Measures with EMWREP Programs and Audiences

1. Public Education and Outreach

- General Education Campaign (general public)
- Blue Thumb (homeowners)
- Rural outreach (non-ag rural landowners)
- Blue Biz (commercial property owners)

2. Public Participation

- General Education Campaign
- Blue Thumb
- Rural outreach
- Blue Biz

3. Illicit Discharge Detection and Elimination

- General Education Campaign
- MS4 Toolkit (multiple audiences)

4. Construction Site Storm Water Runoff Control

- Stormwater U (municipal staff and contractors)
- MS4 Toolkit

5. Post Construction Storm Water Management

- Stormwater U
- NEMO (local elected officials and decision makers)
- Blue Biz
- MS4 Toolkit

6. Pollution Prevention and Good Housekeeping in Municipal Operations

- Stormwater U
- MS4 Toolkit



MAYOR AND COUNCIL COMMUNICATION

DATE: 6/04/2013

REGULAR

ITEM #: 11

AGENDA ITEM: Zoning Text Amendment – Sign Ordinance

SUBMITTED BY: Nick Johnson, City Planner

THROUGH: Dean Zuleger, City Administrator

REVIEWED BY: Planning Commission
Kyle Klatt, Planning Director

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item.....Staff
- Report/Presentation.....Staff
- Questions from Council to Staff.....Mayor Facilitates
- Public Input, if Appropriate.....Mayor Facilitates
- Call for Motion.....Mayor & City Council
- Discussion.....Mayor & City Council
- Action on Motion.....Mayor Facilitates

SUMMARY AND ACTION REQUESTED:

The City Council is asked to consider a Zoning Text Amendment, establishing new signage regulations in Lake Elmo. These signage provisions will be organized under Article 5 - General Regulations under the new organizational structure of the Zoning Code. This Zoning Text Amendment is part of the ongoing effort to reorganize and improve the Lake Elmo Zoning Code.

The Planning Commission recommends the City Council approve Ordinance 08-082 through the following motion:

“Move to approve Ordinance 08-082, establishing new signage regulations in the Lake Elmo Zoning Code.”

In addition, Staff recommends that the City Council approve Resolution No. 2013-47, authorizing summary publication of Ordinance 08-082, through the following motion:

“Move to approve Resolution No. 2013-47, authorizing summary publication of Ordinance 08-082.”

BACKGROUND AND STAFF REPORT:

Staff is continuing to progress on a large project aimed at incrementally reorganizing and improving the Lake Elmo Zoning Code in preparation of upcoming growth. One of the ordinances that was identified as needing improvement was the Sign Ordinance. More specifically, the ordinance is confusing, poorly organized and overly restrictive in some areas. In addition, there are some provisions of signage that are not adequately addressed in the existing ordinance. Therefore, Staff researched several sign ordinances from various communities to find a more comprehensive and better organized ordinance that would address all considerations related to signage. The proposed ordinance is organized under Article 5 –

General Regulations within the Zoning Code. Staff determined that it was important to incorporate best practices related to signage in advance of future growth in the community.

The Planning Commission reviewed the proposed Sign Ordinance at a regular meeting on May 13, 2013. At this meeting, the Planning Commission made several recommendations related to additional research and provisions contained within the draft ordinance. Staff responded to these recommendations by making refinements to the ordinance. The Planning Commission held a public hearing on the proposed Sign Ordinance on May 29, 2013. No one spoke in favor or against the ordinance at the public hearing. The Planning Commission recommended the proposed ordinance for approval. In addition, the motion for approval included a recommendation by the Planning Commission to investigate the creation of a sign district in downtown Lake Elmo (Vote: 4-1, with Commissioner Dorschner voting no). Given the City's plans to build off of the existing Lake Elmo Avenue corridor by creating a mixed-use downtown, it may make sense to look at more comprehensive signage for the areas that are more pedestrian oriented in nature. It should be noted that the existing sign ordinance does include a Village sign district. However, this sign district does not account for the varied development patterns that exist on TH-5 vs. Lake Elmo Avenue. In other words, any future sign district that could be applied to the downtown should not include the TH-5 corridor given the higher travel speeds, wide right-of-way and distinctly different streetscape.

Regarding the proposed Sign Ordinance, there are a number of areas that are improvements over the existing ordinance, including the following:

- **Organization:** The existing Sign Ordinance is not well organized and contains standards pertaining to signage in a cluttered manner in many different sections of the ordinance. The proposed ordinance is a far improvement in this regard in that it lays out administrative items, general regulations pertaining to all signage, signage considerations by land use, standards per specific sign type, provisions for temporary signage and signage exempt from permit. Overall, the flow and organization of the proposed ordinance is superior. In addition, the existing Sign Ordinance is located under Chapter 151: Building Regulations. Signage is more of a zoning consideration than a building consideration. Therefore, the proposed ordinance is located under Article 5 – General Regulation of the Zoning Code.
- **General Regulations:** the proposed ordinance does an excellent job of providing provisions related to location of signage to allow for safe and reasonable placement of signage. These location related provisions are important given the variety of different land uses and development types the City may see with not only higher density residential and commercial development, but mixed-use development, as anticipated in the pending Village Comprehensive Plan Amendment.
- **Allowed Signage by Land Use:** The proposed ordinance is straightforward in the types of signage that can be utilized according to land use type. In addition, the provisions related to Agricultural Sales Businesses from the existing Sign Ordinance have been included in the proposed ordinance, as these businesses represent an important aspect of Lake Elmo's rural character and commercial activity presently.
- **Ground Signs:** The existing ordinance allows for a base size limit of ground signs solely according to land use. However, when considering the size of ground signs, the traffic speed of vehicles and the number of travel lanes play a large role in the amount or size of signage necessary to effectively communicate a commercial message. Therefore, the proposed ordinance allows for varying levels of sign area for ground signs according to the travel speed and number of travel lanes of the street that the property is fronting. Staff has determined that this represents a signage best practice.
- **Temporary Signs:** As growth of commercial business in Lake Elmo increases, the demand for temporary signage related to sales and other events is likely to increase. The proposed ordinance does an excellent job of addressing the different types of temporary signage.
- **Exempt Signs:** The proposed ordinance is extremely straightforward and thorough in terms of the sign types that are exempt from permit. It is helpful to establish the sign types that are exempt in

terms of maintaining a balance between the signage types that significantly impact the public rights-of-way, and signage that does not need to be regulated.

It should also be noted that Staff is recommending to delete all of the existing definitions pertaining to signage in the City Code in order to not have any conflicts between existing terminology and the proposed ordinance. In addition, Staff is recommending that the term "vision triangle" be defined in the code, as it is used in the proposed ordinance and is not currently defined. These changes are also found within Ordinance 08-082.

Overall, the proposed ordinance is more comprehensive and better organized, making it easier to administer. Given the future growth that is likely to occur in the coming years, it is helpful to have signage regulations that address all of the different situations related to signage, while having an ordinance in place that is straightforward.

RECOMMENDATION:

The Planning Commission recommends the City Council approve Ordinance 08-082 through the following motion:

"Move to approve Ordinance 08-082, establishing new signage regulations in the Lake Elmo Zoning Code."

In addition, Staff recommends that the City Council approve Resolution No. 2013-47, authorizing summary publication of Ordinance 08-082, through the following motion:

"Move to approve Resolution No. 2013-47, authorizing summary publication of Ordinance 08-082."

ATTACHMENT(S):

1. Ordinance 08-082
2. Resolution No. 2013-47

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-082

AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES BY
ADOPTING NEW SIGNAGE 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 151: Building Regulations, by repealing City Code Sections 151.115 through 151.119 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

§154.212 Sign Regulations

§154.212 Sign Regulations

- A. *Purpose and Intent.* The purpose of this Ordinance is to provide standards to safeguard life, health, and property and to promote the public welfare by regulating the design, area, number, construction, location, and installation of all signs referred to hereunder. The City Council and Planning Commission of the City of Lake Elmo find that the visual environment has an effect on the welfare of the citizens of Lake Elmo and that careful control of signage can protect and enhance the community. To carry out this general purpose, the regulations set forth herein are intended to:
1. Protect the public from hazards that result from signs which are structurally unsafe, obscure the vision of motorists and/or compete or conflict with necessary traffic signals and warning signs.
 2. Preserve the land value of private property by assuring the compatibility of signs with nearby land uses.
 3. Foster high quality commercial and industrial development and to enhance economic development of existing businesses and industries by promoting reasonable, orderly, attractive and effective sign that meet the need for business identification, advertising and communication.
 4. Encourage creative and well-designed signs that contribute in a positive way to the community's visual environment, express local character and help develop a distinctive image in the city. When appropriate, signage is encouraged to utilize design elements that are consistent with the Lake Elmo Branding and Theming Study.
 5. Recognize that signs are a necessary form of communication and provide flexibility within the sign review and approval process to allow for unique circumstances.
 6. Provide applicants with clear and consistent rules and regulations.

- 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:

Abandoned Sign. Any sign remaining in place which for a period of ninety (90) consecutive days or more no longer advertises or identifies an ongoing business, product, service, idea, or commercial activity located on the site or has not been properly maintained in accordance with the requirements of this Ordinance.

Ancillary Sign. A wall sign separate from and subordinate in area to the principal sign, identifying generic services, goods or departments in the building, such as pharmacy, optical, auto repair, or garden center, but not including the identification of brand names.

Attention-Attracting Object. Any streamer, pinwheel, pennant, flag, propeller, inflatable sign, statuary, tethered balloon, bunting, beacon, or other artificial device, figure, shape, color, sound, light or exhibit, whether live, animated, or still, that is intended to attract attention to the use or business being conducted on the site. Attention-attracting object does not include the flag of any governmental entity.

Awning. A roof-like cover consisting of fabric, plastic or structural protective cover that projects from the wall of a building which generally serves the purpose of shielding a doorway, entrance, window, or outdoor service area from the elements or to provide decorative distinction.

Banner. A suspended sign made of a flexible material such as canvas, sailcloth, plastic, paper, or fabric of any kind, and intended to be displayed on a temporary basis. A decorative banner is a banner containing no message or logo that is displayed for the purpose of adding color or interest to the surroundings or to the building to which it is attached. A flag or canopy shall not be considered a banner.

Beacon. A stationary or revolving light that flashes or projects illumination, single color or multicolored, in any manner that is intended to attract or divert attention.

Business Opening Sign. A temporary sign displayed prior or in addition to permitted permanent signs to promote the opening of a new business, a change of name or change of ownership.

Canopy. A detachable, roof-like cover, supported from the ground or deck, floor or walls of a structure, for protection from the sun or weather.

Changeable Copy Sign. A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged manually without altering the face or the surface of the sign and on which the message changes less than eight times a day and less than once per hour. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall not be considered a changeable copy sign.

Commercial Message. A message that directs attention to or acts as advertising for a business, commodity, product, service or form of entertainment or tends to encourage the occurrence of a commercial transaction related thereto.

Comprehensive Sign Plan. A complete signage plan for a building or lot that has been approved by the City.

Construction Sign. A sign identifying individuals or companies involved in design, construction, wrecking, financing, or development of a building or lot upon which the sign sits and/or identifying the future use of the building or lot upon which the sign sits.

Copy. Words, letters, numbers, figures, designs, or other symbolic representations incorporated into a sign.

Directional Sign, On-Premise. A sign without commercial message erected for the purpose of indicating the required or preferred direction of vehicular, bicycle, or pedestrian traffic on

private property including, but not limited to “no parking,” “entrance,” “exit only,” “loading only,” and other similar signage.

Directional Sign, Off-Premise. Any sign without commercial message that is displayed for the purpose of informing people of or guiding people to a particular place for a specified event, including, but not limited to, an open house, garage sale, estate sale or other similar event.

Directly Illuminated Sign. Any sign designed to give any artificial light directly through any transparent or translucent material from a source of light originating within or on such sign.

Directory Sign. A sign which serves as a common or collective identification for a group of persons or businesses operating on the same lot. Such a sign commonly lists the tenants, occupants, floor plan, addresses or suite numbers of an office complex, shopping center or residential building complex.

Election Campaign Period. A period prior to a general election starting on August 1 until 10 days following the general election, or a period prior to a special election starting 13 weeks prior to the special election until 10 days following the special election.

Electronic Variable Message Sign. A changeable copy sign or portion thereof which can be electronically changed or rearranged without altering the face or the surface of the sign, not including signage or portions thereof displaying time and temperature.

Façade. Any separate face or surface of a building, including parapet walls, and roof surfaces or any part of a building which encloses or covers usable space. Where separate facades are oriented in the same direction, or where the inside angle at the intersection of two surfaces is greater than one-hundred and thirty-five (135) degrees, they are to be considered as part of a single façade.

Flag. A device generally made of flexible material, such as cloth, paper, or plastic, and displayed from a pole, cable or rope. It may or may not include copy.

Frontage. The boundary of a lot that abuts a public street.

Garage Sale Sign. A sign advertising the sale of personal property including estate sales, yard sales or rummage sales used to dispose of personal household possessions.

Government Sign. Any sign erected by the City of Lake Elmo or any other governmental entity in the exercise of official government business and authority.

Ground Sign. Any free-standing sign that is supported by structures or supports in or upon the ground and independent of support from any building. A single sign structure having two identical or nearly identical faces back to back shall constitute a single sign. For the purposes of this definition, a ground sign is intended to refer to a primary, permanent, ground-mounted sign, not a temporary sign or sign that is ancillary to the primary sign, such as a directional sign or portable sign.

Hanging Sign. A sign that is suspended from the underside of a surface and is supported by such surface.

Indirectly Illuminated Sign. A sign that is illuminated from a source outside of the actual sign.

Inflatable Sign. A freestanding or moored sign expanded or inflated with air or another gas, like a balloon, and which may rise and float above the ground.

Legal Non-Conforming Sign. Any sign which was lawfully erected and displayed on [City Clerk to insert effective date], but which does not conform to the requirements and limitations herein, or any sign which was lawfully erected and displayed on the effective date of any amendment to this Section, but which does not conform to such amendment.

Logo. A symbol or trademark commonly used to identify a business or organization.

Memorial Sign. A sign or tablet memorializing a person, event, place or structure.

Menu Sign. A permanent changeable copy sign associated with restaurants with drive-through windows, car washes, or other businesses with drive-up services which gives a detailed list of food or services available.

Monument Sign. A ground sign having a monolithic base or support structure of any material measuring no less than one-third (1/3) of the greatest width of the sign at any point.

Noncommercial Message. A message intended to direct attention to a political, social, community or public service issue or an idea, aim viewpoint, aspiration or purpose and not intended to produce any commercial benefit or tend to encourage a commercial transaction.

Off-Premise Sign. A sign which displays any message directing attention to a business, product, service, profession, commodity, activity, event, person, institution or any other commercial message, which is generally conducted, sold, manufactured, produced, offered or occurs elsewhere than on the lot where such sign is located.

On-Premise Sign. A sign which displays any message directing attention to a business, product, service, profession, commodity, activity, event, person, institution or any other commercial message, which is generally conducted, sold, manufactured, produced, offered or occurs on the same lot as the sign.

Pennant. A tapered or dove-tailed banner or flag.

Permanent. When used in reference to a sign, means that the sign is constructed of durable materials and intended to exist for an indefinite period of time or the duration of the time that the use or occupant is located on the premises and is generally, but not necessarily, affixed to the ground or structure. Unless the context clearly dictates otherwise, the term "permanent" in this Ordinance is not intended to mean literal permanence, but rather it is meant to distinguish such signs from more transient or temporary signage.

Pole Sign. A ground sign mounted upon a pole or pylon, or multiple poles or pylons, not meeting the definition of monument sign.

Portable Sign. A type of temporary sign that is not permanently attached to the ground or a building or not designed to be permanently attached to the ground or a building, including but not limited to, trailers or other vehicles that are used principally as a sign, posters, "sandwich boards" or other freestanding signboards, regardless of whether such signs are attached to the ground or to a building or structure.

Projecting Sign. A sign that is attached to the wall of a building and projects more than fifteen (15) inches beyond such wall.

Real Estate Sign. A real estate sign advertising only the sale, rental or lease of the premises upon which the sign is located.

Sign. Any display of lettering, logos, colors, lights, or illuminated neon tubes visible to the public from outside of a building or from a traveled way, that either conveys a message to the public, or intends to advertise, direct, invite, announce or draw attention to any event, goods, products, services, facilities, persons, property interest or business.

