

FILE

City of Lake Elmo  
3800 Laverne Avenue North

**April 21, 2009**

7:00 p.m.

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE:
- C. ATTENDANCE: \_\_\_ Johnston \_\_\_ DeLapp \_\_\_ Emmons \_\_\_ Park \_\_\_ Smith
- D. APPROVAL OF AGENDA: (The approved agenda is the order in which the City Council will do its business.)
- E. ORDER OF BUSINESS: (This is the way that the City Council runs its meetings so everyone attending the meeting or watching the meeting understands how the City Council does its public business.)
- F. GROUND RULES: (These are the rules of behavior that the City Council adopted for doing its public business.)
- G. APPROVE MINUTES:
  - 1. Consider approval of April 7, 2009 minutes
- H. PUBLIC COMMENTS/INQUIRIES: In order to be sure that anyone wishing to speak to the City Council is treated the same way, meeting attendees wishing to address the City Council on any items NOT on the regular agenda may speak for up to three minutes.
- I. CONSENT AGENDA: (Items are placed on the consent agenda by city staff and the Mayor because they are not anticipated to generate discussion. Items may be removed at City Council's request.)
  - 2. Approve payment of disbursements and payroll
  - 3. Approve consultant services for wireless telecommunications ordinance update project
  - 4. Approve Letter of Engagement with Eckberg, Lammers, Briggs, Wolff & Vierling
- J. REGULAR AGENDA:
  - 5. Audio visual improvements (postponed to May 5<sup>th</sup> City Council meeting)

6. Sign Ordinance Revisions Ordinance – An ordinance repealing existing sign code regulations and adopting new regulations to govern signs in all zoning districts
7. Update on house rehabilitation, 9224 31<sup>st</sup> Street N.
8. Municipal Consent for Washington County improvement project CoRd 13 (Inwood Ave.) and 15<sup>th</sup> Street North; Resolution No. 2009-015
9. I-94 Corridor Joint Powers Agreement – Appointment of Representative and Alternate; Resolution No. 2009-016
10. MAC Joint Airport Zoning Board, Lake Elmo Airport
11. Provide direction on proceeding with an ordinance and permit for Special Event Permit
12. City Administrator Appointment Process
13. Update on activities at Regional Council of Mayors
14. Water System Financing Team for Groundwater Contamination Area
15. Request Planning Commission to develop recommendations on City activities for economic development

K. REPORTS AND ANNOUNCEMENTS:

(These are verbal updates and do not have to be formally added to the agenda.)

- Mayor and City Council
- Administrator
- Planning Director

L. Adjourn

City of Lake Elmo  
City Council Minutes

April 7, 2009

Mayor Johnston called the meeting to order at 7:00 p.m.

Present: Mayor Johnston and Council Members DeLapp, Emmons, Park (arrived at 7:12 p.m.), Smith

Also present: Interim City Administrator Dawson, Planning Director Klatt, Planner Matzek, City Engineer Griffin, City Attorney Filla, Finance Director Bouthilet and City Clerk Lumby

APPROVAL OF AGENDA:

*MOTION: Council Member Smith moved to approve the April 7, 2009 agenda as presented. Council Member Emmons seconded the motion. The motion passed 4-0.*

ORDER OF BUSINESS

GROUND RULES:

APPROVED MINUTES:

The minutes of March 17, 2009, were approved by consensus.

PUBLIC COMMENTS/INQUIRIES:

Heather Noyes, Lake Elmo Jaycees, reported the annual Easter egg hunt and Easter egg coloring will be held at noon Saturday, April 11<sup>th</sup>, at the Fire Station. The Lake Elmo Jaycee sandbox fill will be held Saturday May 2<sup>nd</sup>.

CONSENT AGENDA:

*MOTION: Council Member Smith moved to approve the Consent Agenda as presented. Council Member Emmons seconded the motion. The motion passed 4-0.*

- Approve payment of disbursements and payroll in the amount of \$123,163.10
- Approve Resolution No. 2009-014 authorizing abatement of the Special Assessment, Delinquent Utility for the property located at 5715 Highlands Trail N
- Approve Resolution No. 2009-011 supporting a request by the Minnesota Boat Club to Host the 106<sup>th</sup> Northwestern International Rowing Association Championship Regatta on Lake Elmo on August 21-22, 2009

## REGULAR AGENDA:

### Bond Refunding, Resolution No. 2009-012

On March 3 the City Council adopted a resolution authorizing the City Administrator and Finance Director to approve the sale and execute the purchase agreement for the bonds with Northland Securities, Inc. provided that the refunding results in total net savings of least \$60,000.

Paul Donna, Northland Securities, Inc., reported that the Chicago office of Standard & Poors, Inc gave the City an AA credit rating which is only two steps below the highest rating possible. The bonds had been placed on April 2, and the net present value savings of future interest costs were approximately \$65,000.

Staff recommended the Council adopt the resolution necessary to approve the issuance of the bonds refunding the City's 2001A and 2002B issues.

*MOTION: Council Member Smith moved to approve Resolution No. 2009-012 issuance of bonds refunding the General Obligation State Aid Street Bonds, Series 2001A, and the General Obligation Water Revenue Bonds, Series 2002B. Council Member DeLapp seconded the motion. The motion passed 5-0.*

### Update from South Washington Watershed District (SWWD)

Matt Moore, Administrator of the South Washington Watershed District, informed the Council that the Lower St. Croix Watershed Management Organization has been discussing the possibility of dissolution and consolidating with the SWWD and/or Valley Branch Watershed District. The Lower St. Croix WMO covers approximately 46 square miles.

The Lake Elmo Surface Water Management Plan is being reviewed and a decision will be made end of May by the SWWD.

### PUBLIC HEARING: 2009 Street Improvements

Pursuant to Minnesota Statutes, Sections 429.011 to 429.111 a Public Improvement Hearing has been noticed for April 7, 2009 at 7:00 p.m. to consider making street improvements to the following street sections:

- Legion Avenue North (south of 30<sup>th</sup> Street for a length of 1,300 feet)
- Legion Lane North (the entire loop off Legion Avenue North for a length of 2,835 feet)
- Lisbon Avenue North
- Legion Lane Circle North
- Legion Lane Court North
- 21<sup>st</sup> Street North
- 3<sup>rd</sup> Street Place North



City Engineer Jack Griffin recommended the type of improvement to be street reclamation. For the purposes of the assessment process, he recommended that the existing curb be removed and replaced with bituminous curbing with the exception of Legion Avenue North. The estimated total project cost of the improvements is \$588,000. The Feasibility report outlined a proposed assessment of \$1950 for each benefitting property.

City Engineers Griffin and Stempski held an Open House on Monday, March 30<sup>th</sup> at City Hall where they discussed the Feasibility Report and communicated the Council's potential interest to incorporate rain gardens as part of this project.

Mayor Johnston opened up the public hearing at 8:10 p.m.

Alan Kupferschmidt, 2769 Legion Avenue North, lives by the City lift station suggested making the T-turnaround larger so the big trucks, such as the garbage trucks, can turn around. He asked the City to think ahead on the impact to the street if sewer is going to come into their neighborhood.

City Engineer Griffin stated they would look at the turnaround and types of vehicles driving down the street. Legion Avenue is outside of the sewer service area.

Dale Shimek, 2225 Legion Lane N., asked if the street project should be delayed because the gas pipeline is coming in and he doesn't want to have the lines cross the road twice. He is in favor of concrete curbs and paying additional assessment.

Mark Deziel, 2783 Legion Avenue North, believes rain gardens are a good idea particularly in the spill area from Heritage Park. He said the road was resurfaced five years ago and you can see every pipe going across the road. He does not want curbs.

Dave Moore, 8680 Stillwater Blvd., stated concrete curbs may cost more but are better than bituminous curb. The sub-grade correction will have a bearing on the cost. Rain gardens can be applied to commercial areas.

Cindy Gackle, 2201 Legion Lane North, supports sequencing the street project within the natural gas pipeline project. City Engineer Griffin has been working with the natural gas project which should be done by August.

Maureen Tumulty, 11933 21<sup>st</sup> Street North, does not want concrete curbs and believed bituminous curbs are more rural. She indicated it would be fair to charge the property owners by the cost for their street.

Erling Zetterlund, 2866 Legion Avenue North, reported trucks and the fire truck has to back out of Legion Avenue. He said the proposed reclamation project is a good thing. He doesn't want curbs, but wants the cost assessed to the homeowners based on street frontage.

Tom Becken, 11860 21<sup>st</sup> Street N. spoke in favor of the repair project because the patch is gone. He favored concrete curb and assessment by neighborhoods.

Mike Jara, 2971 Legion Avenue North, supported assessing the individual projects by each perspective neighborhood.

Mel Friendt, 2749 Legion Avenue N., asked about the timeline and if the project is delayed would they patch before the repair project. He analyzed out numbers for each street project and supported assessing residents per project.

Mayor Johnston closed the public hearing at 8:43 p.m.

Staff will send out a letter to affected property owners/resident looking for feedback on their interest in rain gardens. The City has not yet determined the specifics of maintenance responsibilities or the funding of the rain gardens.

*MOTION: Council Member Park moved to adopt Resolution No. 2009-013 ordering the improvement and the preparation of Plans and Specifications for Alternate No. 2 with bituminous curbs except for Legion Avenue for the 2009 Street Improvements. Mayor Johnston seconded the motion. The motion passed 5-0.*

*MOTION: Council Member DeLapp moved to amend the Feasibility Report on the 2009 Street Improvement Projects to reflect the alternate assessment methodology for Alternate No. 2, providing a preliminary assessment amount of \$800 for properties on Legion Avenue North and \$2,430 for all other properties. Council Member Smith seconded the motion. The motion passed 5-0.*

Consideration of a variance to permit the construction of an in-ground pool, spa, pergola, and fireplace with the 100 ft. buffer setback from the edge of the development at 2931 Jonquil Trail North., Resolution No. 2009-014

Kelli Matzek, City Planner, reported the City Council is being asked to consider a variance request from Vladimir and Silvia Hucec to allow the construction of a pergola, fireplace, spa, and in-ground pool within the required 100 foot buffer setback from the edge of Farms of Lake Elmo, an OP development, at 2931 Jonquil Trail N.

The City Planner recommended denial of the proposed variances stating that the applicants had not shown an undue hardship.

The Planning Commission had recommended approval of the variance application subject to conditions and provided that the proposed pergola and fireplace are located no further into the setback than the proposed pool and spa.

The applicant's landscape architect reviewed the original application and proposed alternate labeled Alternate C which had the pergola, spa, fireplace in the Southeast corner of the property and which was in response to the Planning Commission's request.

Council discussion followed.

*MOTION: Council Member Park moved to adopt Resolution No. 2009-014 as amended, incorporating Alternate C and variances pertaining in Alternate C to allow Vladimir and Silvia Hugec construction of a pool, pergola, fireplace and spa within the required 100 foot buffer setback in OP developments at 2931 Jonquil Trail N. Mayor Johnston seconded the motion. The motion failed 2-3 (Council Members DeLapp, Emmons and Smith voting against).*

The City Planner explained the review for the original application will expire April 10, 2009, but the City can extend an additional 60 days without the applicant's consent.

*MOTION: Council Member Park moved to continue the variance application and extend the variance review period for consideration to the June 2<sup>nd</sup>, 2009 City Council meeting. Council Member Park seconded the motion. The motion passed 5-0.*

The City Council and staff recommended that the applicant, if he chooses, work with staff during the extended review period to reconfigure the layout of the pool, spa, pergola on this property. The City has notified the applicants at the meeting and staff will send the applicants a written notice on Wednesday.

*MOTION: Council Member Park moved to amend the agenda and discuss agenda items 13. Appointment of City attorney and Item 14. City administrator selection process and place remainder of agenda items on another council meeting. Council member Smith seconded the motion. The motion passed 3-2 (Council Members DeLapp and Emmons voting against.)*

#### Appoint City Attorney for Civil Legal Services

Craig Dawson, Interim City Administrator reported the City Council interviewed five firms for appointment as City Attorney for general civil legal services. The City Council was asked which firm it wished to appoint to be City Attorney and direct the Interim City Administrator to negotiate an agreement for services with that firm.

Council Members made comments about their preferences regarding the appointment.

*MOTION: Council Member DeLapp moved to direct the Interim City Administrator negotiate an agreement with Eckberg Lammers, Briggs, Wolff & Vierling, PLLP to provide general civil legal services as the City Attorney for the City of Lake Elmo. Council Member Smith seconded the motion. The motion passed 4-1 (Mayor Johnston voting against).*

### City Administrator Selection Process

The City Council discussed whether it should engage a search firm and initiate a search for an administrator or negotiate a contract with Interim City Administrator Dawson to become the City's permanent administrator.

Council Members DeLapp and Smith suggested the City simply advertise the position and then use the Council's expertise to sort through candidates' applications.

Council Member Park preferred to talk to Mr. Dawson on whether he was even interested in the permanent position.

*MOTION: Council Member Park moved to continue the discussion until the April 21st City Council meeting. Council Member DeLapp seconded the motion. The motion passed 5-0.*

The meeting was adjourned at 11:28 p.m.

