



## MAYOR AND COUNCIL COMMUNICATION

DATE: 7/5/2016

**REGULAR**

ITEM #: 15

**AGENDA ITEM:** Consideration of an Interim Ordinance Extending the Moratorium on Development

**SUBMITTED BY:** Stephen Wensman, Planning Director

**THROUGH:** Kristina Handt, City Administrator

**REVIEWED BY:** Sarah Sonsalla, City Attorney

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### **BACKGROUND:**

On July 7, 2017, the City Council adopted Interim Ordinance No. 08-123 declaring a moratorium pertaining to development in the Stage 1, 2 and 3 development areas for a 12 month period. The ordinance went into effect upon its publication on July 22, 2015. It is due to expire on July 22<sup>nd</sup> of this year.

After conducting a public hearing, the City may extend an interim ordinance for up to an additional 120 days following the receipt of the final approval or review by a federal, state, or metropolitan agency when the approval is required by law and the review or approval has not been completed and received by the City at least 30 days before the expiration of the interim ordinance.

The City's shoreland regulations affect the use and development of property in the Stage 1, 2 and 3 Staging Areas. The City recently revised its shoreland regulations in order to bring them into compliance with the state law. The City sent its revised shoreland regulations to the Department of Natural Resources ("DNR") for the DNR's review. The shoreland regulations are required by law to be reviewed by the Department of Natural Resources ("DNR"). The City has not received notification from the DNR that the DNR's review has been completed. Therefore, the City could extend the interim ordinance on this basis.

At its June 21, 2016 meeting the City Council called for a public hearing on the extension. Notice of the public hearing was published in the City's official newspaper on June 22, 2016.

### **ISSUE BEFORE COUNCIL:**

Whether to adopt an interim ordinance extending the moratorium on residential development within the Stage One Development Area and all development activity within Stage Two and Three Development Areas as described by the Lake Elmo Comprehensive Plan.

### **PROPOSAL DETAILS/ANALYSIS:**

After conducting the public hearing on the extension of the interim ordinance, the City Council will need to decide whether or not to extend the interim ordinance.

### **PROCEDURE:**

The City Council should conduct the public hearing on the extension of the interim ordinance. The following motion should be made:

***“Motion to open the public hearing on the extension of the moratorium.”***

After the public hearing is held, the City Council should close the public hearing. The following motion should be made:

***“Motion to close the public hearing on the extension of the moratorium.”***

If the City Council wishes to adopt the interim ordinance extending the moratorium, the following motion should be made:

***“Motion to adopt Ordinance No. \_\_\_\_\_, An Interim Ordinance Extending the Moratorium on Residential Development within the Stage One Development Area and All Development Activity within the Stage Two and Three Development Areas as Described by the Lake Elmo Comprehensive Plan.”***

**ATTACHMENTS:**

Interim Ordinance

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

**ORDINANCE NO. 146**

**AN INTERIM ORDINANCE EXTENDING  
THE MORATORIUM ON RESIDENTIAL DEVELOPMENT WITHIN THE STAGE  
ONE DEVELOPMENT AREA AND ALL DEVELOPMENT ACTIVITY WITHIN THE  
STAGE TWO AND THREE DEVELOPMENT AREAS AS DESCRIBED BY THE LAKE  
ELMO COMPREHENSIVE PLAN**

**WHEREAS**, on July 7, 2015, the City Council (the “Council”) of the City of Lake Elmo (the “City”) adopted Ordinance No. 08-123, pursuant to its authority under Minnesota Statutes, Section 462.355, subdivision 4, which established a 12 month moratorium on the consideration and/or or approval of any residential and related use or mixed-use subdivision or residential and related use or mixed-use development project within the Stage 1, 2 or 3 Staging Areas as identified in the Lake Elmo Comprehensive Plan with certain exceptions (the “Ordinance”); and

**WHEREAS**, the Ordinance was effective upon its publication on July 22, 2015 and expires 12 months thereafter, unless further extended by ordinance; and

**WHEREAS**, Minnesota Rules Part 6120.2800, subpart 1 requires cities to adopt the minimum standards and criteria set forth in Minnesota Rules Part 6120.2500 – 6120.3900 for shorelands of public waters of the state which are subject to local government land use controls and are to be incorporated into local government shoreland management controls; and

**WHEREAS**, the City’s shoreland regulations were not in conformance with the minimum standards and criteria set forth in Minnesota Rules Part 6120.2500 – 6120.3900; and

**WHEREAS**, the City has revised its shoreland regulations to bring them into compliance with Minnesota Rules Part 6120.2500 – 6120.3900; and

**WHEREAS**, Minnesota Statutes Section 103F.221, subdivision 1 requires a city having shorelands within its boundaries to submit ordinances or rules affecting the use and development of its shorelands to the Commissioner of the Department of Natural Resources (“DNR”) for review; and

**WHEREAS**, the City sent its revised shoreland regulations to the DNR for review and on June 21, 2016 and has not received notification from the DNR that the DNR’s review has been completed; and

**WHEREAS**, Minnesota Statutes Section 462.355, subdivision 4 (c)(1) permits a municipality to extend an interim ordinance for up to an additional 120 days following the receipt of the final approval or review by a federal, state, or metropolitan agency when the

approval is required by law and the review or approval has not been completed and received by the municipality at least 30 days before the expiration of the interim ordinance; and

**WHEREAS**, since review by the DNR of the City's shoreland regulations is required by law and the review has not been completed and received by the City at least 30 days before the expiration of the Ordinance, the City is authorized to extend the Ordinance pursuant to Minnesota Statutes Section 462.355, subdivision 4 (c)(1) if it deems necessary; and

**WHEREAS**, the Stage 1, 2 and 3 Staging Areas all contain areas that are within the City's shoreland district, including Sunfish Lake, Kramer Lake, Goose Lake, Rose Lake and Armstrong Lake; and

**WHEREAS**, because City's shoreland regulations affect the use and development of property in the Stage 1, 2 and 3 Staging areas, the Council finds it necessary to extend the moratorium in order to allow the City to receive the DNR's review of the City's shoreland regulations; and

**WHEREAS**, notice of the public hearing on the extension of the moratorium was published in the City's official newspaper on July 5, 2016; and

**WHEREAS**, a public hearing on the extension of the moratorium was held on June 22, 2016; and

**NOW, THEREFORE**, based on the foregoing, the City Council of the City of Lake Elmo does ordain:

**SECTION 1. MORATORIUM ON STAGE 1, 2 AND 3 RESIDENTIAL DEVELOPMENT EXTENDED.** The moratorium period established in Sections 1 and 2 of Ordinance No. 08-123 is hereby extended for an additional 120 days following the receipt of the DNR's review of the City's shoreland regulations.

**SECTION 2. EFFECTIVE DATE.** This Ordinance shall be effective upon its legal passage and publication.

**SECTION 3. Adoption Date.** This Ordinance <sup>146</sup>\_\_\_\_\_ was adopted on this 5<sup>th</sup> day of July, 2016, by a vote of \_\_\_\_ Ayes and \_\_\_\_ Nays.

**LAKE ELMO CITY COUNCIL**

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Mike Pearson, Mayor

ATTEST:

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Julie Johnson, City Clerk

This Ordinance <sup>146</sup>\_\_\_\_\_ was published on the \_\_\_\_\_ day of \_\_\_\_\_, 2016.