Street Frontage. The distance for which a lot boundary adjoins a single public street.

Temporary Sign. Any sign that is not a permanent sign.

Wall Sign. A sign that is attached to a wall of a building and is affixed parallel to the wall at a distance of not more than fifteen (15) inches from the surface of the wall.

Window Sign. Any sign located completely within an enclosed building and visible from a public way or placed upon a window. Merchandise within the premises and visible from the exterior shall not be considered a window sign under this definition.

- C. *Applicability.* The Sign Ordinance shall apply to any sign placed, erected, altered, maintained or relocated within the city that is plainly visible, although not necessarily legible, from any

public right-of-way or any lot in ownership separate from the lot upon which the sign is located.

D. Sign Permits and Fees

1. *Permit Required.* Except as provided in this Section, it shall be unlawful for any person to place, erect, alter or relocate within the city, any sign without first obtaining a permit from the Planning Director and making payment of all fees as required by the City's Fee Schedule. This subsection shall not be interpreted to require a permit for a change of copy on a changeable copy sign, changing occupant sign panels on a directory sign, repainting, cleaning, or other normal maintenance and repair of any existing sign or its structure as long as the sign copy does not change.
2. *Application for Sign Permit.* All applications for sign permits shall be filed on a form supplied by the City. Such application shall be submitted with all required information provided and shall contain or have attached thereto the following information:
 - a. Date of Application.
 - b. Name, address, telephone number, and, if available, fax and email address, of the Applicant as well as of the person, firm, corporation, or association erecting the sign.
 - c. The written consent of the owner or lessee of the premises upon which the sign is to be erected, or the sworn statement of the applicant that the applicant is authorized by the owner, lessee or other authorized occupant of the premises to erect the proposed sign.
 - d. A scale drawing showing the existing and proposed location and dimensions of all buildings, structures, and signs on the subject property. For a ground sign, the drawing shall also indicate the following:
 - i. Distance of the sign from either the face of curb or sidewalk as well as its location relative to other ground signs, driveways, fire hydrants, and any other features of a site that could be obscured by the sign.
 - ii. A landscaping plan around the base of all ground signs.
 - e. The configuration of the proposed sign listing the height, width, total square footage, proposed copy, method of construction and attachment, method of illumination and description of all electrical equipment, sign materials and colors, and at least one image showing the location of the proposed sign and its relationship to either the building to which it is to be mounted or the surrounding lot if it is a ground sign.
 - f. The total area and number of all signs by type on the subject property both before and after the installation of the proposed sign.
 - g. For temporary signs, applications must be accompanied by a signed, written statement acknowledging the ordinance requirements governing the duration of time during which the sign may be displayed.
 - h. Such other information as the City may require to ensure compliance with this Sign Ordinance and any other applicable laws.
3. *Application Process and Review Procedure.* It shall be the duty of the Planning Director, upon the filing of an application for a sign permit, to examine the application for compliance with the requirements of this Section and, if deemed necessary by the Planning Director, to inspect the premises upon which the proposed sign is to be erected. If the application is complete and the proposed sign is in compliance with all the requirements of this Ordinance, and any other applicable laws, the following actions shall be taken:
 - a. If the application is for a permanent sign that conforms to an approved Comprehensive Sign Plan that applies to the property upon which it is to be located, or for a permanent or temporary sign that adheres to the requirements of this Code, the Planning Director may issue a permit.

- b. If an application for approval of a Comprehensive Sign Plan pursuant to §154.212.1 is submitted with a development application subject to Planning Commission review and City Council approval, the Planning Director shall review the application and make a recommendation to the Planning Commission prior to issuing a permit.
 - c. Except for applications for approval of a Comprehensive Sign Plan, applications shall be approved or denied within thirty (30) days of the filing of a complete application or be deemed approved unless an extension of time for review is granted, in writing by the applicant. Any decision of the Planning Director may be appealed to the Board of Adjustment and Appeals.
 - d. In the event that a permit is issued but the sign authorized by the permit is not placed, erected, altered or relocated within six (6) months after the issuance of the permit, the permit shall expire and be null and void.
 - e. *Fees.* A fee shall be charged for the permit in the amount set forth in the City's Fee Schedule.
- E. *Design Review Criteria.* Signs shall meet the following criteria:
- 1. Any signage affixed to a building shall be dimensioned and located in such a manner that it fits the building's architectural features and proportions.
 - 2. All signs shall be designed to fit the zoning and character of the surrounding area. Special consideration should be made where proposed signage is located on or adjacent to locally identified historic structures or publicly owned recreation and conservancy areas. Signage in Planned Unit Development, or in developments seeking Comprehensive Sign Plans, shall conform to the planned or existing dominant architectural theme of the area. Signage in or abutting residential properties should be designed and located so as not to create a nuisance.
 - 3. Signs illuminated by lights shall be positioned in such a manner that none of the light spills over onto an adjoining property or glares or shines into the eyes of motorists or pedestrians. All signs must conform to the Sign Illumination standards in §154.212.F.7 and §150.035 (Lighting, Glare Control and Exterior Lighting Standards).
 - 4. The number of colors and materials of the sign should be kept to a minimum.
 - 5. Landscape features shall be incorporated around the base of all permanent ground signs. Landscape plantings or other landscape materials shall not be considered as part of the allowable signage.
- F. *General Sign Regulations.* This section pertains to all signs erected in the city of Lake Elmo. Additional regulations may apply based on sign type and zoning district in which the sign is to be displayed. Wherever regulations conflict anywhere within this Section or with any other applicable rule or regulation, unless expressly stated otherwise, the more restrictive provision shall control.
- 1. *Surface Area Calculation.* The sign surface area shall be calculated based on the area within the smallest single continuous rectilinear perimeter of not more than eight (8) straight lines encompassing all elements of the actual sign face including any writing, representation, emblems or any figure or similar character together with any material forming an integral part of the display or forming the backing surface or background on which the message or symbols are displayed, but excluding any support structure. For a sign painted on or applied to a building, the area shall be considered to include all lettering, wording and accompanying design or symbols, together with any background of a different color than the natural color, or finish material of the building. Area of signs displaying copy on two parallel, back-to-back faces not separated by more than twelve (12) inches shall be calculated with reference to a single face only.
 - 2. *Sign Location, Placement and Setback Requirements.* Except as provided elsewhere in this Section, all signs shall be subject to the following requirements:

- a. Limitations Based on Building Setbacks:
 - i. Except as provided in subparagraph (b), no part of any permanent or temporary sign shall extend over a property line.
 - ii. Where buildings are lawfully permitted to exist on the property line, a permanent sign attached to a building may project not more than six (6) feet over the abutting public sidewalk or right of way provided that the bottom of the sign components are located no less than eight (8) feet above the ground immediately beneath such sign. No sign may project over adjacent private property. Any ground sign shall be located on the premises unless it is an authorized temporary sign for which a valid permit is in effect.
 - b. *Signs on Public Property.* No sign shall be located within or across any public right-of-way, or on any public property, easement, or utility pole, except for:
 - i. A sign erected by, or required by, a government agency or temporarily erected to protect the health and safety of the general public; or
 - ii. A sign erected in conformity with subparagraph (a.ii) of this subsection.
 - c. *Safety of Motorists and Non-motorists*
 - i. No sign shall be erected or maintained at any location where by reason of its position, wording, illumination, size, shape, or color it may obstruct, impair, obscure the vision of road users, or otherwise obstruct, interfere with the view of, or be confused with, any authorized traffic control sign, signal or device.
 - ii. No sign, with the exception of government signs, may be placed within 10 feet of a fire hydrant, within 15 feet of a crosswalk, or within 15 feet of the intersection of any circulation lane, driveway or alley.
 - iii. No sign exceeding a height of thirty (30) inches may be placed within the vision triangle as defined in §11.01.
 - iv. No sign or structural components shall obstruct passage on a sidewalk or walkway.
 - d. *Additional Regulations Pertaining to Placement of All Signs.* Except for a sign erected by, or required by, a government agency or temporarily erected to protect the health and safety of the general public:
 - i. No sign shall be attached to a fence, tree, shrubbery, utility pole or like items on either public or private property, and no sign shall obstruct or obscure primary signs on adjacent premises.
 - ii. No sign shall extend beyond the perimeter of a permanent structure or obstruct any window, door, fire escape, ventilation shaft or other area that is required to remain unobstructed by an applicable building code.
 - iii. No sign shall be mounted upon any roof of any building or structure.
 - e. *Americans with Disabilities Compliance.* Sign placement shall meet all Americans with Disabilities Act (ADA) requirements.
3. *Construction and Structural Requirements.* Every sign and its framework, braces, anchors and other supports shall be constructed of such material and with such workmanship as to be safe. Every sign shall be designed and constructed in conformity with the applicable provisions of the Minnesota State Building Code and shall be free of any exposed extra bracing, angle iron, guy-wire or cables. The base or support of all permanent ground signs shall be securely anchored to an appropriately designed concrete base or footing per the State Building Code.
 4. *Load Requirements.* All signs and other advertising structures shall be designed and constructed to meet all load requirements according to all applicable regulations in the Minnesota State Building Code.

5. *Installation.* All signs shall be properly secured, supported and braced. No sign or any part thereof, or anchor, brace, or guy-wire shall be attached, fastened or anchored to any fire escape, fire ladder or standpipe, and no sign or any part thereof, or anchor, brace or guy-wire shall be erected or maintained which may cover or obstruct any door, doorway, or window of any building or which may hinder or prevent ingress or egress through such door, doorway or window, or which may hinder or prevent the raising or placing of ladders against such building in the event of fire. All signs or attention-attracting devices shall be free of projections that could cause injury to a pedestrian and shall be installed in such a manner to avoid obstruction of a public sidewalk or street or portion thereof.
6. *Maintenance.* All signs, including nonconforming signs, and sign structures shall be maintained to preserve the appearance and structural integrity substantially identical to the new condition of the sign.
7. *Sign Illumination.* All illuminated signs shall comply with Section 150.035 (Lighting, Glare Control and Exterior Lighting Standards) and the following requirements:
 - a. *Electrical Permit.* All signs in which electrical wiring and connections to be used shall comply with all applicable provisions of the State Electrical Code. No permit for the erection of a sign shall be granted prior to approval and issuance of a valid electrical permit for that sign.
 - b. *Voltage Displayed.* The voltage of any electrical apparatus used in conjunction with a sign shall be conspicuously noted on that apparatus. In addition, all electrical signs shall bear the label of approval of a recognized testing laboratory and be equipped with a watertight safety switch that is located where the electrical supply enters the sign.
 - c. *External Illumination.* All external lighting fixtures shall be steady, stationary, fully-shielded and directed solely onto the sign, and shall use lighting designed to minimize light spill and glare. Lighting sources shall not be directly visible or cause glare to adjacent public rights-of-way or adjacent private property.
 - d. *Internal Illumination.* Internally illuminated signs shall permit light to shine fully through only the lettering and graphic elements of the sign. The background for such lettering and graphics shall be opaque or translucent and shall transmit light at a level substantially less than that transmitted through the lettering and graphics. If the contrast between the lettering or graphic elements and background does not permit adequate legibility, a translucent white border of up to one (1) inch in width may be placed around said lettering or graphic elements.
 - e. *Brightness Limitation.* Except for daytime displays on electronic variable message signs, in no instance shall the lighting intensity of any illuminated sign exceed:
 - i. Three (3) foot candles at the front lot line and one (1) foot candle at all other lot lines, measured three (3) feet above the surface of the ground.
 - ii. Fifty (50) foot candles measured perpendicular to the face of the sign from a distance equal to the narrowest dimension of the sign.
 - f. *Glare.* All artificial illumination shall be so designed, located, shielded and directed so as to prevent the casting of glare or direct light upon adjacent public right-of-way or surrounding property.
 - g. Gooseneck and similar reflectors and lights shall be permitted on ground and wall signs provided, however, the reflectors and lights shall concentrate the illumination upon the area of the sign so as to prevent glare upon the street or adjacent property. It shall be unlawful to maintain any sign which is wholly or partially illuminated by floodlights or spotlights, unless such lights are completely concealed from view from the public right-of-way.

8. *Motion as a Component of a Sign.* No sign shall have any flashing, scintillating, moving or blinking lights or rotating beacons, whether operated by electronic or mechanical means or wind driven, nor shall any floodlight, spotlight, or beacon utilize such actions to illuminate a sign. In addition, no beam of light shall be projected through a mechanism which periodically changes the color of the light reaching the sign.
 9. *Attention-Attracting Objects.* The use of any attention-attracting object, as defined in this code, shall be allowed only as a temporary sign in conjunction with a special event permit, not to exceed ten (10) days per issuance. No permit shall be granted for any premises more than four (4) times in any calendar year; or more than once in any three month period.
 10. *Lots Having Multiple Street Frontages.* Businesses occupying corner lots, or multiple frontages adjacent to more than one public right-of-way, may display up to one additional ground or building-mounted sign for each additional frontage provided that such additional sign may not exceed 50% of the area allowed by the primary frontage and is oriented toward the additional frontage. For purposes of this code, the primary frontage shall be presumed to be the frontage upon which the main entrance to the building is located. The applicant, however, may identify a different frontage as the primary frontage to maximize the effectiveness of the signage.
 11. *Resemblance to Traffic Signs.* No sign shall contain or resemble any sign resembling in size, shape, message, or color any traffic control devices compliant with the Minnesota State Manual on Uniform Traffic Control Devices.
- G. *Limitations According to the Type of Land Use.* Unless exempt under §154.212.K or as expressly provided elsewhere, no permanent or temporary signs shall be displayed except in conformity with the following regulations as they correspond to the type of land use and districts in which the sign is to be displayed.
1. *Residential Uses in Residential Districts.*
 - a. In connection with legal home occupations, a single sign which is limited in content to the name, address and home occupation of the owner or occupant of the premises, and which does not exceed two (2) square feet in area. Signs under this paragraph shall be wall signs only.
 - b. A residential condominium or multi-family apartment complex may display signs identifying the name of the condominium or apartment complex if the total acreage of the lot is one (1) acre or more and the condominium or apartment includes eight (8) or more units. One (1) wall sign and one (1) ground sign per street frontage may be displayed, with a maximum of two (2) wall signs and two (2) ground signs per lot. No identification sign shall exceed twelve (12) square feet in area, and the maximum height is one (1) story or twelve (12) feet above curb level, whichever is lower. For purposes of this paragraph, the term "lot," when used in reference to a condominium means all property within a common interest community.
 - c. A subdivision identification sign not exceeding thirty-two (32) square feet in sign area as approved by the City.
 2. *Institutional Uses in Residential Districts.* Nonresidential uses located in residential districts, such as churches and schools, located in residential districts may erect signs as follows:
 - a. *Wall and Ground Signs*
 - i. *Area and Number:* One (1) wall sign and one (1) ground sign per street frontage may be displayed, identifying the entity, with a maximum of two (2) wall signs and two (2) ground signs per lot. Additional wall or ground signs for wayfinding purposes may be permitted when the size of the lot, number of vehicular or pedestrian entrances, and layout of the buildings require additional signs in order to promote traffic and pedestrian safety. Signs under this paragraph, whether displayed on a wall or on the ground, shall not exceed twelve (12) square feet in

area, except such signs may be increased in area by one (1) square foot for each additional foot that the sign is set back more than twelve (12) feet from a lot line. No sign under this section shall exceed thirty-two (32) square feet in area.