Respectfully submitted by Sharon Lumby, City Clerk

City Council

4/21/2009

CONSENT

Item: 2

ITEM: Approve disbursements in the amount of \$ 159,616.53

SUBMITTED BY: Tom Bouthilet, Finance Director

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<u>Claim #</u>	<u>Amount</u>	<u>Description</u>
ACH	\$ 607.49	Bldg Surcharge Report Dated 4/15/09
ACH	\$ 7,824.37	Payroll Taxes to IRS 04/09/09
ACH	\$ 1,223.30	Payroll Taxes to Mn Dept.of Revenue 04/09/09
DD2120 - DD2155	\$ 21,308.59	Payroll Dated 04/09/2009 (Direct Deposit)
34074 - 34082	\$ 18,201.62	Payroll Dated 04/09/2009 (Payroll & Benefits)
34083 - 34130	\$ 110,451.16	Accounts Payable Dated 04/21/2009

**Total: \$ 159,616.53**

SUMMARY AND ACTION REQUESTED: The City Council is being asked to approve disbursements in the total amount of \$159,616.53

# Accounts Payable

## Checks for Approval

User: julie

Printed: 04/16/2009 - 1:23 PM

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
34083	04/16/2009	General Fund	Uniforms	Aramark, Inc.	4.84
34083	04/16/2009	General Fund	Uniforms	Aramark, Inc.	43.32
34083	04/16/2009	General Fund	Repairs/Maint Contractual Bldg	Aramark, Inc.	67.54
34083	04/16/2009	General Fund	Repairs/Maint Bldg	Aramark, Inc.	37.01
34083	04/16/2009	General Fund	Repairs/Maint Contractual Bldg	Aramark, Inc.	26.68
34083	04/16/2009	General Fund	Repairs/Maint Bldg	Aramark, Inc.	42.41
34083	04/16/2009	General Fund	Uniforms	Aramark, Inc.	36.14
Check Total:					257.94
34084	04/16/2009	Capital Aquisitions	Other Equipment	Aspen Mills, Inc.	1,765.00
Check Total:					1,765.00
34085	04/16/2009	General Fund	Rentals - Buildings	Biff's Inc.	61.27
Check Total:					61.27
34086	04/16/2009	General Fund	Landscaping Materials	Michael Bouthilet	571.35
Check Total:					571.35
34087	04/16/2009	General Fund	Equipment Parts	Century Power Equipment	0.70
34087	04/16/2009	General Fund	Equipment Parts	Century Power Equipment	12.58
Check Total:					13.28
34088	04/16/2009	General Fund	Insurance	League of Minnesota Cities Insurance Tr	497.50
34088	04/16/2009	Fall Festival	Insurance	League of Minnesota Cities Insurance Tr	497.50
Check Total:					995.00



Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
34089	04/16/2009	Water	Water Utility	City of Oakdale	2,639.79
				Check Total:	2,639.79
34090	04/16/2009	General Fund	Software Support	City of Roseville	1,551.58
				Check Total:	1,551.58
34091	04/16/2009	General Fund	Miscellaneous	COMCAST	7.87
				Check Total:	7.87
34092	04/16/2009	General Fund	Miscellaneous	Compensation Consultants, Ltd	40.00
				Check Total:	40.00
34093	04/16/2009	General Fund	Telephone	CP Telecom, Corp	522.56
34093	04/16/2009	General Fund	Telephone	CP Telecom, Corp	442.68
				Check Total:	965.24
34094	04/16/2009	Water	Miscellaneous	David Dufresne	379.76
				Check Total:	379.76
34095	04/16/2009	General Fund	Sign Repair Materials	Earl F. Andersen, Inc.	230.47
				Check Total:	230.47
34096	04/16/2009	Capital Aquisitions	Vehicles	Emergency Apparatus Maint. INC	9,971.88
34096	04/16/2009	General Fund	Repairs/Maint Eqpt	Emergency Apparatus Maint. INC	625.50
				Check Total:	10,597.38
34097	04/16/2009	General Fund	Dues & Subscriptions	PD Safety Off. Association	85.00
				Check Total:	85.00
34098	04/16/2009	General Fund	Miscellaneous	Hagbergs Country Market	16.09
				Check Total:	16.09

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
34099	04/16/2009	Surface Water Utility	Small Tools & Minor Equipment	HSBC Business Solutions	85.39
Check Total:					85.39
34100	04/16/2009	General Fund	Dues & Subscriptions	International Code Council	100.00
Check Total:					100.00
34101	04/16/2009	General Fund	Miscellaneous	ITERIS Inc.	2,979.00
Check Total:					2,979.00
34102	04/16/2009	General Fund	Fuel, Oil and Fluids	Lake Elmo Oil, Inc.	26.50
34102	04/16/2009	General Fund	Fuel, Oil and Fluids	Lake Elmo Oil, Inc.	41.01
34102	04/16/2009	General Fund	Fuel, Oil and Fluids	Lake Elmo Oil, Inc.	26.10
34102	04/16/2009	General Fund	Fuel, Oil and Fluids	Lake Elmo Oil, Inc.	44.01
34102	04/16/2009	General Fund	Fuel, Oil and Fluids	Lake Elmo Oil, Inc.	27.00
34102	04/16/2009	General Fund	Fuel, Oil and Fluids	Lake Elmo Oil, Inc.	25.00
34102	04/16/2009	General Fund	Fuel, Oil and Fluids	Lake Elmo Oil, Inc.	14.50
34102	04/16/2009	General Fund	Fuel, Oil and Fluids	Lake Elmo Oil, Inc.	24.00
34102	04/16/2009	General Fund	Fuel, Oil and Fluids	Lake Elmo Oil, Inc.	46.35
34102	04/16/2009	General Fund	Fuel, Oil and Fluids	Lake Elmo Oil, Inc.	14.50
34102	04/16/2009	General Fund	Fuel, Oil and Fluids	Lake Elmo Oil, Inc.	18.73
34102	04/16/2009	General Fund	Fuel, Oil and Fluids	Lake Elmo Oil, Inc.	1.65
34102	04/16/2009	General Fund	Fuel, Oil and Fluids	Lake Elmo Oil, Inc.	31.00
34102	04/16/2009	General Fund	Fuel, Oil and Fluids	Lake Elmo Oil, Inc.	41.70
34102	04/16/2009	General Fund	Fuel, Oil and Fluids	Lake Elmo Oil, Inc.	30.00
34102	04/16/2009	General Fund	Fuel, Oil and Fluids	Lake Elmo Oil, Inc.	27.00
34102	04/16/2009	General Fund	Fuel, Oil and Fluids	Lake Elmo Oil, Inc.	50.00
Check Total:					489.05
34103	04/16/2009	General Fund	Repairs/Maint Contractual Eqpt	Loffler Companies, Inc.	175.93
Check Total:					175.93
34104	04/16/2009	General Fund	Fire Prevention	Noah Malmquist	96.80
Check Total:					96.80
34105	04/16/2009	General Fund	Conferences & Training	Metropolitan Area Manager Association	25.00
34105	04/16/2009	General Fund	Conferences & Training	Metropolitan Area Manager Association	25.00

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
Check Total:					50.00
34106	04/16/2009	General Fund	Contract Services	McCombs Frank Roos Assoc Inc.	2,776.20
34106	04/16/2009	General Fund	Contract Services	McCombs Frank Roos Assoc Inc.	3,678.30
Check Total:					6,454.50
34107	04/16/2009	General Fund	Landscaping Materials	Menards - Oakdale	8.39
Check Total:					8.39
34108	04/16/2009	Sewer	Sewer Utility - Met Council	Metropolitan Council	1,068.66
Check Total:					1,068.66
34109	04/16/2009	General Fund	Dues & Subscriptions	MN Dept Economic Security	2,792.64
Check Total:					2,792.64
34110	04/16/2009	General Fund	Public Notices	Lillie Suburban Newspapers Inc.	11.25
34110	04/16/2009	General Fund	Public Notices	Lillie Suburban Newspapers Inc.	19.58
Check Total:					30.83
34111	04/16/2009	Sewer	Small Tools & Minor Equipment	Northern Water Works Supply IN	280.32
Check Total:					280.32
34112	04/16/2009	General Fund	Contract Services	Gopher State One-Call One Call Concept	60.90
Check Total:					60.90
34113	04/16/2009	General Fund	Repairs/Maint Contractual Bldg	Perfect Plus	425.89
Check Total:					425.89
34114	04/16/2009	General Fund	Contract Services	PLANT HEALTH ASSOCIATES, INC	1,200.00
34114	04/16/2009	Development Fund	Contract Services	PLANT HEALTH ASSOCIATES, INC	96.00
Check Total:					1,296.00

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
34115	04/16/2009	General Fund	Fuel, Oil and Fluids	River Country Cooperative	133.83
Check Total:					133.83
34116	04/16/2009	General Fund	Miscellaneous	Rose Floral & Greenhouse	37.31
Check Total:					37.31
34117	04/16/2009	Water	Repairs\Maint Imp Not Bldgs	RSC Equipment Rental	153.59
Check Total:					153.59
34118	04/16/2009	General Fund	Repairs/Maint Contractual Bldg	Diane Rud	340.80
34118	04/16/2009	General Fund	Repairs/Maint Bldg	Diane Rud	255.60
34118	04/16/2009	General Fund	Use Tax Payable	Diane Rud	-36.40
Check Total:					560.00
34119	04/16/2009	General Fund	Office Supplies	Sam's Club	97.76
34119	04/16/2009	General Fund	Shop Materials	Sam's Club	41.13
Check Total:					138.89
34120	04/16/2009	General Fund	Physicals	Stillwater Medical Group	650.00
Check Total:					650.00
34121	04/16/2009	Water	Engineering Services	TKDA	7,943.15
34121	04/16/2009	Development Fund	Engineering Services	TKDA	1,310.37
34121	04/16/2009	Development Fund	Engineering Services	TKDA	408.75
34121	04/16/2009	Development Fund	Engineering Services	TKDA	2,982.12
34121	04/16/2009	Development Fund	Engineering Services	TKDA	92.57
34121	04/16/2009	Village	Engineering Services	TKDA	68.63
34121	04/16/2009	Infrastructure Reserve	Engineering Services	TKDA	3,817.26
34121	04/16/2009	Park Dedication	Engineering Services	TKDA	185.14
34121	04/16/2009	Surface Water Utility	Engineering Services	TKDA	3,221.95
34121	04/16/2009	Water	Engineering Services	TKDA	2,704.85
34121	04/16/2009	Sewer	Engineering Services	TKDA	1,327.19
34121	04/16/2009	Surface Water Utility	Engineering Services	TKDA	5,531.79
34121	04/16/2009	Infrastructure Reserve	Engineering Services	TKDA	8,085.43
34121	04/16/2009	General Fund	Engineering Services	TKDA	300.85
34121	04/16/2009	General Fund	Engineering Services	TKDA	4,638.50
34121	04/16/2009	General Fund	Engineering Services	TKDA	1,709.97

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
34121	04/16/2009	Water	Engineering Services	TKDA	637.66
34121	04/16/2009	Sewer	Engineering Services	TKDA	46.28
34121	04/16/2009	Infrastructure Reserve	Engineering Services	TKDA	4,900.00
Check Total:					49,912.46
34122	04/16/2009	Water	Utility System Maintenance	Twin City Water Clinic, Inc.	65.00
Check Total:					65.00
34123	04/16/2009	General Fund	Conferences & Training	VISA	420.00
34123	04/16/2009	General Fund	Miscellaneous	VISA	61.68
34123	04/16/2009	General Fund	Conferences & Training	VISA	560.00
34123	04/16/2009	General Fund	Miscellaneous	VISA	15.00
Check Total:					1,056.68
34124	04/16/2009	General Fund	Dues & Subscriptions	VISA	305.00
34124	04/16/2009	General Fund	Conferences & Training	VISA	795.00
Check Total:					1,100.00
34125	04/16/2009	Surface Water Utility	Conferences & Training	Washington Conservation Dist.	500.00
Check Total:					500.00
34126	04/16/2009	General Fund	Landscaping Materials	Washington County	3,147.68
Check Total:					3,147.68
34127	04/16/2009	General Fund	Miscellaneous	Washington County	1,190.00
Check Total:					1,190.00
34128	04/16/2009	Sewer	Small Tools & Minor Equipment	Winnick Supply	249.90
Check Total:					249.90
34129	04/16/2009	General Fund	Electric Utility	Xcel Energy	25.43
34129	04/16/2009	Sewer	Electric Utility	Xcel Energy	62.88
34129	04/16/2009	General Fund	Street Lighting	Xcel Energy	29.78
34129	04/16/2009	General Fund	Street Lighting	Xcel Energy	28.93
34129	04/16/2009	General Fund	Electric Utility	Xcel Energy	797.66

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Amount
34129	04/16/2009	General Fund	Electric Utility	Xcel Energy	978.53
34129	04/16/2009	General Fund	Electric Utility	Xcel Energy	9.24
34129	04/16/2009	General Fund	Electric Utility	Xcel Energy	462.19
34129	04/16/2009	General Fund	Electric Utility	Xcel Energy	9.24
34129	04/16/2009	Water	Electric Utility	Xcel Energy	1,356.41
34129	04/16/2009	General Fund	Street Lighting	Xcel Energy	37.45
34129	04/16/2009	General Fund	Electric Utility	Xcel Energy	179.65
34129	04/16/2009	Sewer	Electric Utility	Xcel Energy	17.81
34129	04/16/2009	Sewer	Electric Utility	Xcel Energy	15.51
34129	04/16/2009	General Fund	Electric Utility	Xcel Energy	506.67
34129	04/16/2009	General Fund	Electric Utility	Xcel Energy	152.95
34129	04/16/2009	General Fund	Street Lighting	Xcel Energy	1,883.84
34129	04/16/2009	General Fund	Street Lighting	Xcel Energy	28.08
34129	04/16/2009	General Fund	Electric Utility	Xcel Energy	46.02
34129	04/16/2009	General Fund	Electric Utility	Xcel Energy	2,826.79
34129	04/16/2009	Water	Electric Utility	Xcel Energy	166.24
34129	04/16/2009	General Fund	Street Lighting	Xcel Energy	10.48
Check Total:					9,631.78
34130	04/16/2009	General Fund	Radio	ANCOM COMMUNICATIONS, INC.	52.72
34130	04/16/2009	Federal Radio Equipment Grant	Radio Equipment	ANCOM COMMUNICATIONS, INC.	5,300.00
Check Total:					5,352.72
Report Total:					110,451.16



City Council  
Date: 4/7/08

**Regular**

Item: ~~J-11~~ 3

ITEM: Selection of consultant to assist with the wireless communication ordinance update project

SUBMITTED BY: Kyle Klatt, Planning Director

REVIEWED BY: Craig Dawson, Interim City Administrator

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#### **SUMMARY AND ACTION REQUESTED:**

The City Council is being asked to select a consultant to assist the City of Lake Elmo with an update to the wireless communications ordinance. Five proposals have been received and are attached for consideration by the Council. Unfortunately, the firm that did not receive the City's request and was given additional time to submit a proposal has decided it will not be able to help the City with this project. The firms that submitted proposals include the following:

- The Center for Municipal Solutions (Glenmont, NY)
- CityScape Consultants (Boca Raton, FL)
- Kreines & Kreines (Tiburon, CA)
- OWL Engineering and Test Labs, Inc. (Shoreview, MN)
- Short Elliott Hendrickson, Inc. (St. Paul, MN)

The proposed fee for four of the proposals ranges up to \$23,000 to complete work associated with the zoning update, with one firm proposing a master planning approach that would cost approximately \$28,000 for both the ordinance development and planning process. The Center for Municipal Solutions proposal differs from the others because it offers to perform the first five hours (\$1,000) of ordinance development work for free, provided the City agrees to use CMS to process all applications that are reviewed under the ordinance.

