



## MAYOR AND COUNCIL COMMUNICATION

DATE: October 18, 2016

**REGULAR**

ITEM #: 22

**MOTION**

**AGENDA ITEM:** Interim Ordinance on Development Activity within the Shoreland District

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

**REVIEWED BY:** Kristina Handt, City Administrator  
Stephen Wensman, Planning Director

---

### **BACKGROUND:**

In July of 2016, the City extended its interim ordinance (moratorium) on development within Stage 1, 2 and 3 development areas. The City was authorized by Minnesota Statutes Section 462.355, subdivision 4 (c)(1) to extend the moratorium because the City was in the process of studying and revising its shoreland regulations which were being reviewed by the Department of Natural Resources.

After the original moratorium was extended, it was found there are properties that are in the Shoreland District that were not included in the moratorium because they were outside of the Stage 1, 2 and 3 development areas. At its meeting on October 4, 2016, the City Council decided that because these properties are also subject to the City's shoreland regulations and because the shoreland regulations affect the use and development of properties within the Shoreland District, there should be a moratorium on development activity on all properties that are within the Shoreland District and not only properties within the Stage 1, 2 and 3 development areas. The City Council then directed staff to prepare an interim ordinance that would apply to all properties within the Shoreland District with the exception of (a) any project that have been granted concept, preliminary, or final plan or plat approval; and (b) any project that would address environmental threats through the installation of essential services such as sewer, water, storm sewer, or other public safety mechanisms and that would extend these services into areas that are planned for public infrastructure. Staff has prepared a draft of the interim ordinance for the City Council's review.

### **ISSUE BEFORE COUNCIL:**

Does the City Council wish to adopt the attached "Interim Ordinance Authorizing Continuance of a Study of the City's Shoreland Regulations and Imposing a Moratorium on Development Activity within the Shoreland District"?

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

The statute does not require that a public hearing be held by the City before this particular interim ordinance is adopted. The interim ordinance will be effective on the date that it is published. It is being proposed that the interim ordinance would remain in effect until the effective date of an ordinance amending the City's shoreland regulations or one year from the interim ordinance's effective date, whichever occurs first, unless it is otherwise expressly repealed by the City Council.

### **OPTIONS:**

The City Council has three options:

1. Adopt the interim ordinance;
2. Adopt the interim ordinance with changes;
3. Do not adopt the interim ordinance.

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

**ORDINANCE NO. 08-156**

**AN INTERIM ORDINANCE AUTHORIZING CONTINUANCE OF A STUDY OF THE  
CITY'S SHORELAND REGULATIONS AND IMPOSING A MORATORIUM ON  
DEVELOPMENT ACTIVITY WITHIN THE SHORELAND DISTRICT**

**WHEREAS**, if the City is conducting studies or has authorized a study to be conducted for the purpose of considering adoption or amendment of its official controls, the City Council is authorized by Minnesota Statutes Section 462.355, subdivision 4 to adopt an interim ordinance for the purpose of protecting the planning process and the health, safety and welfare of its citizens; and

**WHEREAS**, the interim ordinance may regulate, restrict, or prohibit any use, development, or subdivision within the City or a portion of the City for a period not to exceed one year from the date it is effective; and

**WHEREAS**, there is a large amount of shoreland within the City; 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 is in the process of conducting a study of and revising its shoreland regulations to bring them into compliance with Minnesota Rules Part 6120.2500 – 6120.3900; and

**WHEREAS**, the City's shoreland regulations are a part of the City's "official controls" as defined by Minnesota Statutes Section 462.352, subdivision 15; and

**WHEREAS**, because City's shoreland regulations affect the use and development of property within the Shoreland District, the City Council finds it to be in the best interests of the City to impose a moratorium on all development activity within the Shoreland District, in order for the City to continue to study and revise its shoreland regulations; and

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

**SECTION 1. STUDY AUTHORIZED.** The Planning Commission is hereby authorized and directed to continue its study of the City’s shoreland regulations for the purpose of developing and making a recommendation to the City Council in accordance with this Section. The study will consider the City’s existing shoreland regulations, the state statutes and rules regarding shorelands and the revisions needed to the City’s shoreland regulations in order to bring them into compliance with Minnesota Rules Part 6120.2500 – 6120.3900 and the proposed regulations that the Planning Commission recommends the City Council adopt.