- ii. *Height.* No identification sign shall project higher than one story, or twelve(12) feet above curb level, whichever is lower.
 - b. Temporary Signs
3. Commercial, Mixed-Use and Industrial Districts
 - a. Ground Signs
 - b. Directory Signs
 - c. Awning and Canopy Signs
 - d. Wall Signs
 - e. Projecting Signs
 - f. Hanging Signs
 - g. Window Signs
 - h. Directional and Informational Signs
 - i. Corporate Flags and Decorative Banners
 - j. Temporary Signs
4. *Planned Development Districts.* No permanent sign shall be displayed except a sign authorized by the City and included in the Comprehensive Sign Plan pertaining to the site. Temporary signs are permitted for commercial, institutional or industrial uses unless prohibited by the Comprehensive Sign Plan.
5. *Conservancies and Parks.* No sign shall be permitted except those installed by direction of the Public Works Director.
6. *Agricultural Sales Businesses.* Signage related to agricultural sales business may be erected as follows:
 - a. *On-Premises Signs, Agricultural Sales Businesses.* One (1) or more on-premises signs may be erected on a property in conjunction with an operating agricultural sales business subject to the following requirements and restrictions:
 - i. Agricultural sales businesses utilizing less than 10 acres of land specifically for the growing of agricultural crops for the business are allowed 1 on-premises sign not to exceed 32 gross square feet of advertising surface.
 - ii. Agricultural sales businesses utilizing more than 10 acres of land but less than 40 acres of land specifically for the growing of agricultural crops for the business are allowed 1 or 2 on-premises signs not to exceed 48 gross square feet of advertising surface, with no sign surface exceeding 32 square feet in size.
 - iii. Agricultural sales businesses utilizing more than 40 acres of land specifically for the growing of agricultural crops for the business are allowed 1 , 2 or 3 on-premises signs not to exceed 64 gross square feet of advertising surface, with no sign surface exceeding 32 square feet in size.
 - iv. Any illuminated sign shall be consistent with §154.212.F.7 and illuminated only during those hours when business is open to the public for conducting business.
 - b. *Temporary Off-Premises Signs, Agricultural Sales Businesses.* Independent of the total allowable sign area for an individual property anywhere within the city, a temporary off-premises sign may be erected on a property in conjunction with an operating agricultural sales business subject to the following requirements and restrictions:

- i. *Maximum Number.* Every agricultural sales business shall have no more than 2 off-premises signs at any given time to direct the public to the location of the business.
 - ii. *Time Frame of Use.* Temporary off-premises signs may be erected for 45-day time periods no more than 4 times in any given calendar year. The required temporary sign permit shall stipulate the range of dates for each of the 4 allowable time periods in any given calendar year.
 - iii. *Size and Height.* An off-site agricultural sales advertising sign shall not exceed 50 square feet in area and shall not be taller than 10 feet in height.
 - iv. *Setbacks.* Off-premises signs shall be a minimum of 25 feet from all side property lines, and a minimum of 50 feet from other off-premises advertising signs.
 - v. *Permission Required.* Applicants for off-premises signs shall acquire permission from the property owner upon whose land the sign is to be erected.
- H. *Regulations Pertaining to Specific Sign Type.* Except as expressly provided elsewhere, signs shall meet the following regulations according to sign type:
- 1. Wall Signs
 - a. *Number.* No building occupant shall display more than one (1) wall sign per street frontage except as provided below:
 - i. One additional wall sign may be displayed on a building with no front setback provided that such sign is a flat sign that is either painted upon the building or does not extend outward more than six (6) inches.
 - ii. Up to three (3) ancillary wall signs may be displayed on buildings measuring at least 100 feet in length along the front lot line. Any ancillary sign displayed under this paragraph shall not exceed 50% of the net area or 50% of the height of the largest permitted wall sign displayed on that façade, nor shall the aggregate area of the ancillary signs exceed 50% of the net area of such wall sign.
 - b. *Surface Area.* The total permitted sign surface area of all wall signs on a façade shall not exceed one (1) square foot of signage for each lineal foot of building frontage that is coterminous with the occupancy to which the sign refers, unless a different amount allocated to the building occupant is identified in an approved Comprehensive Sign Plan pursuant to §154.212.I. In addition, no individual wall sign shall exceed one hundred (100) square feet in area.
 - c. *Location.* Wall signs shall be mounted parallel to building walls and only on a portion of an exterior wall that is coterminous with the occupancy to which the sign refers, unless a different location is identified in an approved Comprehensive Sign Plan pursuant to §154.212.I. No wall sign shall extend above or beyond the wall to which it is attached.
 - d. *Installation Requirements.* No wall sign shall cover or interrupt significant architectural elements such as columns, column caps, friezes, door or window heads, embellishments, adornments, fenestration, or ornamental detailing on any building. All mounting brackets and other hardware used to affix a sign to a wall as well as all electrical service hardware and equipment shall be concealed by architectural elements of the building or the sign itself.
 - 2. Ground Signs
 - a. *Number.* There shall be no more than one (1) ground sign for each street on which the lot has frontage, except one additional ground sign per lot frontage may be allowed for any lot frontage over one thousand (1,000) linear feet. On lots occupied by two (2) or more occupants, or where a second ground sign is permitted, three (3) or more occupants, a directory sign shall be used in lieu of multiple ground signs. No single business or building occupant shall be allowed signage on both an individual ground sign

and a ground directory sign on the same street frontage. On premises having no principal building, there shall be no more than one (1) ground sign for the premises.

- b. *Surface Area.* No ground sign shall exceed the size listed in Table 5-3.
- c. *Type of Sign.* Any permanent ground sign shall be erected as a monument sign. Pole signs are prohibited unless the pole portion of the sign is enclosed in a shroud that causes the sign to appear to have a monolithic base or support structure of any material measuring no less than one-third (1/3) of the greatest width of the sign at any point or unless the height is no greater than three (3) feet. The base of the monument sign shall not exceed the width of the widest portion of the sign face by more than twenty-five percent (25%).
- d. *Location.* Ground signs shall be placed with consideration for visibility, access, maintenance, and safety, consistent with the provisions of Section 154.212.F.2. Ground signs shall be located beyond required setbacks a distance equal to or greater than the height of the sign. If this is not possible, ground signs shall be located as far from required setback lines as possible. In no case shall a ground sign, as defined in this Ordinance, extend beyond a lot line of a property. A ground sign larger than 6 sq. ft. shall be located no closer than 100 feet of another ground sign or the furthest distance possible from another ground sign, whichever distance is shorter.
- e. *Height*
 - i. The height of a ground sign shall be measured from the approved grade at the base of the sign or the elevation of the street upon which the sign faces, whichever is lower, to the top of the highest attached component of the sign.
 - ii. A ground sign shall be mounted on a base not to exceed four (4) feet in height.
 - iii. Allowable height of a ground sign shall be as set forth in Table 5-3.
 - iv. No ground sign shall be taller than the principal building on the premises to which it pertains.
- f. *Landscaping.* Perennial plantings and other landscaping features shall be incorporated around the base of all ground signs.
- g. *Exempt or Special Purpose Ground Signs.* The location of and maximum height and surface area of any other exempt or special-purpose ground sign expressly authorized by another section of this ordinance, shall be as set forth in such other section.

Table 5-3 Ground Signs

Table 5-3 describes the zoning districts in which ground signs may be displayed, and the maximum height and area of the signs, as determined by the speed limit on the adjacent roadway. For ground signs on zoning lots with more than one street frontage, use the miles per hour on the street with the faster speed limit to determine the maximum height and area allowed.

Ground Signs				
Zoning District		A ^a , LDR, OP, RE, RS, RR ^a , RT ^a	MDR, HDR	BP, C, CC, GB, LC, VMX
No. of Total Traffic Lanes	Speed Limit (MPH)	Max Height/ Area (Sq. Ft.)	Max Height/ Area (Sq. Ft.)	Max Height/ Area (Sq. Ft.)
1-3	0-34	-	6' / 32	10' / 32

	35-44	-	6' / 32	10' / 50
	45+	-	6' / 32	10' / 72
4-5	0-34	-	6' / 32	10' / 40
	35-44	-	6' / 32	10' / 64
	45+	-	6' / 32	12' / 80

Notes to Table 5-3:

a. Ground signs are only permitted in the A, RR and RT districts in conjunction with agricultural sales business.

3. Window Signs

- a. Location: All window signs must be located inside an exterior window unless the sign is weatherproof and does not pose a danger from falling or being blown by the wind. Lettering or graphic elements that are directly mounted on a window shall not encroach upon the frame, mullions, or other supporting features of the glass.
- b. *Permanent Signs.* When a sign is painted on or otherwise attached or applied to the window area in a permanent manner, then such sign shall be included in the total allowable wall sign area for the building and shall not exceed twenty (20) percent of the total ground-floor window area of the building, excluding the door windows. All permanent window signs which have their lettering or graphic elements directly on the glazing shall be painted, metal leafed, vinyl transferred, or in some other manner permanently applied to the interior side of the glass of an exterior building window or door. No application using a temporary adhesive shall be permitted unless the Planning Director determines the application to be reasonably safe.
- c. *Temporary Signs.* Signs advertising sales and specials shall not exceed thirty (30) percent of the total ground-floor window area of any building, excluding the door windows. Such signs must be displayed in conformance with the temporary sign regulations listed in §154.212.J.
- d. Under no circumstances shall any combination of permanent or temporary window signage cover more than fifty percent (50%) of the total ground window area of any building.

4. Changeable Copy Signs

- a. Changeable copy signs are not an additional permitted sign type, but any permitted sign type may be a changeable copy sign, provided that the total surface area of the entire sign does not exceed the maximum allowed for the type and location of sign upon which the changeable copy is displayed.
- b. Electronic Variable Message Signs: Any sign type may be an electronic variable message sign subject to the following regulations:
 - i. *Surface Area.* The areas of electronic variable message signs capable of displaying copy shall not exceed forty (40) square feet and shall be included within the maximum aggregate sign surface area allowed for the type and location of sign upon which the changeable copy is displayed.
 - ii. *Length of Cycle.* The electronic changeable copy or images shall not alternate, change, fade in, fade out, or otherwise change more frequently than once every ten (10) seconds. Electronic variable message sign signs may not display scrolling, racing, pixelating or moving characters or images, or similar actions that convey motion.

- iii. *Color.* All copy, characters or other changeable images shall be of one (1) color only, with light copy on a dark background.
 - iv. *Brightness Adjustment.* An electronic variable message sign shall be equipped with photosensitive equipment which automatically adjusts the brightness and contrast of the sign in direct relation to the ambient outdoor illumination such that the light level does not exceed three (3) foot candles at the front lot line and one (1) foot candle at all other lot lines, measured three (3) feet above the surface of the ground.
 - v. *Maintenance.* Any electronic variable message sign shall be maintained so as to be able to display messages in a complete and legible manner.
5. *Canopy and Awning Signs.* The use of canopy and awning signs reduces the maximum area of any allowed wall sign by half. Canopy and awning signs are subject to the following provisions:
- a. *Surface Area.* The sign surface area of a canopy or awning sign shall not exceed fifteen (15) percent of the area of the vertical section of the canopies and awnings. The area of the vertical section of the canopies and awnings is calculated as the difference between the highest and lowest point on the canopy or awning multiplied by the length of the canopy or awning measured parallel to the façade upon which it is attached.
 - b. *Location*
 - i. Canopies and awnings shall be constructed and erected so that the lowest portion of the projecting frame thereof shall be not less than nine (9) feet, and the lowest portion of the descending skirt shall be not less than eight (8) feet above the level of the sidewalk or public thoroughfare.
 - ii. No portion of the canopy or awning sign shall extend above or beyond the canopy or awning upon which it is attached. However, a sign may be hung beneath a canopy parallel to the building frontage so long as it and its structural components are no less than eight (8) feet above the ground immediately beneath the sign.
 - iii. Awnings shall not project more than seventy-two (72) inches out from the building upon which they are attached, nor extend out from the building beyond the extension of the awnings on adjoining buildings.
 - c. *Installation Requirements.* To preserve the architectural integrity of a building, no canopy or awning, and no canopy or awning sign, shall cover or interrupt significant architectural elements such as columns, column caps, friezes, door or window heads, embellishments, adornments, fenestrations or ornamental detailing.
 - d. *Illumination.* Awnings and canopies may be illuminated where the following conditions are maintained:
 - i. Both interior type strip lighting and exterior type goose neck lighting is permitted, not exceeding a maximum light level of 18 foot candles measured three (3) feet from the perpendicular to the light source.
 - ii. The bottom of any illuminated awning or canopy shall be enclosed.
 - iii. The provisions of §154.212.F.7 are satisfied.
 - e. *Materials.* Canopy and awning signs shall be made of either the material with which the canopy or awning is covered or other water proof materials affixed flush to the face of the canopy or awning, or be painted directly on the awning or canopy material with weather-resistant paint.
 - f. *Snow Load.* It is found that snow and ice that accumulates on awnings can pose a danger to pedestrians. To ensure the safety of pedestrians, snow and ice shall be

removed from awnings within a reasonable time period after an event of snow and ice accumulation.

6. *Hanging Signs.* One sign up to six (6) square feet in area may be suspended above a walkway near a primary building entrance so long as it and its structural components are no less than eight (8) feet above the ground immediately beneath the sign.
7. *Projecting Signs.* A projecting sign may be displayed in lieu of a wall sign and subject to the following restrictions:
 - a. *Maximum Projection.* The maximum distance a projecting sign may project is not more than twenty-four inches (24") into the right-of-way. Subject to zoning setback limitations, a projecting sign may project no more than six feet (6') from the building face.
 - b. *Location.* A building may have one (1) projecting sign facing a street or on a corner of the building.
 - c. *Surface Area.* The permitted area of a projecting sign shall not exceed the square footage for the amount that would otherwise be allowed for a wall sign on the building.
 - d. *Height.* A projecting sign must vertically clear any pedestrian area by at least eight (8) feet and vehicular ways by at least fourteen (14) feet. A projecting sign may extend to the juncture of the roof with the building wall or to the top of any parapet, but no projecting sign may extend above a second story.
8. *Directional Signs.* On-premise directional signs may be placed on private property near driveway entrances, at building entrances, and in parking lots and loading areas where reasonably necessary. Each such sign shall be located on-premise and shall adhere to the regulations pertaining to vision triangles and other setbacks as defined in §154.212.F.2. Such signage shall be considered exempt from the total signage calculation for the premises as long as all the following standards are met:
 - a. Such signage does not serve an additional advertising purpose.
 - b. There are no more than three (3) directional signs per lot, not including a maximum of one (1) directional sign allowed per driveway entrance/exit.
 - c. Surface area per sign does not exceed four (4) square feet.
 - d. Logos do not exceed two (2) square feet in area per sign.
 - e. Sign height does not exceed five (5) feet above ground elevation at base of sign.
9. *Flags and Decorative Banners.* The following regulations apply to all flags and decorative banners:
 - a. A minimum clearance of eight feet (8') over pedestrian ways and fourteen (14') feet over vehicular areas.
 - b. Maximum number of flagpoles for any lot is three (3).
 - c. Maximum height of any flagpole is fifty (50) feet.
 - d. Maximum number of flags per lot is four (4).
 - e. Maximum area of any flag shall be forty (40) square feet.
 - f. Flags representing a private entity, including corporate or business flags, shall be included within the maximum sign area total for the site, as applied to the allowance for a ground sign, and shall require a sign permit.
- I. *Comprehensive Sign Plans*
 1. *Purpose.* Multi-tenant developments such as shopping malls, due to the varying occupant's need for signage and the potential for unique architecture and placement of different occupancies as they relate to street frontages, can create challenges to the applicability of

sign regulations and the fair distribution of permitted square footage for occupants. This section is intended to define how signage permitted under this code will be distributed among the different occupancies available in the development. The Comprehensive Sign Plan shall create visual harmony between the signs, building(s), and building site through unique and exceptional use of materials, design, color, and lighting, and other design elements; and shall result in signs of appropriate scale and character to the uses and building(s) on the lot as well as adjacent buildings, structures and uses.

2. *Applicability.* A Comprehensive Sign Plan shall be required of an applicant for all planned developments and commercial or industrial multi-tenant developments where different occupancies will compete for permitted square footage on a single lot.
3. *Submission Requirements.* An application for Comprehensive Sign Plan approval shall be submitted to the Planning Director and shall include:
 - a. A site plan, dimensioned, showing the location of the building(s), structure(s), parking area(s), driveway(s), and landscaped areas on the lot upon which the proposed sign is to be attached or erected.
 - b. A table or tables containing:
 - i. Computation of the maximum total sign area.
 - ii. Maximum area for individual signs.
 - iii. Height and number of ground signs.
 - iv. Statement of the maximum total sign area and maximum number of signs permitted on the site by this Ordinance.
 - c. An accurate indication on the site plan of the location and orientation of each sign for which a permit is currently being requested, the anticipated location of future signs requiring a permit, and the location of all reasonably anticipated temporary signs.
 - d. A description and illustration of the following may be required:
 - i. Colors and materials to be used in sign construction.
 - ii. Style of lettering for all signs.
 - iii. Appearance/location of logos or icons.
 - iv. Location of each sign on the building(s), with building elevations if necessary.
 - v. All sign proportions.
 - vi. Types of illumination.
4. *Amendment.* A Comprehensive Sign Plan may be amended by filing a new Comprehensive Sign Plan, in conformance with the requirements of the Sign Ordinance in effect at that time, and obtaining approval of the Planning Director.
5. *Binding Effect*
 - a. After approval of a Comprehensive Sign Plan, no permanent sign shall be erected, placed, painted or maintained by the property owner or any buyer, tenant, subtenant, assignee, employee, agent or other party in use of the subject property except in conformance with such plan without obtaining a sign permit and in conformance with the Comprehensive Sign Plan.
 - b. If the City Council has approved a Comprehensive Sign Plan with flexible criteria, the Planning Director is authorized to approve, through the standard sign permit approval process, sign applications in conformance with the comprehensive sign plan, but only to the extent that the application is in conformance with the Comprehensive Sign Plan.