#### **REVIEW OF PROPOSALS:**

Staff has reviewed each of the proposals and developed an evaluation matrix to help differentiate between the services that have been offered. This matrix is attached for consideration by the City Council, and includes the firms presented in ranking order as recommended by staff. Based on this initial analysis, two of the firms were eliminated for further discussion by staff: SEH and Kreines & Kreines. The others were evaluated as follows:

	<b>Proposal Strengths</b>	<b>Proposal Shortcomings</b>
OWL Engineering and EMC Test Labs	<ul style="list-style-type: none"> <li>• Local firm with experience dealing with issues in Minnesota communities.</li> <li>• Available for a series of meeting with minimal travel expenses.</li> <li>• Least expensive of the proposals for ordinance development without a contract for additional work.</li> <li>• Experience drafting and evaluating municipal ordinances.</li> <li>• Significant experience reviewing applications and tower proposals.</li> </ul>	<ul style="list-style-type: none"> <li>• Limited experience with master planning for wireless sites.</li> <li>• Expense to conduct individual site suitability analysis (\$2000-\$3000 per site)</li> <li>• Not as thorough process outlined in proposal (did not respond to each of the specific services requested).</li> </ul>
CityScape Consultants, Inc.	<ul style="list-style-type: none"> <li>• Very thorough proposal and project approach.</li> <li>• Ordinance development piece is similar in cost to the OWL Engineering proposal.</li> <li>• The master planning process that is recommended in the proposal closely matches the scope preferred by Lake Elmo.</li> <li>• Most public involvement of the proposals received.</li> <li>• Works exclusively with public agencies.</li> </ul>	<ul style="list-style-type: none"> <li>• Cost and time for master planning approach.</li> <li>• No direct experience working in Minnesota.</li> <li>• Less flexibility and greater expense to attend meetings.</li> </ul>
Center for Municipal Solutions	<ul style="list-style-type: none"> <li>• Could potentially provide services for "free" or at a substantially reduced cost to other proposals.</li> <li>• Experience working with the current Lake Elmo code.</li> <li>• Will establish a local contact person for the project.</li> <li>• Significant experience conducting reviews of wireless communication applications.</li> </ul>	<ul style="list-style-type: none"> <li>• Review time is limited to 5 hours, otherwise time is billed at \$200 per hour plus travel.</li> <li>• No direct experience working in Minnesota.</li> <li>• Proposal was not as complete as others, and did not include specific strategies to help the City plan for future wireless facilities.</li> <li>• 3-year commitment for application reviews.</li> </ul>

When comparing the proposals that are specific to the development of a new ordinance, OWL Engineer and CityScape Consultants proposals are somewhat similar, and in this case, staff suggests that former firm would be preferred since it is a local company and has experience working in the state of Minnesota. Looking at the overall project proposals and setting aside cost, CityScape clearly provided the best proposal based on Lake Elmo's needs, but the Master Planning process championed by this firm would take additional cost and time to implement. Based on Lake Elmo's current situation, it does appear that the overall cost of the CityScape project could be reduced somewhat based on the lack of alternative sites within the City of Lake Elmo.

The Center for Municipal Solutions offers the most intriguing of the proposals submitted because offers its services for "free" provided the City is willing to enter a contract with them to review all future applicants submitted under the new ordinance (for a minimum of three years). While this arrangement could keep the City's costs to a minimum, staff is concerned that the amount of time programmed by the consultant is minimal and would not achieve the desired scope of work likely necessary for the project.

that the amount of time that could be devoted to the project before billing would occur would greatly limit the City's ability to address issues specific to Lake Elmo.

Based on the proposals that have been submitted, the City should be able to choose one of the firms to complete an update to the wireless communications ordinance within the time frame originally established for the project. In order more fully evaluate potential future sites for facilities, and specifically whether or not certain public sites may accommodate wireless communications facilities, the scope and budget for the project would need to be expanded.

#### **ADDITIONAL INFORMATION:**

All of the proposals received are available for viewing at City Hall in addition to the electronic versions that are attached to this memorandum.

Since this project was not planned or budgeted in 2009, the City Council will need to identify a funding source for a consultant. Staff is recommending that funds in the balance of the general fund be used for this project.

#### **RECOMMENDATION:**

Based on the above analysis, staff is recommending that the City Council hire OWL Engineering to assist with the wireless communications ordinance update project at a cost of \$10,000 to be funded from the balance of the general fund.

As an alternative, staff is recommending that the City Council consider expanding the scope and budget of the project to hire CityScape consultants based on the proposal submitted to develop a master plan for wireless communications facilities in Lake Elmo. It is expected that the overall project cost could be negotiated lower based on potential time savings during the public property and existing structure assessment phase of the proposal.

#### **ATTACHMENTS:**

1. Evaluation Matrix
2. Proposals Received:
  - The Center for Municipal Solutions (Glenmont, NY)
  - CityScape Consultants (Boca Raton, FL)
  - OWL Engineering and Test Labs, Inc. (Shoreview, MN)
  - Kreines & Kreines (Tiburon, CA)
  - Short Elliott Hendrickson, Inc. (St. Paul, MN)

#### **ORDER OF BUSINESS:**

- Introduction ..... Craig Dawson, Interim City Administrator
- Report by staff ..... Kyle Klatt, Planning Director
- Questions from the Council ..... Mayor & Council Members
- Questions/Comments from the public ..... Mayor facilitates
- Call for a Motion  
(required for further discussion; does not  
imply approval of the motion..... Mayor facilitates
- Discussion ..... Mayor facilitates
- Action on motion..... Council

**Wireless Communication Consultants  
Evaluation Matrix  
Prepared by the Lake Elmo Planning Department  
April 6, 2009**

Rankings 1-5 with 5 being the highest and 1 being the lowest. Firms are presented in overall ranking order as evaluated by staff.

	Firm	Completeness of Process	Master Planning Experience	Application Processing Experience	Local Presence	MN Clients in Experience	Proposal Cost	Anticipated Completion	Other Conditions
(1)	<b>OWL Engineering</b>	3	2	4	Yes	Yes	\$10,000	07/2009	\$200/hr rate
(2)	<b>Cityscape</b>	4	5	4	No	No	\$10,000 Ordinance  \$28,070 with Master Plan	8/2009 Ordinance  12/2009 with Master Plan	
(3)	<b>CMS</b>	2	2	4	Yes*	No	No Cost**	07/2009	\$200/hr rate
(4)	<b>Kreines &amp; Kreines</b>	2	3	3	No	No	\$20,000	07/2009	\$250/hr \$100/hr rates
(5)	<b>SEH</b>	2	1	2	Yes	Yes	\$22,800	08/2009	

\*Will contract with local wireless technology associate

\*\*For up to 5 hours of ordinance development and 1 public meeting, City must enter into 3-year contract with CMS for review of future applications under the new ordinance

City Council  
Date: April 21, 2009  
CONSENT  
Item: #4  
Motion

ITEM: **Approval of Letter of Engagement for General Civil City Attorney Services with Eckberg, Lammers, Briggs, Wolff & Vierling, PLLP**

SUBMITTED BY: Craig W. Dawson, Interim City Administrator

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**SUMMARY AND ACTION REQUESTED:** At its April 7, 2009, meeting, the City Council selected David Snyder and the Eckberg Lammers law firm to be the City Attorney for general civil legal services. Since that time, Mr. Snyder has provided a Letter of Engagement for city attorney services. The Letter of Engagement is consistent with the terms stated in the firm's proposal delivered February 13, 2009. Services of attorneys are provided at an hourly fee, and the firm is willing in the future to consider a flat fee or retainer for city attorney services. The firm is also providing a certificate of insurance that meets the insurance requirements contained in the City's Request for Proposals (RFP).

The City Council should approve the Letter of Engagement.

**ADDITIONAL INFORMATION:** City Attorney Jerry Filla and Dave Snyder have begun discussions on the orderly transition of work and files between their respective firms. Once this transition is complete, but by May 1, Mr. Snyder will assume the duties of city attorney. It appears that Mr. Filla may have a few matters that may be completed after May 1 which will benefit from his continuity on them.

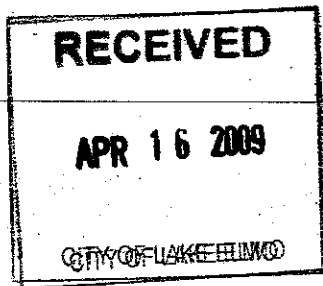
**SUGGESTED MOTION FOR CONSIDERATION:**

***Move to approve the Letter of Engagement as City Attorney for general civil legal services with Eckberg, Lammers, Briggs, Wolff & Vierling, PLLP.***



ATTORNEYS AT LAW  
Writer's Direct Dial:  
(651) 351-2131

Writer's E-mail:  
dsnyder@eckbergglammers.com



Stillwater Office:  
1809 Northwestern Avenue  
Stillwater, Minnesota 55082  
(651) 439-2878  
Fax (651) 439-2923

Hudson Office:  
2417 Monetary Boulevard  
Hudson, Wisconsin 54016  
(715) 386-3733  
Fax (651) 439-2923

[www.eckbergglammers.com](http://www.eckbergglammers.com)

April 13, 2009

Craig W. Dawson  
Interim City Administrator  
City of Lake Elmo  
3800 Laverne Avenue North  
Lake Elmo, MN 55042

Re: *City of Lake Elmo*  
Our File No.: 22702-18698

Dear Craig:

Pursuant to our discussions, may this serve as our letter of engagement. We will provide legal services on civil legal matters in accordance with the rates and terms and conditions set forth in our response to the City's Request for Proposal. Attached hereto, is our rate sheet and a certificate of liability insurance for our firm.

Should you have any questions, please do not hesitate to notify us and we look forward to working with you.

Sincerely,

David K. Snyder

DKS/mah  
Enclosure

*[Faint, illegible text, likely a carbon copy or bleed-through from the reverse side of the page.]*



**J. Fees:**

Our current billing practices and statements already comply with the requirements of the City of Lake Elmo as contained in the RFP. All of our existing municipalities are billed on an hourly rate system for civil services. We have included an alternate for Criminal Prosecution services which we bill on a unique flat fee basis. We would certainly explore a flat fee alternative for civil law. Presently, our proposed fees and charges would be as follows:

City Council Meeting Attendance \$150.00 per meeting (Flat-Rate)  
General Legal Services \$130.00/hr (no phone call billings, staff and council)  
Copying 0.20 per page  
Faxes from Client: \$-0- per page  
Faxes to Client :0.50 -per page  
Paralegal Services: \$100.00 per hour  
Law Clerk-Research: \$80.00 per hour

The following charges are passed through strictly at cost:

Long Distance Phone Charges  
Courier or Delivery Charges  
Process Server Fees  
Court Filing Fees  
Document Recording Fees  
Court Reporter Transcript fees

Other firms may add charges/surcharges to their clients for the following which we do not, such as:

WestLaw/Lexis Research Fees-Computer time  
Mileage for travel to local courthouse/client meetings at city  
Enhancements to out of pocket charges for processing  
Administrative billings for file setup and computer entry  
Telephone calls from client, staff and administration



# MINNESOTA LAWYERS MUTUAL

INSURANCE COMPANY

## DECLARATIONS

Policy Number 2184 25

333 South Seventh Street, Suite 2200; Minneapolis, MN 55402

(612) 341-4530 (800) 422-1370 fax (800) 305-1510

### LAWYERS PROFESSIONAL LIABILITY POLICY (THIS IS A CLAIMS-MADE POLICY - READ CAREFULLY)

**Item 1.**

**Named Insured**

Eckberg, Lammers, Briggs, Wolff & Vierling, PLLP

**Office Address**

1809 Northwestern Ave  
Suite 110  
Stillwater, MN 55082

**Item 2.**

**Policy Period**

09/12/2008 to 09/12/2009  
(the Effective Date) (the Expiration Date)  
12:01 A.M., standard time at the address of the Named Insured stated herein

**Item 3.**

**Limits of Liability**

\$ 1,000,000 Per Claim

\$ 3,000,000 Aggregate

**Item 4.**

**Deductible Amount**

\$ 10,000 Per Claim

**Item 5.**

**TOTAL NUMBER OF LAWYERS:** 12

**TOTAL PREMIUM:** \$31,818

**Item 6.**

**Applicable Forms and Endorsements:**

MLM-19 (7-03), MLM-32 (1-08), MLM-2000 (4-05), MLM-2003MN (10-07)  
MLM-26 (7-87), MLM-76 (7-03)

In witness whereof, Minnesota Lawyers Mutual Insurance Company has caused this policy to be signed  
by its President and Secretary and countersigned by a duly authorized agent of the Company.

MINNESOTA LAWYERS MUTUAL INSURANCE COMPANY

By

John J. Bowden, Secretary

By

R. Bertram Greener, Board of Directors Chairman

Jill Ann Robinson

Authorized Agent

City Council  
Date: 4/21/09  
Item: 6  
NOT a Public Hearing

**ITEM: SIGN CODE REVISIONS ORDINANCE – An ordinance  
repealing existing sign code regulations and adopting new  
regulations to govern signs in all zoning districts.**

SUBMITTED BY: Ben Gozola, Senior Planner

REVIEWED BY: Kyle Klatt, Planning Director  
Kelli Matzek, Assistant City Planner

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**SUMMARY AND ACTION REQUESTED:**

The City Council is asked to take action on a proposed ordinance to repeal all existing sign code regulations in favor of a new set of revised sign controls. The new controls are intended to modernize the City's sign regulations in preparation of anticipated development guided in the current comprehensive plan. The new regulations outline the purpose behind all sign codes, the procedures for obtaining sign permits, how sign codes will be enforced, and the minimum standards that signs must meet in order to be approved. Regulations focus on time (when signs may be erected), place (the physical location of allowed signs), and manner (sign types, height, size, number, lighting, etc).

All proposed regulations have been drafted in response to public input that has been gathered since December of 2008 either through email or at one of two (2) public open houses held to date. Staff was careful throughout this process to ensure the public understood that consensus on sign regulations is typically not possible due to the diverging interests that exist within every city. We have made ourselves continuously available throughout the drafting of this ordinance, and have been in constant communication with all interested parties via an email distribution list. The resulting ordinance (and optional language contained therein) is before the Council now for consideration.