**SECTION 2. MORATORIUM IMPOSED.** A moratorium is hereby imposed on the consideration or approval by the City of any subdivision or development project within the Shoreland District except for: (a) projects that have been granted concept, preliminary, or final plan or plat approval; and (b) any project that would address environmental threats through the installation of essential services such as sewer, water, storm sewer, or other public safety mechanism and that would extend these services into areas that are planned for public infrastructure. “Subdivision” has the same meaning given the term in the City Code. “Development project” means any subdivision, planned unit development (PUD), conditional use permit or interim use permit.

**SECTION 3. INTERPRETATION AND DURATION.** The City Council shall decide any questions regarding the application of this Ordinance. All inquiries regarding the application of this Ordinance shall be submitted to the City in writing and the City Council’s decision regarding the matter shall be final. As part of interpreting this Ordinance, the City Council may issue written clarifications of, and variances from, its terms as needed to effectuate its purpose and intent. This Ordinance shall remain in effect until the effective date of an ordinance amending the City’s shoreland regulations or one year from the interim ordinance’s effective date, whichever occurs first, unless it is expressly repealed by the City Council.

**SECTION 4. PENALTY AND ENFORCEMENT.** Any person, firm, partnership, corporation or other entity violating any provision of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to imprisonment for up to 90 days, a fine of up to \$1,000, or both, plus the costs of prosecution. Each day that a violation occurs shall be considered a separate offense. The City may enforce this Ordinance through criminal prosecution or by undertaking such civil actions or proceedings, including injunctive relief, as it determines appropriate to prevent, restrain, correct, or abate any violation or threatened violation of this Ordinance. The initiation of one type of enforcement action shall not preclude the City from instituting any other action or proceeding available to it under law to enforce this Ordinance.

**SECTION 5. SEVERABILITY.** Every section, provision and part of this Ordinance is declared severable from every other section, provision and part thereof. If any section, provision or part of this Ordinance is held to be invalid by a court of competent jurisdiction, such judgment shall be invalidate any other section, provision or part of this Ordinance.

**SECTION 6. EFFECTIVE DATE.** This Ordinance shall be effective upon its legal passage and publication.

**SECTION 7. Adoption Date.** This Ordinance 08-156 was adopted on this 18<sup>th</sup> day of October, 2016, by a vote of \_\_\_\_ Ayes and \_\_\_\_ Nays.

**LAKE ELMO CITY COUNCIL**

---

Mike Pearson, Mayor

ATTEST:

---

Julie Johnson, City Clerk

This Ordinance \_\_\_\_\_ was published on the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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

**RESOLUTION NO. 2016-93**

**RESOLUTION AUTHORIZING PUBLICATION OF ORDINANCE 08-156 BY TITLE  
AND SUMMARY**

**WHEREAS**, the City Council of the City of Lake Elmo has adopted Ordinance No. 08-156, an interim ordinance authorizing continuance of a study of the City's shoreland regulations and imposing a moratorium on development activity within the Shoreland District; and

**WHEREAS**, the Ordinance is three pages in length; and

**WHEREAS**, Minnesota Statutes Section 412.191, subdivision 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; and

**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. 08-156 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. 08-156, which is an interim ordinance authorizing continuance of a study of the City's shoreland regulations and imposing a moratorium on development activity within the Shoreland District. The ordinance authorizes the Planning Commission to continue its study of the City's shoreland regulations for the purpose of developing and making a recommendation to the City Council. The moratorium on development that is imposed by the interim ordinance applies to the consideration or approval by the City of any subdivision or development project within the Shoreland District except for (a) projects that have been granted concept, preliminary, or final plan or plat approval; and (b) any project that would address environmental threats through the installation of essential services such as sewer, water, storm sewer, or other public safety mechanisms and that would extend these services into areas that are planned for public infrastructure. The interim ordinance will remain in effect until the effective date of an ordinance amending the City's shoreland regulations or one year from the interim ordinance's effective date, whichever occurs first, unless it is expressly repealed by the City Council.

The full text of Ordinance No. 08-156 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 copy be placed for public inspection at the Lake Elmo Public Library.

Dated: October 18, 2016.

---

Mike Pearson, Mayor

ATTEST:

---

Julie Johnson, 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.