- c. The terms and conditions of an approved Comprehensive Sign Plan shall have the same force and effect and be enforced in the same manner as any other provision of this Section.

J. Temporary Signs

1. *General Requirements.* Temporary signs shall conform to the following standards:
 - a. *Permit Required.* No temporary sign may be displayed without a valid temporary sign permit or portable sign permit.
 - b. *Sign Type.* Temporary signs may include any sign type permitted by this Section.
 - c. *Number.* No more than two (2) temporary signs may be displayed on a lot at any time.
 - d. *Surface Area.* The maximum area of all temporary signs displayed shall be a combined total of eight (8) square-feet if displayed for ten (10) days or longer.
 - e. *Location.* Temporary signs shall be located only upon the premises to which the special, unique, or limited activity, service product, sale, or event is to occur. No temporary sign may be placed off-premise except as otherwise provided elsewhere in this Section.
 - f. *Duration.* No temporary sign permit shall be issued to erect or maintain any temporary signage for a period exceeding twenty-one (21) days, or to be displayed three (3) days after termination of the activity, service, project, sale, or event to which the sign pertains, whichever comes first. A permit for a temporary sign or signs shall be granted no more than four (4) times in any calendar year and only once every three (3) months.
 - g. *Installation Requirements.* All temporary signs shall be constructed, anchored and supported in a manner which reasonably prevents the possibility of such signs becoming hazards to the public health and safety as determined by the Planning Director.
2. *Business Opening Signs.* Business opening signs may be displayed on lots having commercial or industrial occupancies subject to the following provisions:
 - a. *Permit Required.* A permit shall be issued before a business opening sign may be erected. The permit may not be renewed.
 - b. *Type of Sign and Location.* A business opening sign may be a wall sign, projecting sign, or ground sign. A business opening sign may be displayed in addition to, in lieu of, or affixed to a permanent sign. A banner may be used as a business opening sign.
 - c. *Size.* The size of a business opening sign shall be determined by the type of sign chosen, and shall be limited to the maximum size allowed for a permanent sign of that type at that location.
 - d. *Illumination.* A business opening sign may be illuminated subject to §154.212.F.7.
 - e. *Duration.* A business opening sign may be displayed for a period not to exceed thirty (30) days from the date the business opened, changed names, or changed ownership.
3. *Portable Signs.* In addition to the general requirements pertaining to temporary signs, the following standards pertain to portable signs:
 - a. *Permit Required.* A sign permit shall be issued on an annual basis before a stationary portable sign may be erected. Such permit shall only be valid during the calendar year during which it is issued.
 - b. *Construction.* A sign shall be manufactured to a professional standard of construction, finish and graphics. A portable sign shall be free-standing, self-supported and constructed of substantial materials such as wood, metal or plastic such that the sign will reasonably withstand the elements.
 - c. *Size and Design Regulations:*

- i. A portable sign shall not exceed six (6) square feet in surface area per side, with a maximum of two (2) signable sides or faces.
 - ii. The sign shall not exceed three (3) feet measured at the widest point of the sign face.
 - iii. Any portion of the sign's face used for a chalk or dry-erase board shall not exceed fifty percent (50%) of the total sign face surface area.
- d. *Number.* One portable sign may be displayed per business or occupant in any commercial or industrial area or Planned Unit Development.
- e. *Location.* A portable sign is restricted to the lot of the business establishment to which a permit has been issued, except such a sign may be located in the public right-of-way in front of the premises only where no front setback is required.
- f. *Placement:* A portable sign shall:
- i. Be placed only along sidewalks where a minimum five (5) foot wide clear sidewalk is maintained. In no event shall a portable sign be placed on any bicycle path. The placement of a portable sign shall not obstruct access to any crosswalk, mailbox, curb cut, fire hydrant, fire escape, fire door, building entrance, public parking space or any other public property, nor shall a sign obstruct the ability of persons to exit/enter vehicles parked along the curb;
 - ii. Not be attached, chained or in any manner affixed to public property including street trees, utility poles or sign posts;
 - iii. Not obstruct the clear view of any traffic signal, regulatory sign or street sign;
 - iv. Not be located closer than 10 feet to any other portable sign;
 - v. Not be located directly adjacent to a bus stop or transit vehicle, shall not obstruct sight lines of road users, nor be placed less than twenty-five (25) feet from a street intersection or fifteen (15) feet from a crosswalk;
 - vi. Not be placed in such a way as to interfere with snowplowing of the streets;
 - vii. Be maintained free of snow, be placed on solid ground at all times and shall not be placed on top of snow banks.
- g. *Illumination.* A portable sign shall not be illuminated.
- h. *Time Limitations and Removal.* A portable sign may be displayed only during business hours. Such sign must be removed and safely stored out of view during times when the business is not open to the public. Trailers or other vehicles that are not used principally as a sign may be parked on the lot when the business is not open to the public.
- i. *Enforcement.* Portable signs located within the public right-of-way are a privilege and not a right. The City in permitting placement of such signs in the public right of way reserves the right to require their removal at any time because of anticipated or unanticipated problems or conflicts. To the extent possible, the permittee shall be given prior notice of any time period during which, or location at which, the placement of portable signs is prohibited. Furthermore, the sign permit may be revoked by the Planning Director following notice to the permittee. The permit may be revoked if one or more conditions outlined in this section have been violated, or if the sign is determined to constitute a public nuisance not specifically outlined in this section. Following the revocation of the sign permit, no application for the same site shall be filed within one hundred eighty (180) days from the date of revocation. The permittee has a right to appeal the decision of the Planning Director within thirty (30) days of issuance of a revocation notice pursuant to §154.212.N.2.

- j. *Indemnification.* Where a temporary, portable sign is permitted in the public right-of-way, the owner, lessee or lessor of the business to which a permit has been issued and the property owner shall agree in writing to fully indemnify and hold the City harmless for any personal injury or property damage resulting from the existence or operation of said sign, and shall furnish evidence of general liability insurance in the amount of fifty thousand dollars (\$50,000.00) with the City as additional named insured or provide other security to the satisfaction of the City Administrator.
 - k. *Permit Renewal.* The permit for a portable sign must be renewed annually prior to January 1 of each year.
- K. *Signs Exempt from Permit.* Consistent with the purpose and scope of this ordinance, the City recognizes that certain temporary, necessary, or limited-purpose signs should be lawfully displayed without the need to obtain a permit and should not count as part of the specific sign area allowed to be displayed on a particular property. All signs exempt from permit requirements must, nonetheless, adhere to all other applicable sections of this ordinance and all other applicable State and Federal regulations. The City finds that the following signs may be displayed without a permit because they serve an immediate or temporary traffic safety or wayfinding function:
 - 1. *Address and Nameplates.* Address and name plates not exceeding three (3) square feet in area.
 - 2. *Athletic Field Signage.* Signs, banners, and scoreboards designed solely for view from spectator areas and displayed on interior walls, fences, or other structures located inside an enclosed athletic field at a school, park, or other public or private athletic complex. Approval of the Park Commission shall be required to display a sign, banner, or scoreboard under this paragraph at a City park.
 - 3. *Awning Signage.* Signs displayed on awnings located on commercial or industrial buildings provided that the signs are displayed on the lowest twelve inches (12") of the principal face or side panels of awnings and provided that they do not exceed six inches (6") in height.
 - 4. *City Signs on City Property.* City signs on City property not exceeding thirty-two (32) square feet in area.
 - 5. *Construction Signs.* Such signs may only be placed on the property where work is in progress, shall not be erected prior to the beginning of work for which a valid building permit has been issued, and shall be removed within ten (10) days of completion of work or the expiration of the building permit, whichever is sooner. Construction signs on parcels in residential or park uses shall not exceed thirty-two (32) square feet per street frontage. Construction sign area for commercial, industrial, multi-family, or planned development uses on parcels less than 100,000 square feet shall not exceed sixty four (64) square feet per street frontage; and on parcels greater than 100,000 square feet shall not exceed ninety six (96) square feet per street frontage. Square footage may be divided.
 - 6. *Flags.* Flags that comply with the provisions of §154.212.H.9.
 - 7. *Garage Sale and Estate Sale Signs.* Signs advertising a garage sale shall not exceed four (4) square feet in area, shall not be displayed for a period of time more than seventy-two (72) consecutive hours and may be displayed no more than twice in any one calendar year. Up to three (3) residential garage sale signs may be displayed per event, two (2) of which may be displayed off-premises, but not in the public right-of-way. Any such sign placed on private property must have the consent of the property owner on whose property such sign is displayed.
 - 8. *Government Signs, Including Traffic or Official Public Hearing Notice Signs.* Such signs are placed, authorized, or required by the City or other authorized governmental agency. The requirements for maximum area, height, setback, or other size, materials or physical specifications shall be as required by law or the authorizing agency.

9. *Holiday and Temporary Decorations.* Holiday or temporary decorations when located on private property, or with the approval of the City if on public property. In addition, any sign in the nature of a decoration, identification or direction, incidentally and customarily associated with any national or religious holiday or any civic festival, fair or similar gathering, held during a period of ten (10) days or less in any year, provided such sign shall not differ substantially from the requirements set forth in this Section. Such decorations may not contain any commercial message or logo or depict any commercial symbol or character.
10. *Home Occupation Signs.* Signs identifying only the name and occupation of the resident. Home occupation signs shall be non-illuminated, flush-mounted to a wall of the residence, and shall not exceed two (2) square feet in area.
11. *Memorial Signs.* Any non-commercial sign in the nature of a cornerstone, commemorative, or historical tablet or landmark designation plaque.
12. *Menu Signs.* Menu signs up to fifty-five (55) square feet in area and six (6) feet in height, provided they are located within fifteen (15) feet of the commercial building with which they are associated or advertise and in a manner such that the copy is not readily viewable from the public right-of-way or a residential occupancy on an adjacent lot.
13. *Non-Commercial Messages.* One sign per parcel per street frontage carrying any lawful non-commercial message not exceeding twelve (12) square feet in area. Any other permitted commercial sign may be substituted for a noncommercial message but will count toward the total signage type and area for the parcel upon which it is located. Hand-held signs carrying noncommercial messages are not subject to any size limitation so long as they are held by and under the physical control of a person during all times they are on display.
14. *Parking Lot Regulation Signs.* Parking signs not exceeding nine (9) square feet and having a minimum setback of ten (10) feet.
15. *Parking Lot Directional Signs.* Signs must comply with the provisions of §154.212.H.8.
16. *Parking Lot Traffic Signs,* as required by law.
17. *Political and Election Campaign Signs.* Signs containing a political message and displayed during an election campaign period may not exceed twelve (12) square feet in area. Such signs are allowed in addition to the noncommercial message sign under subsection (14) during the election campaign period, however, after ten (10) days has passed from the election date such sign may continue to be displayed, but will count as the allowed noncommercial message sign under subsection (13). Political and election campaign signs may also substitute for any commercial message sign in the same manner. Unless substituted for another permitted sign, such signs shall not have any electrical component. Such signs shall not have a mechanical or audio auxiliary component, and shall not be attached to or placed on utility poles, trees, traffic devices, or within the public right-of-way.
18. *Real Estate Signs Advertising Residential Properties.* Signs located on premise may not be placed above the top of the lowest level of the building. All signs authorized under this subsection shall be removed within ten (10) days of the sale or rental of the residential units being advertised.
 - a. For lots containing less than four (4) dwelling units within one residential structure, one non-illuminated real estate sign up to six (6) square feet per unit may be displayed to advertise the sale or rental of the premises or any part thereof.
 - b. For lots where at least four (4) but less than sixteen (16) dwelling units are contained within one residential structure, one non-illuminated real estate sign up to twelve (12) square feet may be displayed to advertise the sale or rental of the premises or any part thereof.

- c. For lots where sixteen (16) or more dwelling units are contained within one residential structure, one non-illuminated real estate sign up to thirty-two (32) square feet may be displayed to advertise the sale or rental of the premises or any part thereof.
 - d. Up to two (2) signs directing traffic to “open houses”, each sign no more than six (6) square feet in area, may be installed off property after obtaining the consent of the property owner on whose property such sign is to be displayed. These signs may not be located in the public right-of-way. These off property directional signs may be displayed only during the hours that the advertised activity is to take place, and they must be a self-supporting type sign.
19. *Real Estate Signs Advertising Single Occupant Commercial Property.* For lots less than five (5) acres, one non-illuminated real estate sign up to twelve (12) square feet in area may be displayed. For larger lots, one non-illuminated real estate sign up to thirty-two (32) square feet in area may be displayed. All signs authorized under this subsection shall be removed within ten (10) days of the sale or rental of the commercial unit being advertised.
 20. *Real Estate Signs Advertising Non-Residential Grouped Development or Multi-Tenant Buildings.* For each group development or multi-tenant building containing nonresidential land uses, a maximum of two (2) signs, one per each nonresidential street frontage, may be displayed up to a maximum of thirty-two (32) square feet in area.
 21. *Real Estate Subdivision Signs.* For each real estate subdivision that has been approved in accordance with the City of Lake Elmo subdivision regulations, a maximum of two (2) temporary development project identification signs may be located on some portion of the subject subdivision. Each such sign shall be not more than thirty-two (32) square feet in area. One additional similar sign shall be permitted for each one hundred (100) lots in the subdivision in excess of one hundred (100) lots. These signs may be displayed until a time at which building permits have been issued for eighty percent (80%) of the lots in the subdivision. Signs advertising sale or lease after such time shall conform to the requirements of subsection (18) of this section.
 22. *Temporary Notices.* Leaflet-type notices flat-mounted to kiosks or public information boards.
 23. *Utility Company Signs.* Signs that serve as an aid to public safety or that show the location of facilities such as public telephones and underground cables only to the extent necessary to accomplish those goals.
 24. *Window Signs, Temporary.* Signs and displays that are of a temporary nature such as for advertising sales and specials and that do not cover more than thirty (30) percent of the total ground-floor window area of any building, excluding the door windows. Merchandise and pictures or models of products or services incorporated in a window display are not considered signs. Any sign placed on the outside of a window requires a sign permit unless the sign is weatherproof and does not pose a danger from falling or being blown by the wind.
 25. *Window or Wall Signs Not Readable Off-Premises.* Window or wall signs not exceeding two (2) square feet in area with lettering not exceeding three (3) inches high designed to provide information to persons on the premises such as hours of operation, or sample restaurant menu. Where no front yard setback exists, such signs as would generally be unreadable off premises where minimum setback regulations apply shall qualify for this exemption notwithstanding that such signs are readable from the public right of way. Such signs shall not be counted toward total permitted signage.
- L. *Prohibited Signs.* The following signs are expressly prohibited in the City of Lake Elmo:
1. Abandoned Signs
 2. *Off-Premise Signs*, except as expressly allowed under this Section.
 3. Inflatable Signs

- a. *Rationale.* Inflatable signs shall be prohibited because they are generally more distracting and hazardous to pedestrian and traffic safety, tend to have an anchoring device that is less reliable under wind pressure, and out of scale and less compatible with surrounding structures and signs.
- b. The following inflatable devices shall not be considered a sign:
 - i. Registered hot air balloons in use and momentarily moored but not being used primarily as a sign.
 - ii. Novelty-type balloons less than two (2) feet in diameter and less than three (3) feet in any dimension tethered or moored no more than ten (10) feet above the ground.
 - iii. Inflatable holiday or other decorations displayed temporarily on private property, that do not contain any commercial message or logo or depict any commercial symbol or character, and that does not exceed fifteen (15) feet in height.
- 4. Signs attached to any public utility pole or structure, street tree, fence, fire hydrant, bridge, curb, sidewalk, park bench, or other location on public property except as otherwise expressly permitted under this Section.
- 5. Beacons, unless authorized for use by the City of Lake Elmo or any other governmental entity in the exercise of official government business and authority.
- M. *Legal Non-Conforming Signs.* Legal non-conforming signs may be continued to be displayed in accordance with §154.151.
- N. *Variances and Appeals*
 - 1. *Variances.* It is recognized that circumstances may exist from time to time where strict application of the size, location and type of sign standards hereinafter specified for the various zoning districts may be unreasonable or where literal enforcement of the regulations may work an unnecessary hardship on the applicant. Variations from the standards are, therefore, permitted by issuance of a variance by the City Council upon recommendation of the Planning Commission that such extenuating circumstances exist. Variances shall be considered according to the provisions of §154.017.
 - 2. *Appeals.* An applicant may appeal any decision of the Planning Director to the Board of Adjustment and Appeals according to the provisions of §31.10.
- O. *Violations*
 - 1. It shall be unlawful and a violation of this ordinance for any person to maintain any prohibited sign, to perform or order the performance of any act prohibited by this ordinance, or to fail to perform any act which is required by the provisions of this Section. In the case of any such violation, each twenty four (24) hour period in which such violation exists shall constitute a separate violation.
 - 2. Any and all signs, erected, altered, or maintained in violation of this Section, or any of the clauses and provisions of the same, or in violation of any of the laws or ordinances of the City and/or the State of Minnesota, are, and each of them is declared to be a public nuisance and subject to enforcement. Any such signs so erected, altered or maintained contrary to law shall be abated as a common nuisance by the Planning Director.
- P. *Penalty.* Any person who shall fail to comply with any of the provisions of this Section shall be subject to a penalty as prescribed by §10.99 of this Code.
- Q. *Enforcement*
 - 1. If the Planning Director or Building Official finds that any sign has been erected, altered, or is being maintained in violation of this section, or is in an unsafe condition as to be a menace to the safety, health, or welfare of the public, he or she shall give written notice

to the owner thereof of the person entitled to possession of the sign and the owner of the real estate upon which the sign is located. No notice shall be required for permitted temporary signs displayed in violation of time limitations prior to taking enforcement action.