You will find the following documents attached to this executive summary:

1. A summary of public feedback received to-date which helped to shape the draft ordinance currently under consideration.
2. A clean copy of the proposed ordinance language which is color coded to identify NEW language, EXISTING language, MODIFIED language, and OPTIONAL language. "Optional" language indicates code sections that were sought by members of the public during the process, but are not essential to the ordinance as a whole. Any or all of the optional sections could be

eliminated without impacting the remainder of the ordinance, and there inclusion is strictly a policy decision to be made by the City Council. All sections of optional language were recommended for approval by the planning commission.

**The color-coded clean copy of the ordinance will be the ideal document to review prior to the meeting, and also to consult as the ordinance is being reviewed.**

3. A copy of the City's existing sign regulations with references identifying where current regulations are located within the new code.
4. The proposed language formatted as an Ordinance for consideration.

In reviewing the draft ordinance, the City Council is asked to:

- Consider the proposed language and determine whether the new ordinance adequately balances the many interests of the citizens of Lake Elmo relating to signs.
- Determine which (if any) of the "optional" provisions should be approved as part of the final ordinance.
- Approve the regulations as presented, as amended, or to direct staff to return with revisions. Substantial changes may require an additional public hearing and review by the planning commission.

#### RECOMMENDATION:

The planning commission is recommending approval of the proposed ordinance to update the City of Lake Elmo sign regulations as presented.

#### ORDER OF BUSINESS:

- Introduction.....Ben Gozola, Senior Planner
- Report by staff.....Ben Gozola, Senior Planner
- Questions from the Council ..... Mayor facilitates
- Call for a motion ..... Mayor facilitates
- Discussion of the motion ..... Mayor facilitates
- Action by the City Council ..... City Council

#### ATTACHMENTS:

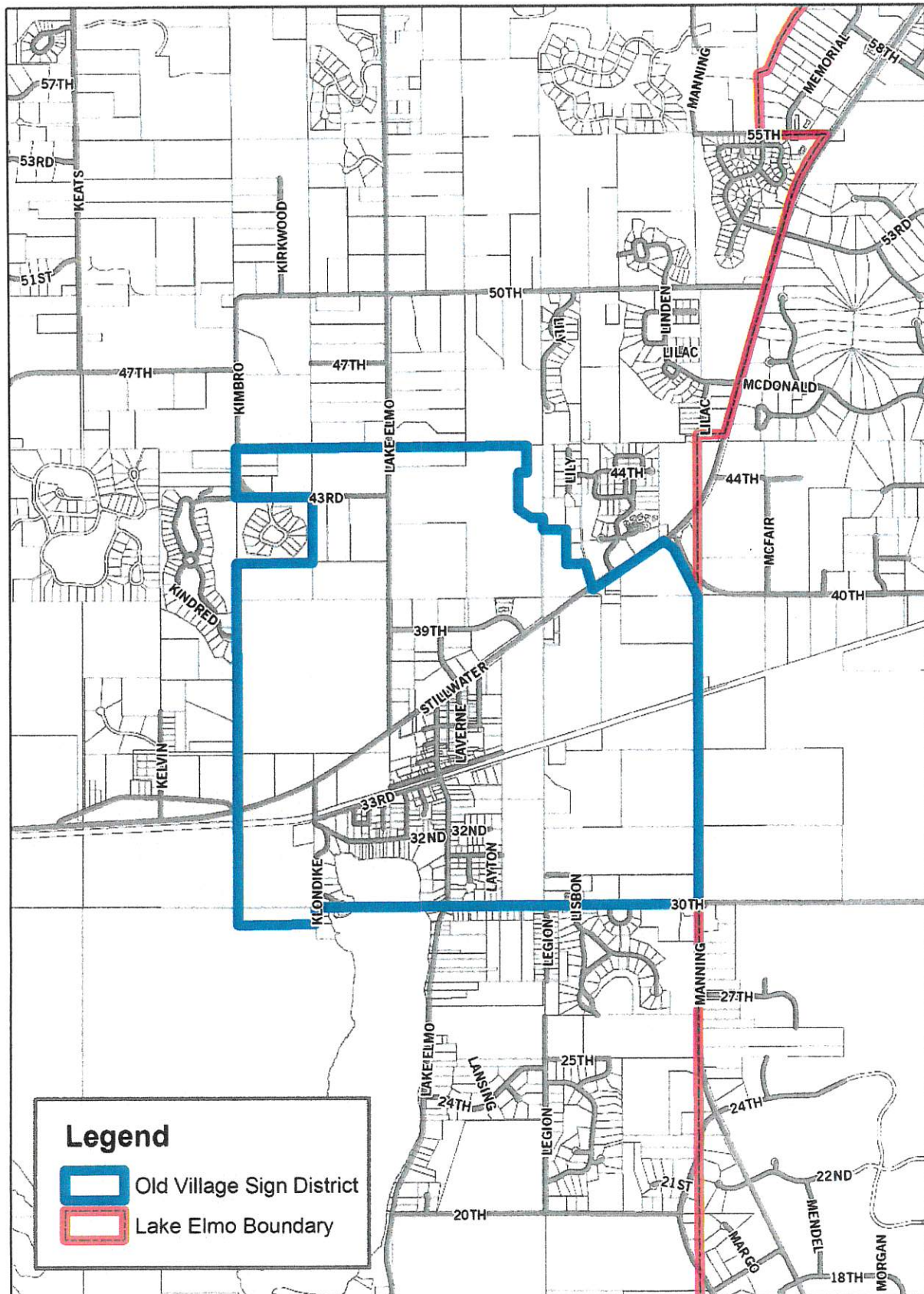
- A Summary of Public Feedback
- A color-coded CLEAN COPY of the Draft Sign Code
- A copy of the existing sign code regulations
- The proposed sign code language formatted as a formal Ordinance.

## *Signs: Summary of Public Feedback*

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- Rockpoint Church concerns:
  - Directional signage needed as it is difficult to find if you're not familiar with the entry point, the  $\frac{3}{4}$  intersection, etc.
  - Consider regulation that would allow an entry sign in cases like this.
  - Wall sign needed for the Church.
  - Check the downtown area as the downtown church allegedly has directional signs.
- General Developer concerns:
  - Neighborhood entry monument signs should be reconsidered.
- Multi-Tenant Building concerns:
  - City should consider a regulation that would allow for more signage based on leased square footage.
- Political sign concerns:
  - Can the city regulation the number and size of such signs?
  - Can the city regulate placement of such signs?
- Future zoning district concerns:
  - How will the current update impact future zoning districts that have yet to be created for guided development south of 10<sup>th</sup> Street.
- Use of natural materials concern:
  - The proposed prohibition on painting signs on natural surfaces such as trees or rocks should not preclude the use of natural materials in a sign.
- Enforcement concern:
  - Be sure the final ordinance can be easily enforced
- Amount of signage concerns:
  - Desires expressed to limit overall signage; desires expressed to expand allowed signage types and sizes.
  - Desires expressed for more sign options; desires expressed for tighter regulations.
- Home Occupation concerns:
  - Desires expressed to allow reasonable signage for home occupations.
- Economy related concerns:
  - Directional signage needed to advertise properties for sale in today's down market.
- I-94 concerns:
  - Desire for the city to adopt special regulations for the I-94 corridor based on the higher Interstate traffic speeds and the resulting need for larger signs.

## Exhibit A: Official Sign District Map





**Color Legend:**

GREEN language = existing language that has NOT been edited

ORANGE language = existing language that has been edited

BLUE language = optional language for consideration

BLACK language = new language

RED language = needs to change or be edited

## **SIGNS**

### **§ 151.115 PURPOSE**

#### **(A) Purpose and Findings**

##### **(1) Purpose.**

- (a) The Lake Elmo Sign Regulations are intended to establish a comprehensive and balanced system of sign control that accommodates the need for a well-maintained, safe, and attractive community, and the business community's need for effective communication and identification. It is not the purpose or intent of these regulations to favor commercial messages or speech over non-commercial messages or speech or to discriminate between types of non-commercial speech or the viewpoints represented therein. It is the intent of these regulations to promote the health, safety, general welfare, and desirable rural community image through the regulation of signs with the following objectives in mind:
  - a. Signs shall demonstrate a high standard of aesthetic character and encourage the use of monument and individual letter-style signs;
  - b. Permit large enough copy/graphic area to effectively convey the intended message but not so large as to unduly distract the reader and insist on lettering large enough to be easily read to encourage simple, uncluttered messages;
  - c. Signs shall be proportioned to the size of, and architecturally compatible with, the structures and other signs on the premises;
  - d. Permanent signs shall only advertise on-premise businesses, services, facilities, etc;

- e. Allow temporary business signs for grand openings and occasional sales events; allow temporary signs to advise the public of the seasonal sale of agricultural and horticultural products in keeping with the City's rural image; and to allow temporary directional signs permitting the public to more easily locate land conservation developments which enhances the City's rural image, without creating continuous visual clutter or traffic hazards along streets or at intersections; and
- f. Signs shall be properly maintained.
- g. Signs that distract drivers, cyclists and pedestrians shall not be permitted. Studies conducted by public and private agencies have identified that dynamic signs, including multi-vision signs, electronic signs and video displays can be highly distracting to drivers, pedestrians, and cyclists and that distraction is a significant underlying cause of traffic accidents. With respect to electronic signs, including video display signs, the City finds that they are highly visible from long distances and at very wide viewing angles both day and night and are designed to catch the eye of persons in their vicinity and hold it for extended periods of time. If left uncontrolled, electronic signs, including video display signs, constitute a serious traffic safety threat. Studies conducted by the Federal Highway Administration (FHWA), Research Review of Potential Safety Effects of Electronic Billboards on Driver Attention and Distraction, Sept. 11, 2001, and The Role of Driver Inattention in Crashes: New Statistics from 1995; the University of North Carolina Highway Safety Research Center, Distractions in Everyday Driving, May 2003 and The Role of Driver Distraction in Traffic Crashes, May 2001; the Wisconsin Department of Transportation, Synthesis Report of Electronic Billboards and Highway Safety, June 10, 2003; the Municipal Research and Services Center of Washington, Sign Control Provisions, Jan. 2006; the Veridan Group, Video Signs in Seattle, Gerald Wachtel, May 2001, reveal that electronic signs are highly distracting to drivers and that driver distraction continues to be a significant underlying cause of traffic accidents.

**(2) Findings.**

The City of Lake Elmo hereby finds that regulation of the construction type, location, size, and maintenance of signs is necessary to accomplish the above referenced objectives, because:

- (a) The presence of permanent and temporary signage affects the rural image of the City of Lake Elmo;



- (b) Properly regulated signage can create an atmosphere of prosperity, stimulate commercial activity, and consequently, lead to increased employment and a healthier tax base;
- (c) The safety of motorists, cyclists, and pedestrians can be threatened by signage that interferes with necessary sight-distances and/or unduly diverts the attention of such persons.
- (d) Signs that are too bright, overly illuminated, flash, blink, scroll, twirl, change messages or color, or imitate movement, including video displays, can distract drivers, cyclists and pedestrians and impact traffic safety.

(B) **Severability.** If any section, subsection, sentence, clause, or phrase in sections 151.115 through 151.119 are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Sign Ordinance. The City Council hereby declares that it would have adopted the Sign Ordinance in each section, subsection, sentence, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

(C) **Definitions.** The definitions set forth in this Section are in addition to the definitions set forth in Section 11.01. In the event of a conflict between the Sections, the definitions in this section shall apply.

**Abandoned sign** - any sign and/or its supporting sign structure which remains without a message or whose display surface remains blank for a period of one (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 one (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.

**animation** -- The movement or the optical illusion of movement of any part a sign, sign structure, design, or pictorial segment, including the movement of any illumination or the flashing or varying of light intensity; the automatic changing of all or any part of the facing of a street sign.

**Awning** means a shelter supported entirely from the exterior wall of a building.

**Awning sign** - a sign or graphic printed on or in some fashion attached directly to the awning material.

**Back lit (sign illumination)** means 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.

**Banner** - A temporary sign typically made of cloth, plastic or vinyl materials.

**Billboard** - A sign structure with a surface area over one hundred (100) square feet per surface that identifies or communicates a commercial or non-commercial message.

**Business Vehicle Identification Sign** – 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.

**Canopy** means a detachable, rooflike cover, supported from the ground or deck, floor or walls of a structure, for protection from the sun or weather.

**Canopy sign** means 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.

**Changeable copy sign** - A sign designed to allow the changing of copy through manual, mechanical, or electrical means including time and temperature.

**Commercial Speech** – Speech or graphics advertising a business, profession, commodity, service or entertainment.

**Direct illumination (sign illumination)** means 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.

**Directional sign** – 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”).

**Electronic Variable Message Sign** – 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, colorless 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.

**External Illumination** Illumination of a sign that is affected by an artificial source of light not contained within the sign itself.

**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.

**Freestanding sign** means 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.

**Governmental Sign** – 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.

**Ground sign**” - 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 six (6) feet.

**Historic sign** means an existing sign which has a special historical, architectural, cultural, or aesthetic value to the community.

**Illuminated sign**” - any sign which contains an element designed to emanate artificial light directly or indirectly.

**Indirect illumination (sign illumination)** means a sign whose light source is external to the sign and which casts its light onto the sign from some distance.

**Monument sign**” - 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 six (6) feet.

**multi-tenant building** – A grouping of two or more business establishments that either share common parking on the lot where they are located, or that occupy a single structure or separate structures that are physically or functionally related or attached.

**Mural Sign** – 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.

**Non-commercial Speech** – A sign that contains a non-commercial message. Examples of non-commercial messages include, but are not limited to, messages concerning political, religious, social, ideological, public service and informational topics.

**“Off-premise sign”** – 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.

~~**“On-premise sign”** – a sign which identifies or advertises an establishment, person, activity, goods, products or services located on the premises where the sign is installed.~~

**“Permanent Sign”** – A sign constructed of durable materials designed to exist for the duration of time that the use or occupant is located on the premises.

**Pole sign**” - 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

**portable sign** – A sign not permanently attached to the ground or a building or designed to be permanently attached to the ground or a building.

**Projecting sign** – A sign attached to and projecting out from a building face or wall, generally at a right angle.

**Reverse lit (sign illumination)** means 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.

**Roof sign**” - 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”** – 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, 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, 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, Wayside Stand”** – A sign located on a temporary structure or vehicle being used to sell agricultural, floricultural, or horticultural products.~~

**Snipe sign** means an off-premises sign that is tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences, or to other object

**“Temporary Sign”** – Any sign intended for display over a short period of time.

**Unified Residential Area** – A residential grouping of lots that share a plat name over one or more additions.

**Wall sign** – 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 one (1) sign surface.

**Warning sign** – A sign located on private property posting such property for warning or prohibitions on trespassing, hunting, or other activity.

**Window sign** – 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.



## **151.116 Administration and Enforcement**

### **(A) Permit Required.**

No sign shall be erected, altered, reconstructed, maintained or moved in the city without first securing a permit from the city. The content of the message or speech displayed on the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit.

- (1) Permanent Signs.** To apply for a permanent sign permit, a complete application shall be submitted to the City containing the following:
  - (a) Names and addresses of the applicant, owners of the sign, and lot;
  - (b) The address at which the sign(s) are to be erected;
  - (c) The legal description of the property on which the sign(s) are to be erected and the street on which they are to front;
  - (d) A complete set of scaled plans showing the sign dimensions, area, height, ground elevations, applicable setbacks, and other details to fully and clearly represent the safe construction and placement of the proposed sign(s);
  - (e) Type of sign(s) being requested (i.e. wall sign, monument sign, etc.);
  - (f) The permit fee; and
  - (g) The following if applicable:
    - i. Written authorization from the property owner upon who's land the sign is to be erected.
    - ii. A permit from either MnDOT or Washington County if the proposed sign is along a state highway or county road.
    - iii. A sign plan showing signs for all businesses if the sign is located on a building with more than one business.
    - iv. Photographs of the building face and the building faces of both adjacent buildings if the sign is being placed on an existing structure.
    - v. If replacing a historical sign, pictorial proof or other information that the sign is of historical significance or is a reproduction of a historic sign.
- (2) Temporary Signs.** To apply for a permit to allow a temporary sign, a complete application shall be submitted to the City containing the following:



- (a) Names and addresses of the applicant, owners of the sign, and lot;
  - (b) The address at which the sign(s) are to be erected;
  - (c) A generalized plan set showing the sign dimensions and height, and a notation of the materials to be used.
  - (d) A scaled site plan which clearly represents the placement of the proposed sign(s) on the applicable property;
  - (e) The proposed timeframe(s) over which the sign(s) will be posted;
  - (f) The permit fee; and
  - (g) The following if applicable:
    - i. Written authorization from the property owner upon who's land the sign is to be erected.
    - ii. A permit from either MnDOT or Washington County if the proposed sign is along a state highway or county road.
- (3) **Temporary Sign Renewal.** A temporary sign permit issued by the City may be renewed provided the sign design, size, location, or other previously approved details are not proposed to change. A sign renewal application shall include the following:
- (a) Names and addresses of the applicant, owners of the sign, and lot;
  - (b) The address at which the sign(s) are to be erected;
  - (c) The date of issuance of the permit being renewed;
  - (d) The proposed timeframe(s) over which the sign(s) will be posted;
  - (e) Written authorization from the property owner upon who's land the sign is to be erected (if applicable); and
  - (f) The permit renewal fee.
- (4) **Review.** The planning department shall approve or deny complete sign permit applications upon receipt of a complete application. If the permit is denied, the planning department will send a written notice of denial to the applicant. The written notice will indicate the reason(s) for denial and a description of the applicant's appeal rights.

**(B) Exemptions.**

The following signs shall not require a permit, but shall still comply with all provisions of this ordinance or any other law or ordinance regulating signs.

- (1) The changing of the display surface on a previously approved sign.
- (2) Signs six (6) square feet or less in size, per surface if double sided.
- (3) Window Signage that does not cover more than 1/3 of the total area of the window in which the sign is displayed
- (4) Governmental Signage.

**(C) Fees.**

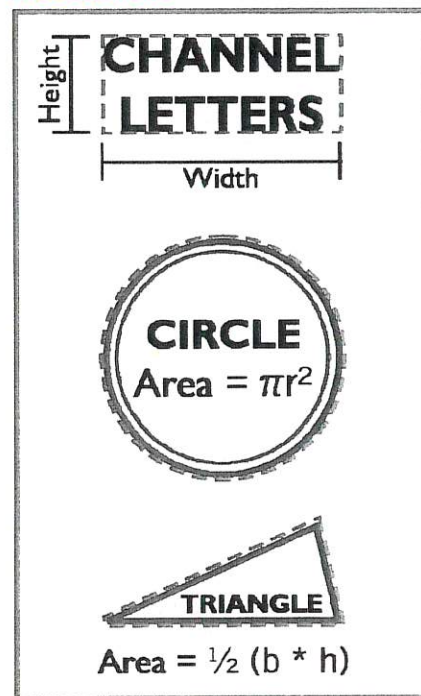
The fee for a sign permit is established yearly in the City's adopted fee schedule as indicated in section 11.02.

**(D) Computations.**

**(1) Sign Area Measurement.**

The area of a sign shall be computed by means of the smallest circle, rectangle or triangle that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the building facade against which it is placed. When a sign has two back-to-back sign faces containing sign copy, the sign area for both faces are counted toward the total allowed sign area. Poles, bases, and other supports shall not be included in the sign area calculation.

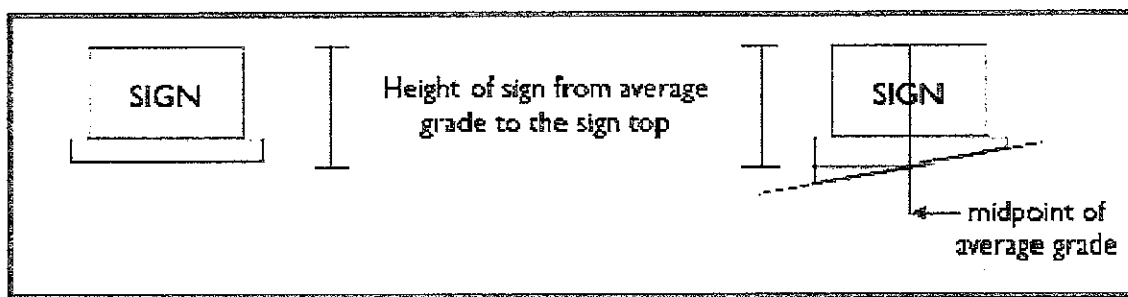
**Figure 1: Sign Area Measurement**



(2) Sign Height Measurement

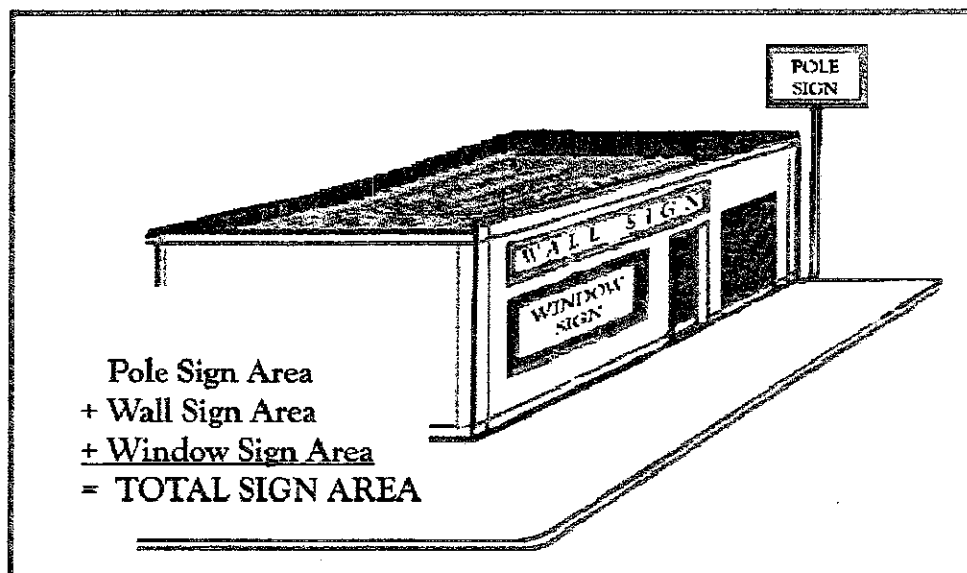
The height of the sign shall be computed as the vertical distance measured from the average grade at the base of the sign to the top of the highest attached component of the sign.

*Figure 2: Sign Height Measurement*



(3) Total Sign Area Calculation

The total square footage of all sign surfaces shall be computed by adding together the sign areas of all signs on a property.



*Figure 3: Total Sign Area Measurement Example*



**(E) Construction, Maintenance and Repairs.**

- (1) The construction of all signs, unless otherwise stated herein, shall be in conformance with the provisions of the Uniform Sign Code published by the International Conference of Building Officials, 1997 Edition, as may be amended, which is hereby adopted by reference and made a part of this ordinance.
- (2) All signs and structures shall be properly maintained and shall be constructed of sufficiently permanent material so that they shall not succumb to deterioration from weathering.
- (3) Any existing sign or sign structure which is rotted, unsafe, deteriorated, defaced, or otherwise altered, shall be repainted, repaired, replaced, or removed if repair is not feasible. Sign maintenance shall be the responsibility of the underlying fee owner.

**(F) Abatement.**

If the City finds that any sign has been erected without the necessary approvals or any sign is being maintained in violation of any zoning provision, the City may give written notice of such violation to the installer of said sign; to the permit holder; and/or to the owner, lessee or manager of said property. If after receiving said notice such person fails to remove or alter said sign so as to comply with the provisions of the zoning ordinance, the sign shall be deemed to be a nuisance and may be abated by the City under Minnesota Statutes, Chapter 429. The cost of such abatement, including administrative expenses and reasonable attorneys' fees, may be levied as a special assessment against the property upon which the sign is located.

**151.117 General Standards**

**(A) Abandoned Signs**

Abandoned signs shall be removed.

**(B) Building identification.**

A building address, date of construction, commemorative tablet, etc; shall not count towards the overall permitted signage on a building or parcel. All forms of building identification, except for the building address, shall be cut into a masonry surface or be constructed of bronze or other incombustible material.

- (C) Building Official Review.** No sign shall be attached to or be allowed to hang from any building until all necessary wall and roof attachments have been approved by the City Building Official.

- (D) **Changeable Copy Signs.** A changeable copy sign, such as a reader board, may be integrated into an allowable sign subject to the following restrictions:
- (1) The message conveyed by the sign face shall not blink, flash, scroll or be so animated as to be deemed a distraction to passing motorists;
  - (2) Copy on the sign shall not change more than once per day on average (except for time, temperature, and price information which must change when necessary for accuracy);
  - (3) Characters and backgrounds depicted on a changeable copy sign shall not use florescent coloring.
  - (4) All changeable copy sign faces shall be limited to a maximum of 25 square feet in sign area, or the maximum size of the type of sign on which the face is placed, whichever is less.
- (E) **Flags.** No more than 3 flags may be displayed on any given parcel. Individual flags shall not exceed one-hundred (100) square feet in size per surface.
- (F) **Illumination.**
- (1) Illumination of signs shall comply with Chapter 150 code requirements governing Lighting, Glare Control, and Exterior Lighting Standards.
  - (2) Indirect illumination for signs shall be so constructed and maintained that the source of light (i.e. the bulb; not the fixture) is not visible from the public right-of-way or residential property.
  - (3) Back-lit awnings are prohibited.
- (G) **Ingress or egress.** No sign or structure shall be erected or maintained if it prevents free ingress or egress from any door, window, or fire escape. No sign or sign structure shall be attached to a standpipe or fire escape.
- (H) **Landscaping.** Sign owners shall be required to maintain the appearance of the ground around all signs detached from buildings and to landscape where possible.



**(I) Master Sign Program.**

A Master Sign Program shall be reviewed and approved for all multi-tenant commercial buildings and for all business park development to coordinate all signage for current and future tenants. The Master Sign Program shall be reviewed as a permanent sign permit, but shall only authorize the general locations and sizes of signs to be erected within a development or on a multi-tenant building. Individual permanent sign permits shall still be needed for the placement of permanent signs in accordance with an approved Master Sign Program. Master Sign Programs shall be subject to the following requirements:

- (1) A Master Sign Program shall include a to-scale site plan which identifies the overall sign types, sizes, and locations for all proposed signage on the site(s). The site plan shall not contain the names of any current or future tenants or occupants of the center or overall development.
- (2) The Master Sign Program shall include a calculation of allowable sign square footage for the site(s) based on applicable zoning requirements and lot characteristics.
- (3) The Master Sign Program shall include square footage calculations for individual signs proposed for the site(s), along with a total sign square footage area calculation.
- (4) All signs within a Master Sign Program shall be visually consistent in location, design, and scale.
- (5) The Master Sign Program may be reviewed concurrently with a separate permanent sign permit for the individual sign(s) identified in the Master Sign Program. The separate permanent sign permit shall include all information required by section 151.116(A)(1), and may only be approved if the Master Sign Program is approved.

**(J) Multi-Tenant Buildings.**

- (1) Multi-tenant buildings are herein considered a single commercial establishment, and shall be limited to one (1) freestanding sign amongst all planned/allowed signage subject to the following requirements:
  - (a) If the multi-tenant commercial building has a floor area of 40,000 square feet or less, the sign shall not exceed forty (40) square feet (per side) and shall not exceed eight (8) feet in height.
  - (b) If a multiple tenant commercial building has a floor area greater than 40,000 square feet but less than 100,000 square feet, the sign shall not exceed seventy-five (75) square feet (per side) and shall not exceed nine (9) feet in height.

- (c) If a multiple tenant commercial building has a floor area of greater than 100,000 square feet, the sign shall not exceed 120 square feet (per side) and shall not exceed fifteen (15) feet in height.
- (2) Where a building, group of attached buildings on the same block, or center contains more than one business, the allowable sign area for any single business shall be its portion of the gross square footage of the building or center applied as a percentage to the allowable sign area of the entire building or center, subject to size limitations for specific signs within an approved Master Sign Program.