2. Said letter shall notify the owner, or person entitled to possession of the sign, of the specific violation or violations and direct that alterations, repairs or removal, whichever may be applicable, be made to bring said violations in conformance with the terms and conditions of this Section.
3. In the event the person so notified fails or neglects to comply with or conform to the requirements of such notice, the Planning Director or Building Official may file an appropriate citation or complaint in an appropriate court of law or take whatever other legal action may be necessary to cause such sign to be altered or removed. If a sign is considered abandoned, the City, after notice, may remove such sign at the cost of the owner of the property upon which the sign sits. An invoice for such costs shall be sent to the property owner and, if not paid, shall be placed on the tax roll as a special charge pursuant to M.S. §429.061.

R. Severability and Conflict

1. *Severability.* The provisions of this ordinance are severable. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.
2. *Conflict.* If any part of this ordinance is found to be in conflict with any other ordinance or with any other part of this ordinance, the most restrictive or highest standard shall prevail. If any part of this ordinance is explicitly prohibited by federal or state statute that part shall not be enforced.

SECTION 3. The City Council of the City of Lake Elmo hereby amends Title I: General Provisions; Chapter 11: General Code Provisions; Section 01 Definitions by repealing the following language:

SIGN. Any letter, word or symbol, device, poster, picture, statue, reading matter or representation in the nature of an advertisement, announcement, message, or visual communication, whether painted, posted, printed, affixed or constructed, which is displayed for informational or communicative purposes and is visible to the general public.

SIGN, ABANDONED. Any sign and/or its supporting sign structure which remains without a message or whose display surface remains blank for a period of 1 year or more, or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to have been abandoned. Signs applicable to a business temporarily suspended because of a change in ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of 1 year or more. Any sign remaining after demolition of a principal structure shall be deemed to be abandoned. Signs which are present because of being legally established nonconforming signs or signs which have required a conditional use permit or a variance shall also be subject to the definition of **ABANDONED SIGN**.

SIGN, AGRICULTURAL SALES. A sign placed on a lot or parcel of land advertising an operating and permissible agricultural sales business. Off-premises **AGRICULTURAL SALES SIGNS** shall be administered as temporary signs subject to all removal requirements outlined in code.

SIGN, AWNING. A sign or graphic printed on or in some fashion attached directly to the awning material.

SIGN, BANNER. A temporary sign typically made of cloth, plastic or vinyl materials.

SIGN, BILLBOARD. A sign structure with a surface area over 100 square feet per surface that identifies or communicates a commercial or non-commercial message.

SIGN, BUSINESS VEHICLE IDENTIFICATION. A sign that is permanently mounted or otherwise permanently affixed to a vehicle, trailer, or semitrailer which identifies the business, products, or services with which the vehicle, trailer, or semitrailer is related. For purposes of this definition, magnetic and adhesive signs shall be considered as being permanently affixed. This definition shall also include non-permanently affixed signs that do not exceed 32 square feet erected in concert with a legally operating wayside stand. Bumper stickers and similarly sized adhesive decals shall not be considered **BUSINESS VEHICLE IDENTIFICATION SIGNS**.

SIGN, CANOPY. A sign that is mounted, painted, or otherwise applied on or attached to a freestanding canopy or structural protective cover over an outdoor service area. An awning or a marquee is not a canopy.

SIGN, CHANGEABLE COPY. A sign designed to allow the changing of copy through manual, mechanical, or electrical means including time and temperature.

SIGN, DIRECTIONAL. An on-site sign for the purpose of making specific locations known and to assist in finding these locations (e.g. "Parking," "Shipping Receiving Area").

SIGN, ELECTRONIC VARIABLE MESSAGE. A dynamic signs whose message are changed at reasonable intervals by electronic process or remote control and whose movement is the periodic changing of information against a solid background, engineered for maximum legibility and readability, and having a constant light level and glare reduced screens. This definition does not include static time, temperature and price displays which only change when necessary for accuracy.

SIGN, FLAG. Any fabric or similar lightweight material attached at one end of the material, usually to a staff or pole, so as to allow movement of the material by atmospheric changes and which contains distinctive colors, patterns, symbols, emblems, insignia, or other symbolic devices.

SIGN, FREESTANDING. A sign that is attached to, erected on, or supported by some structure (such as a pole, mast, frame, or other structure) that is not itself an integral part of or attached to a building or other structure whose principal function is something other than the support of a sign. Monument, pole, and ground signs are all **FREESTANDING SIGNS**.

SIGN, GOVERNMENTAL. A sign erected and maintained by or on behalf of the United States, the state, the county, or the city for the purpose of regulating traffic or for other civic purposes; the size, location, and height of which is dictated by the applicable agency to fulfill the intended civic purpose.

SIGN, GROUND. Any freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and which has a total height not exceeding 6 feet.

SIGN, HISTORIC. An existing sign which has a special historical, architectural, cultural, or aesthetic value to the community.

SIGN, ILLUMINATED. Any sign which contains an element designed to emanate artificial light directly or indirectly.

SIGN ILLUMINATION, BACK LIT. A direct source of light which illuminates a sign by shining through a translucent surface of a sign, including plastic signs, lit from an internal light source.

SIGN ILLUMINATION, DIRECT. A sign whose light source is either located in the interior of the sign so that the rays go through the face of the sign, or which is attached to the face of the sign and is perceived as a design element of the sign.

SIGN ILLUMINATION, EXTERNAL. Illumination of a sign that is affected by an artificial source of light not contained within the sign itself.

SIGN ILLUMINATION, INDIRECT. A sign whose light source is external to the sign and which casts its light onto the sign from some distance.

SIGN ILLUMINATION, REVERSE LIT. A direct source of light which illuminates a sign by shining off an opaque surface of a sign thereby casting the light off the wall behind the sign creating a halo effect.

SIGN, MONUMENT. Any freestanding sign, with its sign face mounted on the ground or mounted on a base at least as wide as the sign and which has a height exceeding 6 feet.

SIGN, MURAL. Any mural or pictorial scene painted on a wall or building or painted on a sign board affixed to a wall, and in which mural or scene has as its purpose an artistic effect.

SIGN, OFF-PREMISES. A commercial speech sign which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same lot where such sign is located. A sign located within an easement or other appurtenance to a lot on which a business is located shall be deemed an **OFF-PREMISES SIGN**.

SIGN, PERMANENT. A sign constructed of durable materials designed to exist for the duration of time that the use or occupant is located on the premises.

SIGN, POLE. Any freestanding sign which has its supportive structure(s) anchored in the ground and which has a sign face elevated above ground level by pole(s) or beam(s) and with the area below the sign face open

SIGN, PORTABLE. A sign not permanently attached to the ground or a building or designed to be permanently attached to the ground or a building.

SIGN, PROJECTING. A sign attached to and projecting out from a building face or wall, generally at a right angle.

SIGN, ROOF. Any sign erected and constructed wholly on and above the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

SIGN, REAL ESTATE DEVELOPMENT. A sign offering for sale, lease, or rent a single-family or multiple-family residential project of 10 or more dwelling units or lots. **REAL ESTATE DEVELOPMENT SIGNS** shall be administered as permanent signs subject to all removal requirements outlined in code.

SIGN, SNIPE. An off-premises sign that is tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences, or to other object.

SIGN, TEMPORARY. Any sign intended for display over a short period of time.

SIGN, WALL. A sign attached to or erected against the wall of a building with the exposed face of the sign on a plane parallel to the plane of the wall, and which displays only 1 sign surface.

SIGN, WARNING. A sign located on private property posting such property for warning or prohibitions on trespassing, hunting, or other activity.

SIGN, WINDOW. Any building sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

SECTION 4. The City Council of the City of Lake Elmo hereby amends Title I: General Provisions; Chapter 11: General Code Provisions; Section 01 Definitions by adding the following language:

Vision Triangle. The area created by drawing an imaginary line between points 30 feet back from where the curb lines of the intersection quadrant meet.

SECTION 5. Effective Date. This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 6. Adoption Date. This Ordinance 08-082 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 08-082 was published on the ____ day of _____, 2013.

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

RESOLUTION NO. 2013-47

**RESOLUTION AUTHORIZING PUBLICATION OF ORDINANCE 08-082 BY TITLE
AND SUMMARY**

WHEREAS, the City Council of the City of Lake Elmo has adopted Ordinance No. 08-082, an ordinance to the City's regulations pertaining to Signage Regulations; 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 Clerk shall cause the following summary of Ordinance No. 08-082 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. 08-082, which replaces the current sections of the City Code pertaining to Signage Regulations. The revised ordinance includes the following revisions from the previous ordinance:

- The establishment of different procedural and administrative elements of addressing signage in the community
- The inclusion of basic design considerations for signage in the community.
- The establishment of standards related to location of signage to ensure safe and reasonable use of signage; and
- The establishment of different allowances for signage types and sizes according to location of signage and applicable land use or zoning;

The full text of Ordinance No. 08-082 is available for inspection at Lake Elmo city hall during regular business hours.

BE IT FURTHER RESOLVED by the City Council of the City of Lake Elmo that the City Administrator keep a copy of the ordinance at City Hall for public inspection and that a full copy of the ordinance be placed in a public location within the City.

Dated: June 4, 2013.

Mayor Mike Pearson

ATTEST:

Adam Bell, City Clerk

(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.



MAYOR AND COUNCIL COMMUNICATION

DATE: 6/04/2013
REGULAR
ITEM #: 12

AGENDA ITEM: Zoning Text Amendment – Fence Ordinance
SUBMITTED BY: Nick Johnson, City Planner
THROUGH: Dean Zuleger, City Administrator
REVIEWED BY: Planning Commission
Kyle Klatt, Planning Director

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item.....Staff
- Report/Presentation.....Staff
- Questions from Council to Staff.....Mayor Facilitates
- Public Input, if Appropriate.....Mayor Facilitates
- Call for Motion.....Mayor & City Council
- Discussion.....Mayor & City Council
- Action on Motion.....Mayor Facilitates

SUMMARY AND ACTION REQUESTED:

The City Council is asked to consider a Zoning Text Amendment, establishing new fencing regulations in Lake Elmo. These fencing provisions will be organized under Article 5 - General Regulations under the new organizational structure of the Zoning Code. This Zoning Text Amendment is part of the ongoing effort to reorganize and improve the Lake Elmo Zoning Code.

The Planning Commission recommends the City Council approve Ordinance 08-083 through the following motion:

“Move to approve Ordinance 08-083, establishing new fencing regulations in the Lake Elmo Zoning Code”

BACKGROUND AND STAFF REPORT:

Staff is continuing to progress on a large project aimed at incrementally reorganizing and improving the Lake Elmo Zoning Code in preparation of upcoming growth. One of the ordinances that was identified needing improvement was the Fence Ordinance. More specifically, the ordinance is poorly organized and unnecessarily complex in some areas. Therefore, Staff evaluated ways to make the fence ordinance more straightforward and less complicated. In addition, the existing ordinance does not adequately address commercial fencing. Currently, commercial fencing is only addressed through required screening of various uses in specific zoning districts. In order to take a more comprehensive approach to commercial fencing, Staff determined that a base standard for commercial fencing should be included, as

opposed to fencing only for required screening. These factors were the driving forces behind bringing forward a Zoning Text Amendment related to fencing regulations.

The Planning Commission reviewed the proposed Fence Ordinance at a regular meeting on May 13, 2013. At this meeting, the Planning Commission made some recommendations related to minor adjustment of the draft ordinance. Staff responded to this request by making minor refinements. After an initial review, the Planning Commission held a public hearing on the proposed Fence Ordinance on May 29, 2013. No one spoke in favor or against the ordinance at the public hearing. The Planning Commission recommended the proposed ordinance for approval (Vote: 4-1, with Commissioner Haggard voting no).

Regarding the proposed Fence Ordinance, there are multiple changes in policy pertaining to fencing regulations, including the following:

- Fence Height: The proposed ordinance allows a height of 6 feet for residential fences and 8 feet for commercial fencing. The exception to these heights is that fences within front and side (corner) yard setback areas must not exceed 42 inches in height and must be 50% open to air and light. This requirement in front and side (corner) yard setback areas is to prevent any safety concerns related to obstructed vision of motorists or pedestrians due to fencing. In addition, the ordinance addresses any requests for commercial fencing above 8 feet through the conditional use permit process. Addressing this request through the CUP process ensures that no adjacent properties are negatively impacted by such fencing.
- Air and Light Provisions: The existing fence ordinance currently requires that any residential fencing above 42 inches must be 75% open to air and light. In other words, the current ordinance does not allow for solid, or privacy, fencing in residential districts. Based upon multiple requests to Staff for this type of fencing in the past, as well as anticipated increased demand with future growth, Staff determined to allow for solid fencing in residential districts, as long as it was not located in the front or side (corner) yard setback areas. It should be noted that the 75% open to air and light provision in the existing ordinance was established to maintain long vistas and views in order to retain a rural character. However, it is important to note that this provision greatly limits the type of fencing that can be used in residential circumstances. Finally, of all the fence ordinances that Staff researched as part of formulating the proposed ordinance, none of the other ordinances had an air and light provision with the exception of front and side (corner) setback areas for safety reasons.
- Additional Items: The proposed Fence Ordinance also includes other subtle deviations from the existing ordinance. Provisions were added in the proposed ordinance pertaining to temporary fencing, including winter recreational fencing and size limitations. In addition, the existing Fence Ordinance contains provisions related to fences in shoreland districts. After review of a variety of other fence ordinances in the Twin Cities, it was determined that these provisions are unnecessary. Finally, the permitted fence materials from the existing ordinance were carried forward into the proposed ordinance. The only difference is that the allowed materials for commercial fencing do not include wood, with the exception of picket and split-rail decorative fencing. Related to commercial fencing, the Planning Commission expressed concern about the ongoing maintenance of wood plank fencing in commercial districts.

Overall, Staff has attempted to draft a Fence Ordinance that is more straightforward and easy to administer. The Planning Commission engaged in multiple discussions about the various

provisions included in the proposed ordinance and have recommended it for approval. As part of adopting the proposed Fence Ordinance, the existing fence ordinance would be removed from the Code. All of the changes are outlined in Ordinance 08-083.

RECOMMENDATION:

The Planning Commission recommends the City Council approve Ordinance 08-083 through the following motion:

“Move to approve Ordinance 08-083, establishing new fencing regulations in the Lake Elmo Zoning Code”

ATTACHMENT(S):

1. Ordinance 08-083

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.



MAYOR & COUNCIL COMMUNICATION

DATE: 6/04/2013
REGULAR
ITEM #: 13

AGENDA ITEM: Approval of Final 2013 City of Lake Elmo Park Survey
SUBMITTED BY: Dean Zuleger, City Administrator
THROUGH: Mayor Mike Pearson
REVIEWED BY: Dean Zuleger, City Administrator

SUGGESTED ORDER OF BUSINESS:

- Introduction of ItemCity Administrator
- Report/Presentation.....City Administrator
- Questions from Council to Staff.....Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

SUMMARY AND ACTION REQUESTED: The City of Lake Elmo Park Commission will survey the community on their thoughts about current and future use of the Lake Elmo Park system, including trails and lake use. The Commission had originally approved a contract to conduct a 500 resident phone survey using an independent consulting company, ISGMN, for the cost of \$28,800. After further review, the Park Commission decided to conduct a more in depth investigation of park system using a City-wide mailer. Using protocol developed by ISGMN, the Parks Commission crafted a 32 question survey to be mailed in June. Final revisions and formatting were made during the week of May 27th.

BACKGROUND INFORMATION: City staff has designed a 32 question survey (see attached) broken down into three distinct segments; Parks, Lakes and Trails. Each section is designed to evaluate current use, forecast future use and help guide public policy in the spending of capital improvement program dollars for the parks (\$900,000+). The survey will reduce the cost of the survey from \$28,800 to roughly \$18,000 including mailing and printing. The survey would be mailed in early June pending Council approval. Staff will be responsible for collecting and recording the data. The Park Commission will analyze the data prior to establishing the CIP.

RECOMMENDATION: Based on the aforementioned, the staff recommends the following motion:

“Move to adopt the 2013 City of Lake Elmo Park Survey and the mailing of same, saving roughly \$10,000.”

Staff will deliver the results of the survey to the Park Commission and City Council prior to the 2nd Council Meeting in August, prior to the adoption of the Park Commission’s 2013-3017 CIP.

ATTACHMENT(S):

1. 2013 City of Lake Elmo Park Survey

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

PRSTD STD
US POSTAGE
PAID
PERMIT NO. 19
LAKE ELMO, MN

3800 Laverne Avenue North
Lake Elmo, MN 55042



HOW DO YOU USE YOUR CITY PARKS?

Share your ideas for park improvements and be eligible to win dinner on us at the Lake Elmo Inn.



3800 Laverne Avenue North
Lake Elmo, MN 55042

PRSTD STD
US POSTAGE
PAID
PERMIT NO. 19
LAKE ELMO, MN

POSTAL PATRON
LAKE ELMO MN 55042



City of Lake Elmo 2013 Park & Recreation Survey

Dear Lake Elmo Resident,

The City of Lake Elmo needs your help! The Park Commission is putting together its 2013-2017 Capital Improvement Plan. To aid in this process, the Parks Commission would like to learn as much as possible about how citizens use our parks and trails. In addition, we would also like to know how we might best develop our parks and trails in the future. If possible, the Commission would like you to take 15 minutes out of your busy schedule to fill out this survey to help us allocate more than \$1,200,000 in developer-contributed funds for our parks in the next several years (no tax dollars involved). **For your convenience, we have turned this survey into a self-mailer so that you can just pop it in the mail at no cost.** Please have one person from your household reply no later than June 21, 2103. Thanks for your help.

General Information / Current Park Use

Age	Gender	No. of Children in Home	Average Visits to a Lake Elmo Park
<input type="checkbox"/> 18-25	<input type="checkbox"/> Male	<input type="checkbox"/> Pre-School	<input type="checkbox"/> Daily
<input type="checkbox"/> 26-35	<input type="checkbox"/> Female	<input type="checkbox"/> Elementary	<input type="checkbox"/> Weekly
<input type="checkbox"/> 36-50		<input type="checkbox"/> Middle School	<input type="checkbox"/> Monthly
<input type="checkbox"/> 51-65		<input type="checkbox"/> High School	<input type="checkbox"/> Annually
<input type="checkbox"/> 65+			<input type="checkbox"/> Never

- If you have never visited a Lake Elmo Park, could you state the reason? _____
(Please note that the Lake Elmo Park Reserve and Tartan parks are not city parks) – moved location from Q2.
- If you have visited a Lake Elmo Park, when was the last time? _____
- What season of the year do you most often visit a Lake Elmo Park? (choose one)
 Spring Summer Fall Winter Doesn't Matter
- What days of the week do you use our parks the most often? (choose one)
 Weekdays Weekends Everyday No Preference
- What time of day do you most often use our parks? (choose one)
 Morning Lunchtime Afternoon Evening No Preference
- How long do you usually spend at a park? (choose one)
 Less than an hour 1 to 3 Hours 3 or more hours
- When deciding on a park to visit, what factors play an important role when choosing one? (check all that apply)
 Proximity to Home On the way to home or work Playground facilities
 Ball Fields Tennis Courts Hiking Trails
 Grills & Picnic Tables Picnic Shelter Wooded lands
 Open Lands Sliding Hills On-site Restrooms
 On-site drinking fountains Programmed Activities Solitude
 Skating Rinks Other (elaborate) _____
- With whom do you most often go to a park? (check all that apply)
 Alone With Family With Friends Work Colleagues Other (elaborate) _____
- When you visit a park, which of the following activities do you pursue? (check all that apply)
 Walking/Hiking Running Skiing Sliding Biking
 Picnicking Organized Sports Recreational Sports Visiting Nature Observation
 Monitoring Children/Grandchildren Skating Other (elaborate) _____

10. **Which of our City's parks do you use the most often?** (rank 1 through 3, with 1 = most often)
- | | | |
|---|--|--|
| <input type="checkbox"/> Sunfish Lake Nature Preserve | <input type="checkbox"/> Lions/VFW Park | <input type="checkbox"/> Tablyn Park |
| <input type="checkbox"/> Demontreville Park | <input type="checkbox"/> Pebble Park | <input type="checkbox"/> Kleis Park |
| <input type="checkbox"/> Carriage Station Park | <input type="checkbox"/> Reid Park | <input type="checkbox"/> Stonegate Park |
| <input type="checkbox"/> Ridge Park | <input type="checkbox"/> Tana Ridge Park | <input type="checkbox"/> Demontreville Wildlife Area |

11. **Why do you favor these parks?** _____

12. **The following are some reasons that people avoid city parks in general. Please let us know which, if any, would discourage you from using our city parks.** (check all that apply)
- | | | | |
|--|--|---|--|
| <input type="checkbox"/> Safety Concerns | <input type="checkbox"/> Lighting | <input type="checkbox"/> No Parking | <input type="checkbox"/> Proximity to Home |
| <input type="checkbox"/> Lack of Restrooms | <input type="checkbox"/> Poor Maintenance | <input type="checkbox"/> Hours of Operation | <input type="checkbox"/> No playground |
| <input type="checkbox"/> No recreational programming | <input type="checkbox"/> Other (elaborate) _____ | | |

13. **On a scale of 1-10, how safe do you feel in Lake Elmo Parks?** (10 = Most Safe) _____

14. **What would make you feel unsafe in our city's parks?** _____

15. **On a scale of 1-10, how adequate is the signage for our city parks?** (10 = Most Adequate) _____

16. **On a scale of 1-10, rate the maintenance of Lake Elmo Parks** (10 = Excellent) _____

Future Park Use / Needs

17. **Which of the following items/activities would you like use in a Lake Elmo park?** (choose top 5)
- | | | |
|---|--|--|
| <input type="checkbox"/> Band Shell | <input type="checkbox"/> Hiking Trails | <input type="checkbox"/> Aquatic Center /Swimming |
| <input type="checkbox"/> Full Bathrooms | <input type="checkbox"/> Archery | <input type="checkbox"/> Horseback Riding |
| <input type="checkbox"/> Benches | <input type="checkbox"/> Baseball Fields | <input type="checkbox"/> Skating Rinks |
| <input type="checkbox"/> Shelters for Get Togethers | <input type="checkbox"/> Basketball Courts | <input type="checkbox"/> Warming Houses |
| <input type="checkbox"/> Grills | <input type="checkbox"/> Disc Golf | <input type="checkbox"/> On-Road Biking |
| <input type="checkbox"/> More Lighting | <input type="checkbox"/> Ski Trails | <input type="checkbox"/> Volleyball |
| <input type="checkbox"/> More Parking | <input type="checkbox"/> Mountain Biking | <input type="checkbox"/> Nature Center |
| <input type="checkbox"/> Playground Equipment | <input type="checkbox"/> Soccer Fields | <input type="checkbox"/> Senior / Civic Center |
| <input type="checkbox"/> Camp Grounds | <input type="checkbox"/> Tennis Courts | <input type="checkbox"/> Handicapped Accessibility |
| <input type="checkbox"/> Snowshoeing | <input type="checkbox"/> Interpretive Nature Hikes | <input type="checkbox"/> Geocaching |
| <input type="checkbox"/> Dog Parks | <input type="checkbox"/> Birding | <input type="checkbox"/> Other (elaborate) _____ |

18. **For the park that you use most indicate, what if any improvements, you would like to see made in this specific parks:**

19. **As we develop new land for future parks, where should our emphasis be? On a scale of 1-10 (10 = most important), indicate how important each of these land uses is to you:**
- | | |
|--|--|
| _____ Developing open space for organized sports | _____ Developing trails for observation of nature |
| _____ Developing more playground equipment | _____ Developing open space for general recreation |
| _____ Developing courts and fields | _____ Developing picnic/ gathering areas |
| _____ Developing space to highlight water use | _____ Developing ice rinks |

Using City Lakes in Lake Elmo

20. **How often do you use City Lakes?** (check one)

<input type="checkbox"/> Daily	<input type="checkbox"/> Weekly	<input type="checkbox"/> Monthly	<input type="checkbox"/> A Couple Times a Year	<input type="checkbox"/> Never
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21. **Which Lake Do You Use the Most?** (check one)

<input type="checkbox"/> Lake Elmo	<input type="checkbox"/> Olson Lake	<input type="checkbox"/> Lake Demontreville	<input type="checkbox"/> Lake Jane
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22. **What activities do you pursue on our city lakes?** (Choose all that apply)
- | | | | | |
|---------------------------------------|--|---|--------------------------------------|--|
| <input type="checkbox"/> Swimming | <input type="checkbox"/> Water Skiing | <input type="checkbox"/> Water Raft Fun | <input type="checkbox"/> Ice Fishing | <input type="checkbox"/> Kayaking |
| <input type="checkbox"/> Snorkeling | <input type="checkbox"/> Tubing | <input type="checkbox"/> Snow skiing | <input type="checkbox"/> Canoeing | <input type="checkbox"/> Speed Boating |
| <input type="checkbox"/> Windsurfing | <input type="checkbox"/> Skating | <input type="checkbox"/> Fishing | <input type="checkbox"/> Pontooning | <input type="checkbox"/> Paddle Boarding |
| <input type="checkbox"/> Snowmobiling | <input type="checkbox"/> Other (elaborate) _____ | | | |

23. **When do you think that users should be allowed to use watercraft on the lakes on weekdays?**

24. **When do you think that users should be allowed to use watercraft on the lakes on weekends?**

Community Connectivity: Trails Outside of Our Parks

25. **Would you be in favor of Lake Elmo developing a trail system that connects neighborhoods, parks, our downtown and schools?**

Yes No

26. **Why would you use such a trail system?** (check all that apply)

<input type="checkbox"/> Transportation to Destination	<input type="checkbox"/> Exercise	<input type="checkbox"/> Recreation	<input type="checkbox"/> Other (elaborate) _____
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27. **On a scale from 1-10 (10=Most Important), what part of a city trail system would be most important to you?**

_____ Trail Access Close to Your Home	_____ Connections to Key Locations (School, Downtown)
_____ Connection Between City and HOA Trails	_____ Connections Between Parks
_____ Good Maintenance	_____ Multi-Use (walking/biking/rollerblading)

28. **If you did use a trail, which of the following activities would you pursue?** (check all that apply)

<input type="checkbox"/> Walking/Hiking	<input type="checkbox"/> Running	<input type="checkbox"/> Bicycling	<input type="checkbox"/> Cross-Country Skiing	<input type="checkbox"/> Rollerblading
<input type="checkbox"/> Other (elaborate) _____				

30. **Please indicate how important constructing trails to the following destinations would be to you: (5 = Important, 1 = Not Important)**

_____ Stillwater High School	_____ Old Village/Downtown	_____ Lake Elmo Park Reserve
_____ Sunfish Lake Nature Preserve	_____ Lake Elmo Elementary School	_____ Cimarron
_____ Gateway Trail	_____ Other (elaborate) _____	

31. **For the trails you are familiar with, please indicate what features you like best?** (check all that apply)

<input type="checkbox"/> Paved	<input type="checkbox"/> Non-Paved	<input type="checkbox"/> Wider Trail	<input type="checkbox"/> Well Lit	<input type="checkbox"/> Clear Signage
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32. **The following are some reasons that people avoid city trails in general. Please let us know which of the following would discourage you from using a trails system:** (check all that apply)

<input type="checkbox"/> I use my HOAs trail system	<input type="checkbox"/> Safety	<input type="checkbox"/> Proximity to Home
<input type="checkbox"/> Poor Maintenance	<input type="checkbox"/> No Bathrooms on Route	<input type="checkbox"/> Trail Signage
<input type="checkbox"/> Traffic Conflict	<input type="checkbox"/> I Prefer Nature Trails	<input type="checkbox"/> Other (elaborate) _____

Sound Off: Here is Your Chance to Tell Us Something that is Not on the Survey About Our Parks

Thank you so much for helping guide the decisions of our park systems future!! Please add your name and address for a chance to win a \$50 gift certificate to the Lake Elmo Inn for participating in this survey.

(Name and Address - Optional)



MAYOR AND COUNCIL COMMUNICATION

DATE: 6/04/2013
REGULAR
ITEM #: 14

AGENDA ITEM: Kupferschmidt/Toft Request to Vacate Street Right-of-Way

SUBMITTED BY: Kyle Klatt, Director of Planning

THROUGH: Dean Zuleger, City Administrator

REVIEWED BY: Nick Johnson, City Planner
Jack Griffin, City Engineer

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item Staff
- Report/Presentation..... Staff
- Questions from Council to Staff..... Mayor Facilitates
- Public Input, if Appropriate..... Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

PUBLIC POLICY STATEMENT

The City denied a request to vacate public right-of-way within the Myron Ellman Subdivision in October of 2011. Two property owners within this subdivision are now asking the Council to reconsider this previous request. A street within a platted subdivision may only be vacated after a public hearing with mailed notice to all property owners within the subdivision.

SUMMARY AND ACTION REQUESTED:

The City Council is being asked to consider a request from two property owners within the Myron Ellman Subdivision to vacate the street that was platted as 12th Street within this subdivision. The property owners that have come forward at this time include:

Lot 9, Block 2: Alan and Ralea Kupferschmidt, 2769 Legion Avenue North

Lot 10, Block 1: Rodney and Judy Toft, 2764 Legion Avenue North

The specific request is to vacate the Twelfth Street right-of-way that is located along the southern edge of this plat. Although this street is not improved (paved) as a public roadway, there are utilities currently located with the right-of-way, including a lift station, pipes leading to a City 201 drain field to the east, and a paved turn-around area. The City does not have any current information in the form of a survey; however, that documents exactly where this infrastructure is located within the right-of-way. Staff is recommending that should the Council

wish to move forward with the vacation of the right-of-way as requested by the property owners, that Council take the following action:

“Move to request that the affected property owners provide the City with: 1) a survey documenting the existence and location of all public infrastructure within the right-of-way adjacent to Lot 9, Block 2 and Lot 10, Block 1 of the Myron Ellman Subdivision; and 2) utility, drainage, access, or other easements deemed necessary by the City Engineer in the absence of a platted right-of-way, prior to the City moving forward with a public hearing to consider the vacation request.”