**(K) Neighborhood Identification Signs**

Independent of the total allowable sign area for individual residences within a residential zoning district, two (2) ground signs for a unified residential area with six (6) or more lots may be allowed consistent with the following provisions:

- (1) New subdivisions:
  - (a) Neighborhood identification sign(s) shall be approved as a component of a preliminary and final plat to be included as part of a new subdivision.
  - (b) Each sign may not exceed a total of thirty-two (32) square feet in area.
  - (c) Signs are to be located on outlots of sufficient size and area to accommodate them or within a dedicated permanent sign easement. A homeowners or neighborhood association is required for the area identified by the signs which shall own and be responsible for the upkeep, perpetual maintenance, taxes, insurance, utilities, and other costs associated with the sign(s) and their property. The association rules or by-laws shall specify how the aforementioned sign responsibilities will be delegated and paid for. City staff shall review the proposed bylaws to ensure that they specify the aforementioned responsibilities.
  - (d) Outlots or easements for signs are to be considered and planned for at the time of preliminary plat application and shall be included in the final plat. A developers agreement shall specify the designated use of the outlot or easements, its ownership, and the respective home owners association responsibilities regarding the proposed improvements.
  - (e) Only indirect lighting of neighborhood identification may be approved. The electric costs and maintenance of such lighting shall be the responsibility of the homeowners association or neighborhood association of the area identified by the sign(s) and shall be clearly noted in the association's rules or bylaws.



- (f) The area around the sign is to be landscaped and maintained in such a manner to accent and enhance the sign while remaining sensitive to the natural features of the site. Detailed site and landscape plans shall be included with each sign permit application and shall be subject to review by the Planning Commission and City Council at the time of Preliminary Plat.
  - (g) The design and construction of neighborhood area identification signs shall be done with the highest quality materials and workmanship to keep maintenance and upkeep costs to a minimum and to minimize the potential for vandalism. Neighborhood area identification signs are to be aesthetically pleasing when designed and constructed. The signs shall be compatible with nearby or potential homes and other structures in the area. Detailed construction plans and a materials list shall be included with the preliminary plat application.
  - (h) The City reserves the right to require the removal—at the owner's expense—of any sign when the requirements of this Section and this Ordinance are not completely followed and adhered to or if the sign is not properly maintained or falls into a state of disrepair. The City shall not have any obligation or liability to replace any sign or nearby landscaping when removed by the City.
- (2) Existing Unified Residential Areas: A neighborhood identification sign may be allowed by Conditional Use Permit for existing unified residential areas. If no outlots or easements were originally designated for signs, the plat may be amended to provide for such a proposal and shall meet the same criteria and requirements as set forth for new subdivisions.
- (L) Non-commercial speech signs.** Notwithstanding any other provisions of this sign ordinance, all signs of any size containing non-commercial speech may be posted from August 1 in any general election year until ten (10) days following the general election and thirteen (13) weeks prior to any special election until ten (10) days following the special election.
- (M) Private on-premises directional signs.** Signs located on, above or beside entrances or exits to buildings or driveways which direct pedestrians or vehicles (e.g. “employees entrance,” “exit only,” “rest rooms,” etc) shall not count towards the overall permitted signage on a site provided such signs are no more than four (4) square feet in area.



**(N) Prohibited Signs**

The following signs are prohibited in all zoning districts.

- (1) **Signs obstructing vision.** Any sign which obstructs the vision of drivers or pedestrians or detracts from the visibility of any official traffic-control device. This includes indoor signs that are visible from public streets.
- (2) **Unofficial traffic signs or signals.** Any sign which contains or imitates an official traffic sign or signal, except for private, on-premises directional signs which do not interfere with traffic flows on public roads.
- (3) **Off premises advertising signs.** Off premises advertising signs except as specifically allowed.
- (4) **Signs with moving parts, moving lighting or animation.** No sign shall display any moving parts, be illuminated with any flashing or intermittent lights, use changing light intensity, utilize spotlights giving off an intermittent or rotating beam existing as a collection or concentration of rays of light (including but not limited to revolving beacons, beamed lights, or similar devices), or be animated. The only exceptions to this provision include allowable changeable copy signs; barbershop poles; and static time, temperature, and price information changing only when necessary (which shall be allowed provided the message depicted is reasonably accurate),.
- (5) **Roof signs.**
- (6) **Banners, pennants, ribbons, streamers.** No sign which contains or consists of banners, pennants, ribbons, streamers, string of light bulbs, spinners, or similar devices; except when used for non-commercial purposes, as a governmental sign, or as part of an approved master sign program or special event temporary sign permit.
- (7) **Portable signs.** Including but not limited to signs with wheels removed, attached temporarily or permanently to the ground, structure or other signs, mounted on a vehicle for advertising purposes, parked and visible from the public right-of-way, hot air or gas filled balloons or semitruck umbrellas used for advertising. This prohibition shall not include business vehicle identification signs when the vehicle is being used for the normal day-to-day operations of a permitted business.
- (8) **Signs supported by a guy wire.**
- (9) **Billboards.**
- (10) **Electronic Variable Message Signs.**

**(11) Signs on natural surfaces.** No sign shall be painted, attached or in any other manner affixed to trees, rocks, or similar naturally occurring surfaces within the City of Lake Elmo. This shall not prohibit the use of natural building materials (e.g. boulders) in the construction of a legally permitted sign.

**(12) Snipe signs.**

**(O) Public lands and rights-of-way.** No signs other than governmental signs shall be erected or temporarily placed within any street right-of-way or upon public lands or easements or rights-of-ways without Council approval.

**(P) Regulations for Specific Sign Types**

**(1) Wall signs**

- (a) A wall sign shall be located on the outermost wall of any principal building but shall not project more than 16 inches from the wall to which the sign is to be affixed.
- (b) A wall sign shall not project higher than the parapet line of the wall to which the sign is to be affixed.
- (c) Wall signs authorized by a Master Sign Program shall not exceed 25 square feet per business, and all signs shall be visually consistent in location, design, and scale.
- (d) Wall signs may be placed on not more than three walls of rectangular shaped structures or not more than 75 percent of the major walls on non-rectangular shaped buildings.

**(2) Mural Sign.**

- (a) Mural signs shall not be limited in size, but any commercial or non-commercial language incorporated into the mural sign shall be limited in size by the restrictions established for the applicable zoning district.
- (b) In addition to the standard conditional use criteria in section 154.018, mural signs shall also be subject to the following:
  - i. The location for the proposed mural sign shall be viewable by the public and be accessible;
  - ii. The scale and suitability of the mural sign shall be appropriate in the context of the surrounding properties;
  - iii. The artist(s) commissioned to complete the mural must provide documentation of demonstrated craftsmanship on similar projects;
  - iv. The applicant shall provide sureties to the city guaranteeing completion of the project within the proposed timeframe;



- v. The applicant shall demonstrate that the necessary funds are available for the proposed project;
- vi. The applicant must be able to show the final mural will last a minimum of five years and be reasonably resistant to vandalism and weather.

**(3) Projecting, Awning, and Canopy Signs.**

- (a) Projecting signs and awning signs shall be located on street level.
- (b) If lighted, projecting, awning, and canopy signs shall use indirect illumination.
- (c) Awning or canopy signs shall not project higher than the top of the awning or canopy or below the awning or canopy.
- (d) Clearance. The bottom of a projecting sign or awning shall be a minimum of eight feet (8') above the ground surface when projecting over a private or public walkway.

**(4) Freestanding Signs.** Freestanding signs shall not be erected or maintained any closer than three feet to any building.

**(Q) Separation Angle.** So as not to create a double exposure or increase sign size limitations, there shall be a maximum separation angle of forty-five degrees for signs which are back to back. In all residential districts, double-faced signs shall be parallel.

**(R) Signs needing electricity.** Signs needing electricity shall be subject to all applicable electrical codes as may be amended. Overhead wiring for such signs is prohibited.

**(S) Special Sign Districts.** All general sign regulations shall apply to signs within each of the special sign districts except as specifically noted herein.

**(1) Old Village.**

- (a) Boundary. The boundary of the Old Village Sign District is depicted on the city's official sign district map. Modifications to the district boundary may be completed using the zoning map amendment process.
- (b) Illumination. Indirect illumination or reverse lit letters shall be the permitted techniques for lighting all signs within the Old Village Sign District. Other forms of direct illumination are prohibited.

(c) Wall Signs.

- i. Wall signs in the Old Village Sign District shall not project higher than the parapet line of the wall to which the sign is to be affixed or 15 feet as measured from the base of the building wall to which the sign is affixed, whichever is lower.
- ii. Wall signs in the Old Village Sign District authorized by a Master Sign Program shall not exceed 20 square feet per business, and all signs shall be visually consistent in location, design, and scale.

(d) Freestanding Signs.

- i. The area of a freestanding sign in the Old Village Sign District shall not exceed thirty (30) square feet.
- ii. Freestanding signs in the Old Village Sign District shall not project higher than 12 feet, as measured from the average grade at the base of the sign or grade of the nearest roadway, whichever is lower.

**(2) Agricultural Sales District**

- (a) Boundary. The Agricultural Sales District shall include all properties zoned Agricultural or Rural Residential.
- (b) On-premises sign(s). Independent of the total allowable sign area for an individual property within the agricultural sales district, one or more additional 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. Sign(s) shall be in the form of an allowable sign type in the underlying zoning district.



- v. No dimension of any sign shall exceed 15 feet exclusive of supporting structures.
  - vi. Any illuminated sign shall be illuminated only during those hours when business is open to the public for conducting business.
- (c) Temporary off-premises sign(s). 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 two off-premises signs at any given time to direct the public to the location of the business.
  - ii. Timeframe of use. Temporary off-premises signs may be erected for 45-day time periods no more than four times in any given calendar year. The required temporary sign permit shall stipulate the range of dates for each of the four 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' from all side property lines, and a minimum of 50' 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.

**(3) I-94 District (optional)**

- (a) **Boundary.** The I-94 district shall include parcels within the BP, GB, HB, CB, and LB zoning districts which meet the following criteria:
- i. The property is a buildable lot located to the south of Hudson Boulevard and to the north of Interstate 94.
  - ii. The property's southern boarder abuts Hudson Boulevard, and is not directly north—either wholly or partially—of a developable parcel lying between Hudson Boulevard and Interstate 94.
- (b) **Illumination.** All forms of illumination which conform to the general illumination standards for all signs shall be the permitted within the I-94 Sign District.

- (c) **Maximum total square footage of ALL sign surfaces.** The maximum total square footage of all sign surfaces in the I-94 district shall be dictated by the maximum sign sizes for allowable sign types.
  - (d) **Wall Signs.** The least restrictive of the following may be used to determine the allowable area for wall signs in the I-94 District:
    - i. The total area of all wall signs on any wall shall not exceed ten percent of the area of the wall with a maximum allowable area of 80 square feet; or
    - ii. The total area of all wall signs on any wall shall not exceed five percent of the area of the wall with a maximum allowable area of 300 square feet.
  - (e) **Freestanding Signs.** In lieu of a freestanding sign meeting underlying zoning requirements, a building site within the I-94 District may have one freestanding sign within 50 feet of the property line nearest the Interstate provided the sign does not exceed 150 square feet per side (300 square feet total) or 30 feet in height. The base of such a sign shall be at least 75 percent of the width of the sign and be constructed of materials that match those used on the building for which the sign is installed.
  - (f) **Window Signs.** Window signs in the I-94 district shall not cover more than 1/3 of the window area.
  - (g) **Awning, Canopy, and Projecting Signs.** One awning, canopy or projecting sign, in conformance with the underlying zoning requirements for height, location, and maximum size may also be erected for each business on a building site in the I-94 District.
- (T) **Substitution Clause.** The owner of any sign which is otherwise allowed by this sign ordinance may substitute non-commercial speech signs in lieu of any other commercial speech sign or other non-commercial speech sign. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial speech over any other non-commercial speech. This provision prevails over any more specific provision to the contrary.



**(U) Temporary Signs.**

- (1) **Special Events.** Temporary signs may be allowed upon issuance of a permit for on-site advertising of special events such as openings and closings, change in management, sales events, or other special occasions. No more than four temporary sign permits may be issued in any calendar year for a given destination, and each temporary sign permit shall run for 15 days. Temporary signs for special events shall be subject to the following regulations:

- (a) Only one on-premises temporary sign shall be allowed per business or event.
- (b) Temporary signs shall be in the form of an allowable sign type in the underlying zoning district.
- (c) Temporary signs shall not exceed 32 square feet in area and shall not be taller than 10 feet in height.

- (2) **Residential development advertising signs.** Independent of the total allowable sign area for individual properties or residences within a residential zoning district, one or more additional ground signs may be erected within a newly established unified residential area development subject to the following:

(a) **Minimum Development Size**

- i. Projects of less than 25 acres which create ten or more dwelling units are allowed one (1) on-premises ground sign not to exceed 100 square feet of advertising surface;
- ii. Projects of 26 through 50 acres which create ten or more dwelling units are allowed 1 or 2 on-premises ground signs not to exceed 200 aggregate square feet of advertising surface on the project site; and
- iii. Projects over 50 acres which create ten or more dwelling units are allowed 1, 2, or 3 on-premises ground signs not to exceed 200 aggregate square feet of advertising surface on the project site.

(b) **Restrictions.**

- i. No dimension shall exceed 25 feet exclusive of supporting structures.
- ii. The sign shall not remain once 90% of the lots in the development have been issued building permits.
- iii. The permit for the sign must be renewed annually by the Council.

- iv. Only indirect illumination is permitted and shall only occur during those hours when an on-site sales office or model home is open for conducting business.

**(3) Temporary Off-Premises Signs.** Temporary off-premises signs may be erected if all of the following criteria are met:

- (a) The destination to which the off-premises sign is advertising is a property for sale;
- (b) An agent must be present at the destination property for sale, and the property must be open for viewing.
- (c) The sign must be located on private property, and permission must have been obtained from the private property owner to erect the temporary sign;
- (d) The temporary off-premises sign shall not exceed six (6) square feet in size;
- (e) The temporary off-premises sign shall not cause the total square feet of signage on a property to exceed the allowed maximum in the underlying zoning district.

**(V) Warning Signs.** Warning signs which do not exceed the minimum statutory requirements for size and number may be posted, and shall not count towards the overall permitted signage on a given property. Increases in either size or number over minimum statutory requirements shall count against the overall permitted signage on a given property unless authorized by conditional use permit which finds sufficient evidence that larger or more frequent signage is necessary to provide the intended warning.



## 151.118 Specific Regulations by Zoning District

- (A) **Sign Setbacks.** Signs shall conform to the set back regulations listed in table 1 for the zoning district in which the signs are located except as may be specifically exempted or restricted in sections 151.117 and 151.118.

Table 1: SETBACKS BY ZONING DISTRICT [1]														
	Base Zoning Districts													
	A	RR	RI	R2	R3	R4	RE	OP	GB	HB	CB	LB	BP [2]	PF
Front Lot Line	5	5	5	5	5	5	5	5	1	1	1	1	1	5
Side Lot Line	5	5	5	5	5	5	5	5	5	5	5	5	5	5
Rear Lot Line	5	5	5	5	5	5	5	5	10	10	10	10	10	5
Vehicular Access	5	5	5	5	5	5	5	5	15	15	15	15	15	5
<p>[1]: Awning/Canopy signs, mural signs, projecting signs, wall signs, or window signs proposed to be located on a building legally non-conforming to setback requirements shall be permitted without a variance provided all other zoning code provisions are met.</p> <p>[2]: Signs within Business Parks shall also adhere to the requirements of a master sign program approved by the City Council in conjunction with the business park establishment.</p>														

- (B) **Allowable Sign Area.** The maximum allowable sign area for an individual sign and for total site signage is listed in table 2 by zoning district. These maximums shall apply except as may be specifically exempted or restricted in sections 151.117 and 151.118.

**Table 2: ALLOWABLE SIGN AREA BY ZONING DISTRICT**

District(s)	Maximum sign area in square feet (per surface) by sign type [1]								Maximum total square footage of ALL sign surfaces
	Awning/Canopy Sign	Ground Sign [2]	Monument Sign [2]	Mural Sign	Pole Sign [2]	Projecting Sign	Wall Sign	Window Sign	
A, RR, R1, R2, RE, OP [3]		6		C	6		6	6	12 square feet
R3 & R4 [3]		12		C	12		12	12	24 square feet
GB, HB, CB, LB, BP, & PF	[4]	30	60	C	30	6	[5]	No max	1.0 square foot per lineal foot of building parallel or substantially parallel to public road frontage (excluding alleys). [6]

[1]: Sign types with shaded cells are prohibited in the applicable zoning district(s). Sign types with a maximum sign area of "C" shall require a conditional use permit.

[2]: Ground, monument, or pole signs, where permitted, shall be limited to one (1) per commercial establishment.

[3]: All sign types in residential districts shall have no more than two (2) surfaces.

[4]: The gross surface of an awning or canopy sign shall not exceed 30% of the gross surface area of the smallest face of the awning or canopy of which the sign is to be affixed.

[5]: On any wall parallel or substantially parallel to a public roadway, the gross surface area of a wall sign shall not exceed 0.75 square feet for each lineal foot of building facing the applicable roadway. For walls not facing a public roadway, the maximum wall sign size shall be twelve (12) square feet.

[6]: Open sales lots or other approved uses on lots without a building shall be limited to thirty (30) square feet of total sign surfaces.

- (C) **Freestanding Sign Height.** The maximum allowable sign height for a freestanding sign is listed in table 3 by zoning district. These maximums shall apply except as may be specifically exempted or restricted in sections 151.117 and 151.118.

<b>Table 3: ALLOWABLE FREESTANDING SIGN HEIGHT IN FEET BY ZONING DISTRICT</b>														
	Base Zoning Districts													
	Residential Districts								Business Districts					
	A	RR	R1	R2	R3	R4	RE	OP	GB	HB	CB	LB	BP	PF
Allowable Height in feet	5	5	5	5	8	8	5	5	20	20	20	20	20	20

#### **151.119 Sign Variances**

Variances from sign provisions shall be administered in accordance with section 154.017, and shall be subject to the following additional requirements:

- The sign(s) shall be compatible with the character of the adjacent buildings and with the character of the adjacent neighborhood;
- The sign(s) shall have good scale and proportion in the visual relationship to buildings and adjacent areas;
- The material, size, color, lettering, location, and arrangement of the sign(s) is an integral part of the site and building design; and/or
- The colors, materials, and lighting of the sign(s) are restrained and harmonious, as interpreted by the City Planner.

## SIGNS

### § 151.115 PURPOSE.

Signs have an impact on the rural character and quality of the environment in Lake Elmo. They may attract or repel the viewing public and affect the safety of vehicular traffic. As a rural community, Lake Elmo is unique. The proper control of signs is of particular importance because of this rural quality and uniqueness. Signs should be kept within reasonable boundaries consistent with the objectives and goals of the community to retain its special character and economic advantages which rest in part on the quality of its appearance. The following standards in the section are adopted to regulate signs.

(1997 Code, § 535.01)

### § 151.116 PERMIT REQUIRED.

- (A) No sign shall be erected, altered, reconstructed, maintained or moved in the city without first securing a permit from the city. The content of the message or speech displayed on the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit.
- (B) **Permanent Signs.** To apply for a permanent sign permit, a complete application shall be submitted to the City containing the following:
1. Names and addresses of the applicant, owners of the sign, and lot;
  2. The address at which the sign(s) are to be erected;
  3. The legal description of the property on which the sign(s) are to be erected and the street on which they are to front;
  4. A complete set of scaled plans showing the sign dimensions, area, height, ground elevations, applicable setbacks, and other details to fully and clearly represent the safe construction and placement of the proposed sign(s);
  5. Type of sign(s) being requested (i.e. wall sign, monument sign, etc.);
  6. The permit fee; and
  7. The following if applicable:
    - a. Written authorization from the property owner upon who's land the sign is to be erected.
    - b. A permit from either MnDOT or Washington County if the proposed sign is along a state highway or county road.

**Comment [b1]:** This language was revised by the 2008 Ordinance update for Agricultural signs, and is included in section 151.115(A)(1) in the new ordinance.

**Comment [b2]:** Language requiring sign permits is still located in section 151.116 within the new code.

**Comment [b3]:** Now in section 151.116 (A) in the new ordinance

- c. A sign plan showing signs for all businesses if the sign is located on a building with more than one business.
- d. Photographs of the building face and the building faces of both adjacent buildings if the sign is being placed on an existing structure.
- e. If replacing a historical sign, pictorial proof or other information that the sign is of historical significance or is a reproduction of a historic sign.

**Comment [b4]:** Now in section 151.116 (A)(1) in the new ordinance

(C) **Temporary Signs.** To apply for a permit to allow a temporary sign, a complete application shall be submitted to the City containing the following:

1. Names and addresses of the applicant, owners of the sign, and lot;
2. The address at which the sign(s) are to be erected;
3. A generalized plan set showing the sign dimensions and height, and a notation of the materials to be used.
4. A scaled site plan which clearly represents the placement of the proposed sign(s) on the applicable property;
5. The proposed timeframe(s) over which the sign(s) will be posted;
6. The permit fee; and
7. The following if applicable:
  - a. Written authorization from the property owner upon who's land the sign is to be erected.
  - b. A permit from either MnDOT or Washington County if the proposed sign is along a state highway or county road.

**Comment [b5]:** Now in section 151.116 (A)(2) in the new ordinance

(D) **Temporary Sign Renewal.** A temporary sign permit issued by the City may be renewed provided the sign design, size, location, or other previously approved details are not proposed to change. A sign renewal application shall include the following:

1. Names and addresses of the applicant, owners of the sign, and lot;
2. The address at which the sign(s) are to be erected;
3. The date of issuance of the permit being renewed;
4. The proposed timeframe(s) over which the sign(s) will be posted;



5. Written authorization from the property owner upon who's land the sign is to be erected (if applicable); and
6. The permit renewal fee.

**Comment [b6]:** Now in section 151.116 (A)(3) in the new ordinance

- (E) **Review.** The planning department shall approve or deny complete sign permit applications upon receipt of a complete application. If the permit is denied, the planning department will send a written notice of denial to the applicant. The written notice will indicate the reason(s) for denial and a description of the applicant's appeal rights.

**Comment [b7]:** Now in section 151.116 (A)(4) in the new ordinance

## § 151.117 DEFINITIONS.

Unless specifically defined within §§ 151.115 *et seq.*, common definitions, words, and phrases used in this code shall be interpreted so as to give them the same meaning throughout this code, and are found in § 11.01.

(1997 Code, § 535.03)

"Off-premise sign" – 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.

**Comment [b8]:** This section will be revised throughout the ordinance process in accordance with changes being made in any given section. It must be reviewed last to ensure all needed definitions are in place.

"On-premise sign" – a sign which identifies or advertises an establishment, person, activity, goods, products or services located on the premises where the sign is installed.

"Permanent Sign" – 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" – 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, 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, 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, Wayside Stand” – A sign located on a temporary structure or vehicle being used to sell agricultural, floricultural, or horticultural products.

“Temporary Sign” – Any sign intended for display over a short period of time.

**Comment [b9]:** All definitions were added to 151.115 (C) within the new ordinance

## § 151.118 SIGNS; GENERALLY.

(A) The following provisions apply to signs located in all zoning districts.

**Comment [b10]:** General standards are now located in section 151.117

(B) (1) *Maintenance.* All signs and structures shall be properly maintained and shall be constructed of sufficiently permanent material so that they shall not succumb to deterioration from weathering any existing sign or sign structure which is rotted, unsafe, deteriorated, defaced, or otherwise altered, shall be repainted, repaired, replaced, or removed as necessary.

**Comment [b11]:** This language was split into two requirements, and placed in sections 151.116(E)(1&2)

(2) *Electrical signs.* When electrical signs are installed, the installation shall be subject to the state's electrical code. Overhead electrical wiring is not allowed.

**Comment [b12]:** Now in section 151.117(R) – edited for clarity to include codes “as may be amended”

(3) *Public lands and rights-of-way.* No signs other than governmental signs shall be erected or temporarily placed within any street right-of-way or upon public lands or easements of rights-of-ways without Council approval.

**Comment [b13]:** Now in section 151.117(O)

(4) *Ingress or egress.* No sign or structure shall be erected or maintained if it prevents free ingress or egress from any door, window, or fire escape. No sign or sign structure shall be attached to a standpipe or fire escape.

**Comment [b14]:** Same language maintained in section 151.117(G)

(5) *Temporary signs.* Temporary signs may be allowed upon issuance of a permit for on-site advertising of special business events such as openings and closings, change in management, , sales events, or other special occasions. No more than four temporary sign permits may be issued in any calendar year for a given destination, and each temporary sign permit shall run for 15 days. Temporary signs shall be subject to the following regulations:

- a. Only one on-premises temporary sign shall be allowed per business or event.
- b. Temporary signs shall not exceed 32 square feet in area and shall not be taller than 10 feet in height.

**Comment [b15]:** Now in section 151.117 (U)(1) – minor edit to switch sign type from “ground sign” to “allowed sign types in the underlying zoning district.”



(6) *Abandoned sign structures.* Sign structures not used for signing for 12 consecutive months shall be considered abandoned and shall be removed.

**Comment [b16]:** Edited and placed in section 151.117 (A)

(7) *Compatibility.* All signs shall be compatible with the building and area in which they are located. **(Too vague – Removed)**

(8) *Flags.* No more than 3 properly displayed flags may be displayed outside of the building.

**Comment [b17]:** Now in section 151.117 (E) – edited to include a maximum flag size

(9) *Preservation of visual impact of architectural features.* A sign shall not obscure architectural features of a building to which the sign is attached. **(Too vague; architectural features can be practically anything...need to differentiate types of features to be protected if this is included – Removed)**

**Comment [b18]:** Now in section 151.117 (B) -- edited to address number height and building identification markers/plaques

(10) *Building address.* A building address shall not be considered a sign.

(11) *Graphic design signs.* Graphic design signs shall require a conditional use permit.

**Comment [b19]:** Replaced with section 151.117 (P)(2) -- edited to require greater scrutiny over "mural" signs

(12) *Conditions of waiver.* The terms of §§ 151.115 *et seq.* may be waived if the sign is a historic resource or if the sign is a proposed reproduction of a historic sign. **(removed – variance would now be needed for any waiver of sign requirements)**

(13) *Computations.* Dimensions of signs shall be calculated in the following manner:

a. Sign Area Measurement.

The area of a sign shall be computed by means of the smallest rectangle within which a single sign face can be enclosed. When a sign has two back-to-back sign faces containing sign copy, the sign area for just one face is counted toward the allowed sign area. Poles, bases, and other supports shall not be included in the sign area calculation.

b. Sign Height Measurement

The height of the sign shall be computed as the vertical distance measured from the average grade at the base of the sign to the top of the highest attached component of the sign.

**Comment [b20]:** Now in section 151.116 (D)

## § 151.119 PERMITTED SIGNS.

(A) The following signs are allowed without a permit in all zoning districts, but shall comply with all other applicable provisions of §§ 151.115 *et seq.*:



(B) (1) *Public signs.* Signs of public, non-commercial nature including safety signs, danger signs, trespassing signs, traffic signs, signs indicating scenic or historical points of interest, memorial plaques and the like, when signs are erected by or on order of a public officer or employee in the performance of official duty.

**Comment [b21]:** Now in sections 151.116 (B)(4) and 151.117(O) -- now just covered by the definition for governmental signage along with language allowing such signs on public lands and ROWs

(2) *Integral signs.* Names on buildings, date of construction, commemorative tablet, and the like, which are permanent construction and which are an integral part of the building or the structure.

**Comment [b22]:** Now in section 151.117 (B) -- edited for clarity and combined with language governing house numbers

(3) *Political signs.* Signs or posters announcing candidates seeking political office or issues to be voted upon at a public election, the signs must contain the name and address of person(s) responsible for its removal. **(Based on content – removed)** These signs shall be erected no more than 45 days before any election and be removed 10 days after the general election for which they are intended. The city shall have the right to remove and destroy signs after the 10-day limit.

**Comment [b23]:** Now in section 151.117 (L) -- edited for clarity

(a) *Size.*

1. *Residential Districts.* The maximum sign size shall be 6 square feet in area with a maximum height of 4 feet.

**Comment [b24]:** Now in sections 151.118 (B & C) -- residential height raised to 5 feet in general for residential signs

2. *Commercial Districts.* The maximum size shall be 35 square feet in area. **(eliminated in favor of general size restrictions during non-election times)**

(b) Notwithstanding these provisions, all non-commercial signs of any size may be posted from August 1 in a state general election year until 10 days following the state election.