BACKGROUND AND STAFF REPORT:

In researching the previous request, Staff was not able to find much information concerning the Myron Ellman Subdivision other than the signed plat itself and documentation from the construction and installation of the 201 system along Legion Avenue. The plat was approved by the Village of Lake Elmo in 1969 and therefore predates the City's current zoning and subdivision regulations. Most of the homes in the subdivision were built in the early to late 1970's, including the homes on the Kupferschmidt and Toft properties. Sometime after many of these homes were built, Legion Pond, which was located to the east the subdivision, experienced a dramatic rise in water level. This water level rise was one of the factors that led to the installation of a 201 system along Legion Avenue, which includes a drain field site immediately to the east of Block 2 of the subdivision.

Staff has attached a copy of an older Valley Branch Watershed District plan that includes a more detailed history/summary of issues associated with the past rise of Legion Pond.

At present, the two property owners that have requested consideration of a street vacation are the southernmost property owners within the subdivision, and both own lots immediately north of the street that was platted as “Twelfth Street”. The City never improved this right of way as a street, but did install infrastructure related to the 201 system within the right-of-way and also installed a paved turn-around area at the end of Legion Avenue. In the case of Mr. Toft, his home was built, for reasons that are not very clear in the historical record, at a setback of roughly three feet from the 12th Street right-of-way line. Mr. Kupferschmidt also recently received a variance from the City to build a porch addition to his home that is located 15 feet from the right-of-way line.

In both cases, the property owners believe that vacating the right-of-way is justified because: 1) it is highly unlikely that the City would ever need to build a road over this property, 2) the infrastructure that is presently in place may no longer be needed once public sanitary sewer is brought into the neighborhood, and 3) past planning and development decisions have left them with substandard building setbacks that already inhibit and restrict the public use of the right-of-way.

Staff has attached several documents that are intended to help the Council better understand the current situation, including project plans related to the 201 System, an aerial photograph showing current conditions and the Staff memorandum from the previous vacation request (which did not include the right-of-way adjacent to the Toft property).

RECOMMENDATION:

Based upon the above background information and Staff report, it is recommended that the City Council request that the property owners provide the City with additional information before a vacation request is considered with the with the following motion:

“Move to request that the affected property owners provide the City with:

- 1) A survey documenting the existence and location of all public infrastructure within the right-of-way adjacent to Lot 9, Block 2 and Lot 10, Block 1 of the Myron Ellman Subdivision; and*
- 2) Utility, drainage, access, or other easements deemed necessary by the City Engineer in the absence of a platted right-of-way*

prior to the City moving forward with a public hearing to consider the vacation request.”

ATTACHMENT(S):

1. Aerial Site Diagram
2. Mryon Ellman Subdivision
3. 201 Septic System Plans – Legion Avenue
4. Legion Pond Water Management Plan (Older VBWD Plan)
5. Staff Report from 2011 Vacation Request

ELIZABETH E & THEODORE C OLSON

BRADLEY J & MOLLY A WINKELS

THOMAS C & BARBARA C DECK

ALLEN P SEHLOFF

Toft

RODNEY A & JUDY A TOFT

Proposed Vacation

Legion Avenue

DAVID A STASKA &

STEVEN D & ROSALIE SHANLEY

MARK E & MICHELLE R DEZIEL

Kupferschmidt

W ALAN & RALEA KUPFERSCHMIDT

Proposed Vacation

BRUCE E & HEIDI S LARSON

GLENN R & LORI J BIRKHOLZ

CITY OF LAKE ELMO

DAVID & ELIZABETH HOFFMAN

ARTHUR M & MARY C FRIENDT

WILLIAM F JR & B R HAFNER

REBECCA R & C B BILLINGSLEY

CITY OF LAKE ELMO

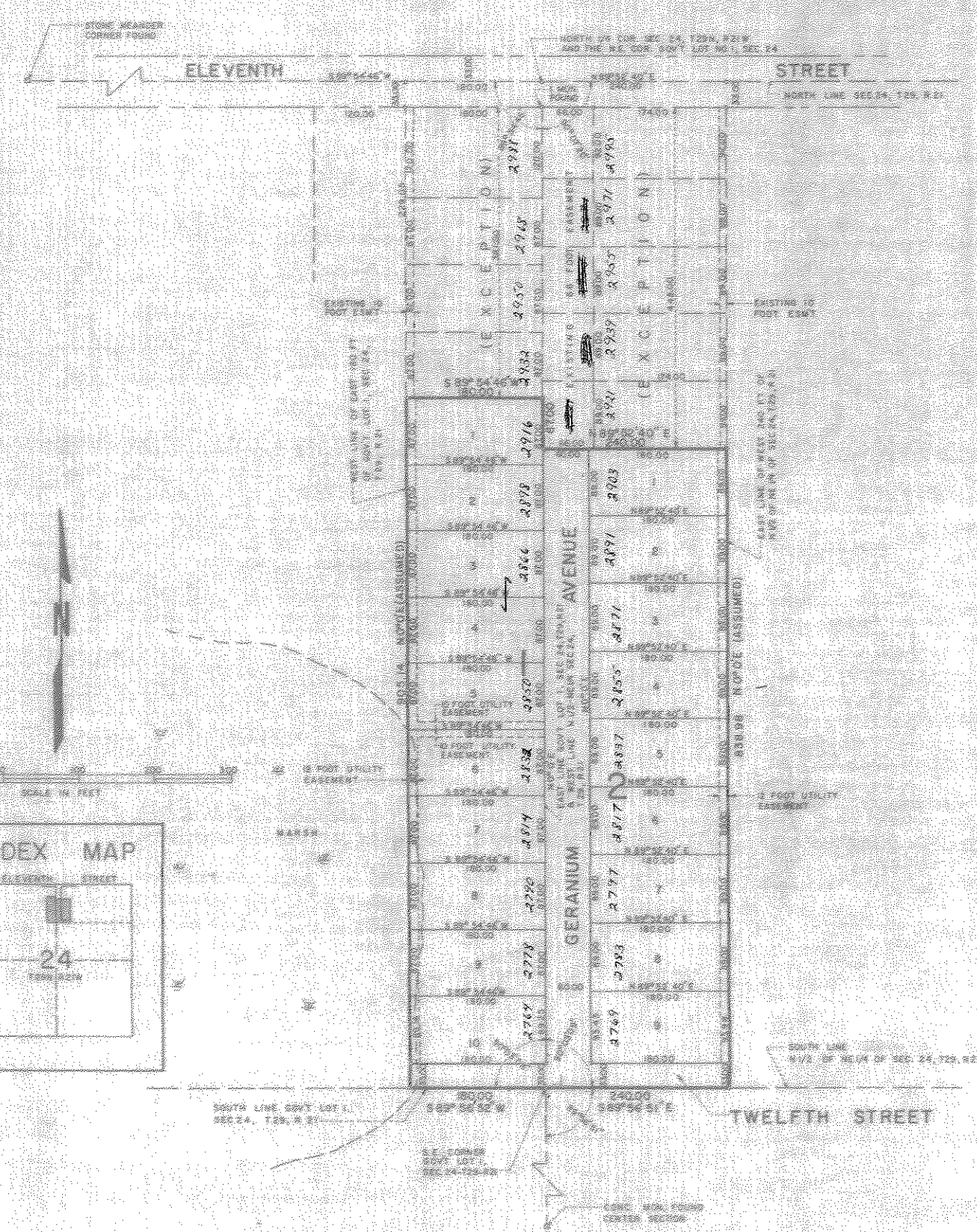
MYRON ELLMAN SUB-DIVISION

VILLAGE OF LAKE ELMO WASHINGTON COUNTY MINNESOTA

E. C. BATHER & ASSOCIATES
PROFESSIONAL ENGINEERS & LAND SURVEYORS
ST. PAUL, MINNESOTA

SCALE 1" = 100'

* INDICATES IRON MONUMENT



KNOW ALL MEN BY THESE PRESENTS, that Myron W. Ellman and Berneadene F. Ellman, husband and wife, owners of the land described as follows: The East 80.00 feet of Government Lot one, Section 24, Township 29 North, Range 21 West, except the North 44.00 feet thereof, and the West 240.00 feet of the North one-half of the Northeast quarter of Section 24, Township 29 North, Range 21 West, except the North 40.00 feet thereof, subject to easement of record hereinafter called the same to be surveyed and platted and hereafter known as Myron Ellman Sub-Division, and do hereby devise and dedicate to the public for public use forever, the avenue, street and utility easements as shown hereon.

Witness our hands and seal this 13 day of JUNE A.D., 1969.

In presence of:

Myron W. Ellman
 Myron W. Ellman
 Berneadene F. Ellman

State of Minnesota }
 County of Washington }
 On this 13 day of JUNE A.D., 1969, before me personally appeared Myron W. Ellman and Berneadene F. Ellman, husband and wife, to me known to be the persons described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

Notary Public _____ County, Minnesota
 My Commission Expires APR 22 1974

I, James E. Southworth, hereby certify that I have surveyed and platted the property described in this plat as Myron Ellman Sub-Division that this is a correct representation of said survey; that all distances are correctly shown on the plat in feet and decimals of a foot, that the monuments for the guidance of future surveys have been correctly placed in the ground as shown on the plat; that the outside boundary lines are correctly delineated on the plat; and that there are not wet lands or public highways to be designated on said plat other than those shown thereon.

James E. Southworth
 Surveyor - Minnesota Registration No. 7096

State of Minnesota }
 County of Washington }
 On this 2 day of JUNE A.D., 1969, before me personally appeared James E. Southworth, to me known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed.

James E. Southworth
 Notary Public WASHINGTON County, Minnesota
 My Commission Expires MAY 10 1974

This plat was approved and accepted by the Planning Commission of the Village of Lake Elmo, Washington County, Minnesota at a regular meeting thereof held on the 13 day of JUNE A.D., 1969.

_____ Chairman
 _____ Secretary

This plat was approved and accepted by the Village Council of the Village of Lake Elmo, Washington County, Minnesota at a regular meeting thereof held on the 3 day of JUNE A.D., 1969.

_____ Mayor
 _____ Village Clerk

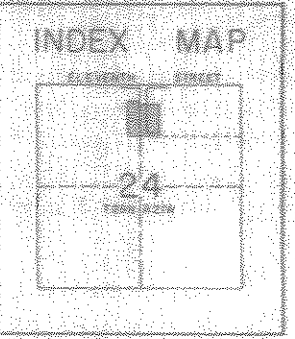
Checked and approved by me this 13th day of JUNE 1969 A.D.

_____ Washington County Judge

These records to be open to the public from the date of recording until the date of the expiration of the term of office of the recording officer.

W. P. Hart

June 13 1969

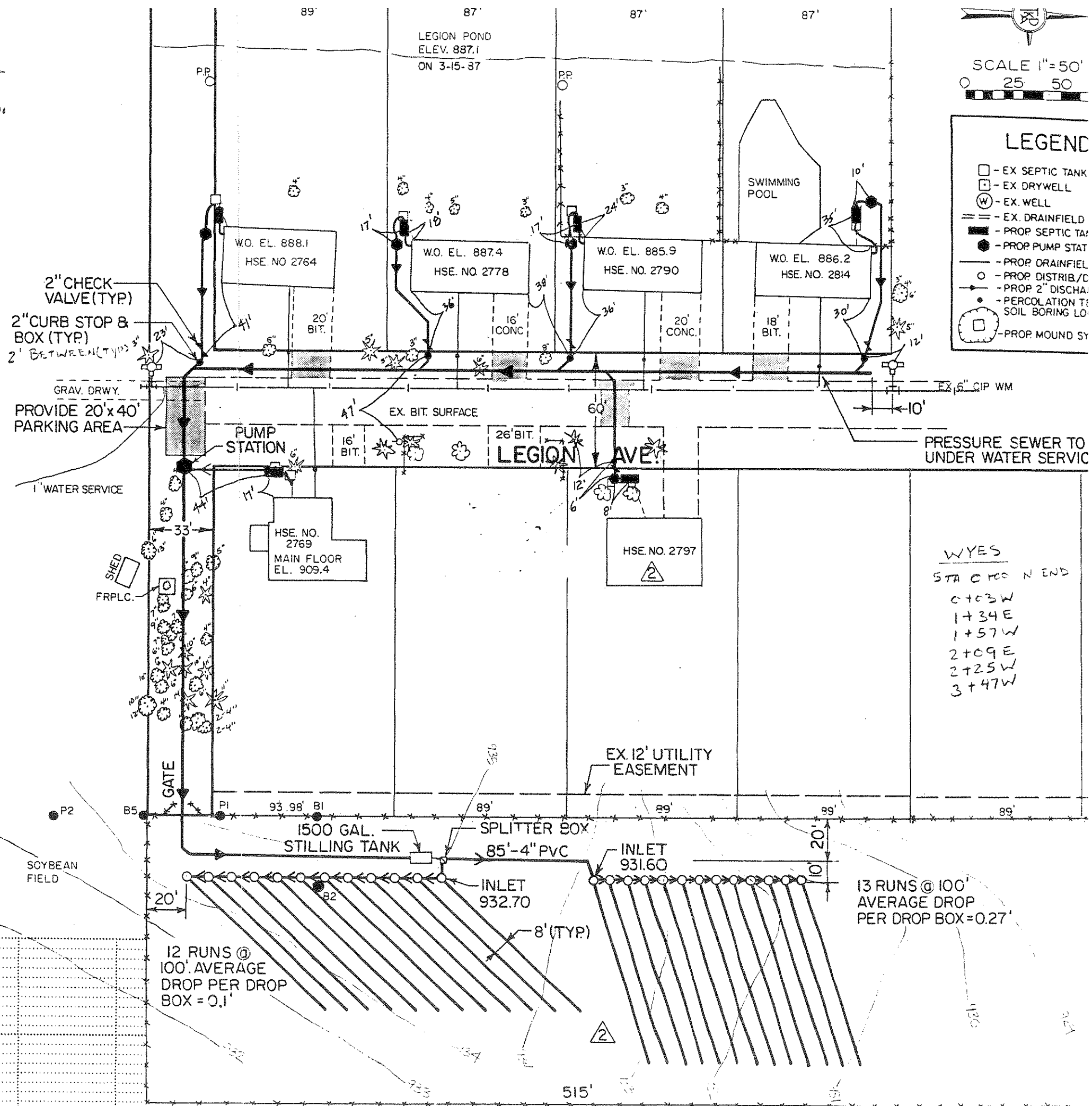


201 SEPTIC SYSTEM REMOTE A AS-BUILT

"OFF-SITE"

NOTES:

1. CLEAR AND GRUB BOULEVARD TREES AS NECESSARY AND CLEAR AND GRUB 8' EITHER SIDE OF FORCEMAIN CENTERLINE.
2. CONSTRUCT 7500 SF OF DRAINFIELD. BOTTOM OF FILTER MATERIAL AT 30" (AVE.) BELOW GROUND SURFACE.
3. CONSTRUCT FORCEMAIN, GRAVITY SEWER, DUPLEX PUMP STATION, 1500 GAL. STILLING TANK AND SPLITTER BOX.
4. REMOVE EXISTING SEPTIC TANK AND DRYWELL AT EACH RESIDENCE. CONNECT TO EXISTING BUILDING SEWER AND INDIVIDUAL PUMP STATION AS SHOWN.
5. SHADING INDICATES APPROXIMATE REMOVAL AND REPLACEMENT LIMITS FOR STREET AND DRIVEWAYS.
6. RESTORE STREET AND CONSTRUCT PUMP STATION PARKING AREA WITH 6" GRAVEL BASE AND 3" BITUMINOUS SURFACING.
7. RESTORE TURF OVER TREATMENT AREA AND FORCEMAIN UPSTREAM OF PUMP STATION BY SEEDING. ALL OTHER TURF RESTORATION BY SODDING.
8. CONSTRUCT WOVEN WIRE FENCE WITH GATES AROUND PERIMETER OF 150' X 515' TREATMENT AREA.
9. PROVIDE 7' MINIMUM COVER OVER 2" DISCHARGE PIPES.

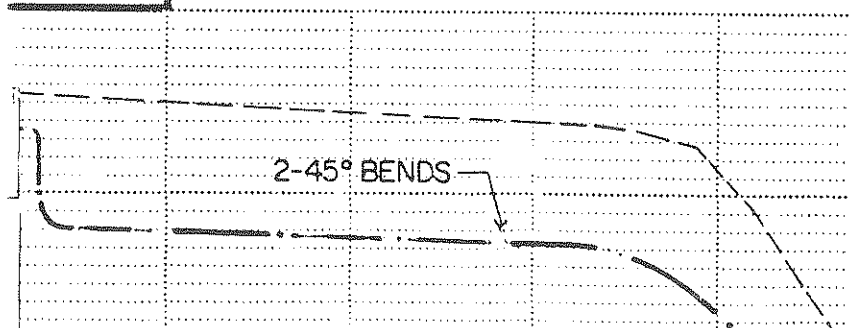


LEGEND

- - EX SEPTIC TANK
- - EX DRYWELL
- ⊙ - EX WELL
- ≡≡ - EX DRAINFIELD
- ▬ - PROP SEPTIC TANK
- - PROP PUMP STAT
- ▬ - PROP DRAINFIELD
- - PROP DISTRIB/C
- - PROP 2" DISCHAI
- - PERCOLATION TEST
- ⊙ - SOIL BORING LOG
- ⊙ - PROP MOUND SYSTEM

WYES
 STA 0+00 N END
 0+03W
 1+34E
 1+57W
 2+09E
 2+25W
 3+47W

MENT



13 RUNS @ 100' AVERAGE DROP PER DROP BOX = 0.27'

12 RUNS @ 100' AVERAGE DROP PER DROP BOX = 0.1'

515'

4.2.26 Legion Pond Water Management Plan

4.2.26.1 Location and General Description

Legion Pond (DNR #82-462) is located in subwatershed LEG1, south of 30th Street North and east of Lake Elmo Avenue North (CSAH 17), in the City of Lake Elmo. The water surface area of the pond varies because the pond has no surface water outlet (landlocked). The water surface area is shown as less than three acres on the USGS topographic map (assumed pond level at Elevation 875); however, in June, 1980 the pond was at Elevation 882.9 and covered 19.6 acres. In 1985, the pond water levels were even higher, above Elevation 885.

The Legion Pond drainage area is 109 acres, comprised of subwatershed LEG1, approximately 8 acres of which is platted into 0.4-acre lots on the northeast side of Legion Pond. Figure 2-3 shows the tributary area and flood elevation of Legion Pond. In addition, the residential lots (0.5 to 1.0 acre) along the south side of 30th Street North are within the Legion Pond drainage area. The City of Lake Elmo's future land use plan calls for 10-acre lots in the remainder of the watershed.

4.2.26.2 Drainage Patterns and Stormwater Issues

The 100-year flood level of Legion Pond is at Elevation 890; this is unchanged from the previous water management plan. The 100-year flood elevation was calculated using VBWD's 100-year annual runoff method.

In June, 1980, the City of Lake Elmo prepared a feasibility report on temporary pumping from Legion Pond to Lake Elmo in response to a petition from Legion Pond area residents. No homes were in danger of flooding at that time but five septic systems were believed to be inoperable. Although the City of Lake Elmo applied for a DNR permit, no pumping was undertaken. As a result of the high water levels, residents adjacent to the pond placed fill on their properties. Because the cumulative effect of the filling activity raised the 100-year flood level of Legion Pond by approximately 0.1 foot, no additional filling around the pond is likely to be permitted.

High water levels during the period 1985 through 1987 caused residents to request assistance from both VBWD and the City of Lake Elmo. In the fall of 1985, VBWD granted a permit to the City of Lake Elmo to pump approximately 40 acre-feet of water from Legion Pond to Lake Elmo. As a result of the City's pumping, the pond dropped 1.5 feet. In April, 1987, the City of Lake Elmo petitioned VBWD for a project to reduce high water levels on Legion Pond. Since the petition was not in conformance with the previous VBWD water management plan, the petition could not be acted on until the water management plan was amended. Legion Pond residents rejected two City of Lake Elmo pumping proposals because of the high cost and because the proposed pumping was not a permanent solution to their high water problems. In June 1987, the City of Lake Elmo ordered a pumping project to lower Legion Pond. The pumping project was not undertaken; it is assumed that the 1987-1988 drought relieved the flooding situation on Legion Pond.

According to the City of Lake Elmo's "1976 Flood Damage Report", the lowest home on Legion Pond is at Elevation 886.1. Table 4-17 lists the low home and septic tank elevations. The lowest septic tanks are at

approximately Elevation 882. Since the control elevation of Lake Elmo is at Elevation 884.1, it would be possible to install a gravity outlet from Legion Pond to Lake Elmo, protecting the low homes on Legion Pond. However, when water levels on Lake Elmo are greater than Elevation 886±, water would back up into Legion Pond, unless a gate was installed. Such a gate would need to remain closed until water levels on Lake Elmo fell below Elevation 886±, to prevent flooding of homes on Legion Pond. However, with the gate closed, water levels on Legion Pond could continue to rise. The septic systems adjacent to Legion Pond are lower than the control elevation of Lake Elmo, and a gravity outlet would not prevent flooding of the septic systems and the untreated or poorly treated sewage could enter Lake Elmo. Therefore, it would be necessary to upgrade septic systems if an outlet from Legion Pond to Lake Elmo was constructed. The Legion Pond residents and the City of Lake Elmo may wish to consider the construction of a communal drainfield system, similar to a "201" project, that would be above the flood plain of Legion Pond.

There appear to be three feasible solutions to the Legion Pond high water problem. Each of the following solutions would require an analysis of the water quality impacts of a Legion Pond discharge on Lake Elmo:

1. Construct a pumped outlet from Legion Pond to Lake Elmo. As a result, the Legion Pond water level could be lowered below the low home elevation and below the elevation of the septic systems. Water could also be pumped from Legion Pond when the Lake Elmo water level is higher than the Legion Pond water level, assuming there is not an appreciable rise in the Lake Elmo water level as a result. However, if pumping does not begin until the septic systems are flooded, or if water levels rise above the elevation of the septic systems during pumping, untreated or poorly treated sewage could enter Lake Elmo. In addition, there will be additional annual expenses for operation and maintenance costs.
2. Construct a gravity outlet from Legion Pond to Lake Elmo. This option will prevent the flooding of low homes around Legion Pond, but only when the Lake Elmo water level is lower than Elevation 886. A gate would be required to prevent backflow of water into Legion Pond when the Lake Elmo water level is higher than the Legion Pond water level. This option will not prevent flooding of the septic systems around Legion Pond since the outlet elevation of Lake Elmo is at 884.1.
3. Provide only emergency pumping relief. In this case, it is very likely that septic systems would be flooded before pumping would be initiated. As a result, the water quality impacts of such a pumping project would have to be investigated.

If detrimental water quality impacts would result from a Legion Pond discharge to Lake Elmo, another option would be to discharge the water to the Horseshoe Lake outlet structure or to the Horseshoe Lake drainage area (HRS1). If the Sunnybrook Lake outlet pipe is constructed from the Sunnybrook Lake area to the Horseshoe Lake outlet structure (see Sunnybrook Lake Water Management Plan), water from Legion Pond could be connected to this system.

4.2.26.3 Water Quantity Management Goals

The primary concern expressed by area residents and the City of Lake Elmo is the probability of high water levels in subsequent years. The concern is due to the high water levels noted during 1993, and a concern that additional increases could occur in 1994. Area residents and the City of Lake Elmo would like Legion Pond's water level maintained at a level which would avoid flooding problems for area residents.

Because of water quality concerns, it is unlikely that an outlet to Lake Elmo will be feasible unless a communal drainfield system (mentioned earlier) is constructed. Then any of the three solutions presented above would be feasible. If flooding recurs in the Legion Pond area, VBWD will assist the City of Lake Elmo to correct the situation. It is anticipated that the City of Lake Elmo will address this problem when the City prepares its water management plan.

VBWD will consider establishing water level monitoring on Legion Pond. Either VBWD will add the pond to its regular list of monthly measurements or VBWD will request that the DNR install a staff gage to be read by a resident volunteer.

4.2.26.4 Water Quality and DNR Data

Water quality samples were collected from Legion Pond during July of 1986. The pond was relatively shallow (i.e., a maximum depth of 10 feet), and exhibited reasonably good water transparency. Figure 4-48 shows the results of the July, 1986 sampling. The data were compared with criteria used to denote a lake's nutrient "status", and the effects of the nutrients on the general water quality and/or trophic conditions of a water body (NALMS, 1988). Based on a comparison of the pond's phosphorus concentrations to these criteria, Legion Pond would be assigned a trophic status of hypereutrophic. This means the pond was extremely rich in phosphorus. An evaluation of the effects of the nutrients on the general water quality of the pond (i.e., Secchi disc transparency) indicates the pond would be assigned a trophic status of mesotrophic. This means the pond had relatively good transparency, despite its high phosphorus concentration. The water transparency data suggest the pond had a moderate algal population rather than the problematic algal blooms which could occur with such a high phosphorus concentration.

The DNR has no information about the fisheries of Legion Pond. Use of the pond is limited to passive viewing by area residents, and detaining and treating stormwater runoff. The water quality of the pond is consistent with its use as a detention basin.

4.2.26.5 VBWD Water Quality Management Goals

Legion Pond is classified as a Category V water body in Section 3.2—Water Quality Management Plan, based on its existing water quality and existing and desired recreational uses. Since Legion Pond's water quality is consistent with its recreational use, VBWD's management goal for the pond is protection of its water quality.

VBWD will collect water quality samples from Legion Pond prior to construction of an outlet from the pond. The results of the water quality sampling will be used to determine the impact of a Legion Pond discharge on the receiving water body.



MAYOR & COUNCIL COMMUNICATION

DATE: 10/04/11

REGULAR

ITEM:

MOTION – Resolution 2011-042

PUBLIC HEARING

AGENDA ITEM: Platted Road Right-of-Way Vacation Request and Rededication of Applicable Easements

SUBMITTED BY: Kelli Matzek, Planner

THROUGH: Bruce Messelt, City Administrator

REVIEWED BY: Kyle Klatt, Planning Director
Jack Griffin, City Engineer

SUMMARY AND ACTION REQUESTED:

The City Council is asked to consider a request from Alan and Ralea Kupferschmidt, 2769 Legion Avenue North to vacate a publicly dedicated road right-of-way adjacent to the applicant's property, Lot 9, Block 2 of the Myron Ellman Subdivision. The applicant has requested this vacation and has proposed dedicating easements back to the City for access and maintenance of existing infrastructure in that area. The applicant is interested in vacating this dedicated right-of-way because their property is considered a corner lot due to the unimproved right-of-way and is therefore subject to a 25 foot setback from the south property line. The property owner's existing screen porch is only 17 feet from that property line (the home is 25 feet) and they have expressed an interest in expanding this structure towards the unimproved street right-of-way. With the current configuration of the lot and street right-of-way in this location, the proposed expansion cannot proceed without either a variance or a vacation of the street as presently requested.

Due to the city infrastructure located within the area proposed for vacation and other reasons stated in the attached report, the City Engineers are recommending against the vacation. The Public Works Department, who utilize this site almost daily, have also expressed concern in vacating this platted right-of-way. In addition, the applicant could still pursue a variance to expand the porch should the right-of-way not be vacated by the City. Given the concerns expressed by various City Departments, Staff is recommending against vacating this property.

The recommended motion to act on this is as follows:

“Move to adopt Resolution No. 2011-42 denying the vacation of a dedicated right-of-way south of Lot 9, Block 2, Myron Ellman Subdivision”

BACKGROUND INFORMATION:

The unimproved, but dedicated road right-of-way was platted to the west and east borders of the Myron Ellman Subdivision in 1969. At that time, the land to the east was not developed, but by dedicating that right-of-way, it left open the possibility of a future connection. Since that time, the property to the east was developed as an Open Space Preservation neighborhood – Heritage Farms – and no connection was made to this unimproved right-of-way. Instead, the City has utilized this land as an access to an otherwise landlocked property used as a community septic system (201 system).

Because various City Departments have expressed concern regarding the vacation of the right-of-way for various reasons, including necessary setbacks for infrastructure and unknown future access needs to the City-owned, landlocked parcel, Staff is recommending denial of the applicant's request as submitted. Please note that prior to taking action on a request to vacate a road right-of-way, the City Council must conduct a public hearing in accordance with State Statutes. Notice of a public hearing has been published in the local newspaper and was mailed to all property owners within the Myron Ellman Subdivision as well as property owners adjacent to the land proposed for vacation.

Under Minnesota State Statutes, a municipality may vacate public rights-of-way when it can be found that there is no longer any public interest in retaining said right-of-way. In this case, Staff is suggesting that there is still a substantial public interest in maintaining the existing platted 12th Street right-of-way for the following reasons:

- There is a significant amount of infrastructure installed within this right-of-way, including a lift station, pipes leading to the drainfield to the east, and a paved turn-around area.
- The 12th Street right-of-way is the City's only access to the public drainfields located to the east of the applicant's property.
- Although the granting of an easement could maintain the City's existing rights to utilize the right-of-way property, it would also eliminate any required setbacks to this easement. Any potential buildings constructed close to this easement could greatly limit (or raise the cost of) the City's ability to do future work within the right-of-way.

RECOMMENDATION: Based upon the above background information and findings documented in the attached Resolution No. 2011-42, it is recommended that the City Council deny the request to vacate the existing right-of-way south of Lot 9, Block 2 of the Myron Ellman Subdivision.

Alternatively, the City Council may consider approval of the request if it can make findings that the proposed vacation and rededication of an easement is in the public interest.

ATTACHMENTS:

1. Engineer's Report
2. Resolution No. 2011-42 - Denial
3. Applicant's Submittals
 - a. Application Form
 - b. Petition of Neighbors
 - c. Right-of-Way and Replacement Easement Descriptions (to be vacated and proposed)
4. Map of Right-of-Way to be Vacated

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Administrator
- Questions from Council to Staff Mayor Facilitates
- Public Input, If Appropriate Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates

Date

TO: Rob Abercrombie
3091 Layton Ct N., Lake Elmo MN 55042

The undersigned are requesting that you please control your dog, Chelsea. For the past year, she has been a neighborhood nuisance with her barking whenever she is outside, waking us up in the middle of the night (along with Mr. Abercrombie hollering for her to come because she will not listen. There are small children in the neighborhood now and though she has not bitten anyone yet, there is no guarantee that she won't, plus she charges at everyone. We would also appreciate that all of your dogs not run rampant and defecate in our yards and that the dog excrement in your yard be taken care of, as the smell is rampant through the neighborhood.

Thank you taking care of this issue.

NAME Ann Kunder & Brian Kunder

ADDRESS 3084 Layton Ct. N.

NAME Sarah Noble

ADDRESS 1374 Breda Ave St Paul MN 55108

NAME Don & Arlene Dan

ADDRESS 3081 Layton Ct. N. Lake Elmo

NAME Don & Carol Koppel

ADDRESS 3094 Layton Ct. N.

NAME Man W Kunk (Brian Keck)

ADDRESS 3127 Layton Court N.

Cc: City of Lake Elmo

Cc: Washington County Sheriff's Office, case # 112014557

May 23, 2013

TO: Rob Abercrombie
3091 Layton Ct N., Lake Elmo MN 55042

The undersigned are requesting that you please control your dog, Chelsea. For the past year, she has been a neighborhood nuisance with her barking whenever she is outside, waking us up in the middle of the night (along with Mr. Abercrombie hollering for her to come because she will not listen). There are small children in the neighborhood now and though she has not bitten anyone yet, there is no guarantee that she won't, plus she charges at everyone. We would also appreciate that all of your dogs not run rampant and defecate in our yards and that the dog excrement in your yard be taken care of, as the smell is rampant through the neighborhood.

Thank you taking care of this issue.

NAME Richard & Eileen Gleng

ADDRESS 3112 Layton Court N

NAME Daniel & Audrey Allen

ADDRESS 3124 Layton Ct. N., Lake Elmo, MN 55042

NAME Armando & Elva menendez

ADDRESS 3105 Layton Ct. No.

NAME Brenda Peora

ADDRESS 11295 315 St. N. Lake Elmo MN

NAME _____

ADDRESS _____

Cc: City of Lake Elmo
Cc: Washington County Sheriff's Office, case #