**Comment [b25]:** Now in section 151.117 (B) -- edited for clarity

(4) *Holiday messages.* Signs or displays which contain or depict messages pertaining to a national, state, or local holiday and no other matter and which are displayed for a period not to exceed 60 days; **(Based on content – removed)**

(5) *Construction signs.* A non-illuminated sign announcing the names of architects, engineers, contractors, or other individuals or firms involved with the construction, alteration, or repair of a building (but not including any advertisement of any product) or announcing the character of the building enterprise or the purpose for which the building is intended. The signs shall be confined to the site of the construction, alteration, or repair and shall be removed within 2 years of the date of issuance of the first building permit or when the particular project is completed, whichever is sooner. One sign shall be permitted for each street the project abuts. No sign may exceed 32 square feet in multi-family residential, commercial, and industrial districts, and 12 square feet in single-family residential districts; **(Based on content – removed)**

(6) *Individual property sale, lease, or rental sign.* An on-premise sign announcing the name of the owner, manager, realtor, or other person directly involved in the sale or rental of the property or announcing the purpose for which it is being offered. The signs are limited to 6 square feet in residential districts and 32 square feet in commercial districts. Signs must be removed within 10 days after sale or rental of property; **(Based on content – removed)**

(7) *Rummage sale signs.* Signs advertising a rummage sale not exceeding 4 square feet located on private property which conform to the applicable provisions of this title and are removed at the termination of the sale; **(Based on content – removed)**

(8) *Name plate signs.* **(Based on content – removed)**

(a) One name plate sign, placed on a wall of the structure, for each dwelling not exceeding 2 square feet in area per structure. No signs shall be constructed to have more than 2 surfaces.

(b) One name plate sign for each dwelling group of 6 or more units. The sign shall not exceed 6 square feet in area per surface. No signs shall be constructed to have more than 2 sides.

(9) *Real estate development project advertising signs.*

On premises real estate development project advertising signs may be used if the following requirements are met:

1. Minimum Development Size:

- i. Projects of less than 25 acres which create ten or more dwelling units are allowed 1 on-premises sign not to exceed 100 square feet of advertising surface;
- ii. Projects of 26 through 50 acres which create ten or more dwelling units are allowed 1 or 2 on-premises signs not to exceed 200 aggregate square feet of advertising surface on the project site; and
- iii. Projects over 50 acres which create ten or more dwelling units are allowed 1, 2, or 3 on-premises signs not to exceed 200 aggregate square feet of advertising surface on the project site.

2. On-premises sign requirements:

- i. No dimension shall exceed 25 feet exclusive of supporting structures.
- ii. The sign shall not remain once 90% of the lots in the development have been issued building permits.
- iii. The permit for the sign must be renewed annually by the Council.
- iv. All signs shall be bordered with a decorative material compatible with the surrounding area.
- v. Any illuminated sign shall be illuminated only during those hours when business is in operation or when the model homes or other development are open for conducting business.

**Comment [b26]:** Now in section 151.117(U)(2)

(10) *Agricultural sales advertising signs.*

- a. **On-Premises.** On-premises agricultural sales advertising signs may be used subject to the following requirements:

1. Acreage dedicated to agricultural production:

- 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 neither sign 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 exceeding 32 square feet in size);

2. On-premises sign requirements:

- i. No dimension of any sign shall exceed 15 feet exclusive of supporting structures.



- ii. The permit for the sign must be renewed annually by the Council.
  - iii. All signs shall be bordered with a decorative material compatible with the surrounding area.
  - iv. Any illuminated sign shall be illuminated only during those hours when business is open to the public for conducting business.
- b. **Off-premises.** An off-premises agricultural sales advertising sign may be used if the following requirements are met:
- 1. **Maximum Number.** Every agricultural sales business shall have no more than two off-premises signs at any given time to direct the public to the location of the business.
  - 2. **Off-premises sign requirements:**
    - i. 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;
    - ii. Off-premises signs shall be a minimum of 25' from all side property lines, and a minimum of 50' from other off-premises advertising signs;
    - iii. Applicants for off-premises signs shall acquire permission from the property owner upon who's land the sign is to be erected.
  - 3. **Timeframe of use.** Either one or two off-premises agricultural sales advertising sign(s) may be erected for a 45-day time period no more than four times in any given calendar year. The required yearly permit shall stipulate the range of dates for each of the four allowable time periods.

**Comment [b27]:** Now in section 151.117(S)(2)

(11) *Wayside Stand sign.* Temporary wayside stands permitted by code may have one non-illuminated sign (exempt from permitting requirements) not to exceed 32 gross square feet of advertising surface.

**Comment [b28]:** Addressed by "Business Vehicle Identification Signs" in the new ordinance

(12) *Window signs.* No sign permit is required for window signage that does not cover more than 1/3 of the total area of the window in which the sign is displayed; and

**Comment [b29]:** Now in section 151.116 (B)(3) – removed the 1/3 threshold as part of the transition such that window signage in general will no longer require a permit.

(13) *No trespassing/no hunting signs.* No trespassing and no hunting signs shall be no larger than 2 square feet.

**Comment [b30]:** Now in section 151.117 (N)

(1997 Code, § 535.05) Penalty, see § 10.99

## § 151.120 PROHIBITED SIGNS IN ALL ZONING DISTRICTS.

(A) The following signs are prohibited in all zoning districts.

(B) (1) *Signs obstructing vision.* Any sign which obstructs the vision of drivers or pedestrians or detracts from the visibility of any official traffic-control device.

(2) *Unofficial traffic or signals.* Any sign which contains or imitates an official traffic sign or signal, except for private, on-premises directional signs.

(3) *Off premises advertising signs.* Off premises advertising signs except as regulated in §§ 151.115 *et seq.*

(4) *Moving or rotating signs.* Any sign which moves or rotates, including electronic reader board signs, except approved time and temperature information signs and barber poles.

(5) *Illuminated or flashing lights.* No sign shall display any moving parts, be illuminated with any flashing or intermittent lights or shall be animated, except time and temperature information. All displays shall be shielded to prevent any light to be directed at oncoming traffic in the brilliance as to impair the vision of any driver. No device shall be illuminated in a manner as to interfere with or obscure an official traffic sign or signal. This includes indoor signs that are visible from public streets.

(6) *Roof signs.*

(7) *Banners, pennants, ribbons, streamers.* No sign which contains or consists of banners, pennants, ribbons, streamers, string of light bulbs, spinners, or similar devices, except where used for non-commercial purposes or part of an approved sign plan.

(8) *Portable signs.* Including but not limited to signs with wheels removed, attached temporarily or permanently to the ground, structure or other signs, mounted on a vehicle for advertising purposes, parked and visible from the public right-of-way, except signs identifying the related business when the vehicle is being used on the normal day-to-day operations of that business, hot air or gas filled balloons or semitruck umbrellas used for advertising.

(9) *Building walls.* Signs painted directly on building walls unless approved by a sign permit.

(10) *Illuminated signs or spotlights.* Illuminated signs or spotlights giving off an intermittent or rotating beam existing as a collection or concentration of rays of light.

**Comment [b31]:** Prohibited signs are now listed in section 151.117(N)

**Comment [b32]:** Now in section 151.117 (N)(1)

**Comment [b33]:** Now in section 151.117 (N)(2)

**Comment [b34]:** Now in section 151.117 (N)(3)

**Comment [b35]:** Now in section 151.117 (N)(4) -- combined with other prohibited sign language for clarity

**Comment [b36]:** Now in section 151.117 (N)(4) -- combined with other prohibited sign language for clarity

**Comment [b37]:** Now in section 151.117 (N)(5)

**Comment [b38]:** Now in section 151.117 (N)(6)

**Comment [b39]:** Now in section 151.117 (N)(7)

**Comment [b40]:** Replaced with section 151.117 (P)(2) -- edited to require greater scrutiny over "mural" signs

**Comment [b41]:** Now in section 151.117 (N)(4) -- combined with other prohibited sign language for clarity



(11) *Revolving beacons, beamed lights, or similar devices.*

(12) *Signs supported by a guy wire.*

(13) *Graphic design signs without conditional use permit.*

(14) *Billboards.*

**Comment [b42]:** Now in section 151.117 (N)(4) -- combined with other prohibited sign language for clarity

**Comment [b43]:** Now in section 151.117 (N)(8)

**Comment [b44]:** Replaced with section 151.117 (P)(2) -- edited to require greater scrutiny over "mural" signs

**Comment [b45]:** Now in section 151.117 (N)(9)

(1997 Code, § 535.06) Penalty, see § 10.99

## § 151.121 PERMITTED SIGNS BY ZONING DISTRICT.

**Comment [b46]:** The table in 151.118(B) identifies allowable sign types by zoning district.

### (A) *Permitted signs in residential districts.*

(1) Professional name plate wall signs, not exceeding 2 square feet in area;  
**(Based on content – removed)**

(2) Memorial signs or tablets, names of buildings, and the date of erection when cut into a masonry surface or when constructed of bronze or other incombustible material;

**Comment [b47]:** Now in section 151.117 (B)(1)

(3) Political signs as regulated in §§ 151.115 *et seq.*; **(Based on content – removed)**

(4) Individual property sale, lease, or rental, as regulated in §§ 151.115 *et seq.*; **(Based on content – removed)**

(5) Construction signs as regulated in §§ 151.115 *et seq.*; and **(Based on content – removed)**

(6) Bulletin boards or public information signs not over 32 square feet located only on the premises of public, charitable, or religious institutions. **(Based on content – removed)**

(B) *Permitted signs by a sign permit in the "Old Village" (south of State Highway 5) in the General Business (GB) Zoning District.*

**Comment [b48]:** Specialized Old Village regulations are now in section 151.117(S)(1)

(1) *Number.* One wall, monument, awning, and canopy or 3-dimensional sign is allow per business. When a building or business abuts 2 or more public streets, an additional sign located on each street building face is allowed. **(eliminated in favor of general total signage and location requirements)**

(2) *Sign plan.* When there is more than 1 business or use in a building with more than 1 sign, a building sign plan shall be provided with the sign permit application.

**Comment [b49]:** Now in section 151.117(I) which coordinates all existing language requiring a master sign program.



(3) *Other requirements.* See area, location, and height requirements below for type of sign selected.

(4) *Wall signs.*

(a) *Area.* The total building signage shall have an aggregate area not exceeding 0.75 square foot for each foot of the building face parallel or substantially parallel to a street or lot line. ~~(eliminated in favor of general total signage and location requirements)~~

(b) *Location.* A wall sign shall not project more than 16 inches from the wall to which the sign is to be affixed.

**Comment [b50]:** Addressed in the general sign standards in new section 151.117(P)(1)(a)

(c) *Height.* A wall sign shall not project higher than the parapet line of the wall to which the sign is to be affixed or 15 feet as measured from the base of the building wall to which the sign is affixed, whichever is lower.

**Comment [b51]:** Now in section 151.117(S)(1)(c)(i)

(d) *Internally illuminated signs.* No internally illuminated signs are allowed.

**Comment [b52]:** Now in section 151.117(S)(1)(b) -- edited for clarity to allow only indirect illumination and reverse lit letters.

(e) *Special conditions.* Where a principal building is devoted to 2 or more permitted uses, the operator of each use may install a wall sign for their particular use, a sign plan must be submitted for the entire building. ~~The total gross signage for the entire building shall not exceed 0.75 square feet for each foot of the building face parallel, or substantially parallel, to a street lot line (eliminated in favor of general total signage and location requirements)~~ with a maximum of 20 square feet per business.

**Comment [b53]:** Now in section 151.117(I) which coordinates all existing language requiring a master sign program

**Comment [b54]:** Now in section 151.117(S)(1)(c)(ii) -- edited for clarity

(5) *Freestanding signs.*

(a) *Area.* The area of pedestal type freestanding signs shall not exceed 30 square feet.

**Comment [b55]:** Now in section 151.117(S)(1)(d)(i)

(b) *Location.* A pedestal sign shall be located in any required yard but shall have a setback of 15 feet from any point of vehicular access, public roadway, or property line.

**Comment [b56]:** Now handled by the general city standards for signs setbacks in new section 151.118 (A)

(c) *Height.* A pedestal sign shall not project higher than 6 feet, as measured from the base of the sign or grade of the nearest roadway, whichever is lower.

**Comment [b57]:** Now in section 151.117(S)(1)(d)(ii)

(d) *Landscaping.* The area around a monument sign shall be landscaped.

**Comment [b58]:** Now in section 151.117 (H) -- edited to require landscaping around all signs in all districts in compliance with the city's existing landscaping codes.

(e) *Lighting.* Externally illuminated or back lit letters are allowed; no internally illuminated signs are allowed.

**Comment [b59]:** Now located in new section 151.117(S)(1)(b)

(6) *Awning and canopy signs.*

(a) The gross surface of an awning or canopy sign shall not exceed 30% of the gross surface area of the smallest face of the awning or canopy of which the sign is to be affixed.

**Comment [b60]:** Now in the table within new section 151.118 (B)(2)

(b) The awning or canopy sign shall not project higher than the top of the awning or canopy or below the awning or canopy.

**Comment [b61]:** Now in section 151.117(P)(3)(c)

**(7) Projecting signs.**

(a) The total area of a projecting sign shall be 6 square feet.

**Comment [b62]:** Now in the table within new section 151.118 (B)(2)

(b) All projecting signs shall be located on street level and easily visible from the sidewalk.

**Comment [b63]:** Now in section 151.117(P)(3)(a) as a general sign standard

(c) If lighted, projecting signs shall be externally illuminated.

**Comment [b64]:** Now in section 151.117(P)(3)(b) -- edited for clarity

**(C) Signs permitted in the Highway Business, Limited Business, General Business, and Business Park Zoning Districts.** All commercial office and industrial signs in Highway Business, Limited Business, General Business, and Business Park Zoning Districts require a sign permit.

**(1) Wall signs.**

(a) **Area.** The gross surface area of a wall sign shall not exceed 0.75 square feet for each foot of building, parallel, or substantially parallel to the front lot line. **(eliminated in favor of general total signage and location requirements)**

(b) **Location.** A wall sign shall be located on the outermost wall of any principal building but shall not project more than 16 inches from the wall to which the sign is to be affixed. **The location and arrangement of all wall signs shall be subject to the review and approval of the City Planner. (removed – too vague)**

**Comment [b65]:** Now in section 151.117 (P)(1)(a)

(c) **Height.** A wall sign shall not project higher than the parapet line of the wall to which the sign is to be affixed or 20 feet as measured from the base of the building wall to which the sign is affixed, whichever is lower.

**Comment [b66]:** Now in section 151.117 (P)(1)(b) -- edited to eliminate the 20 foot height maximum in favor of the parapet line maximum only.

(d) **Special conditions.** Where a principal building is devoted to 2 or more uses, the operator of each use may install a wall sign upon his/her proportionate share of the building wall to which the sign is affixed. A sign plan must be submitted for the entire building containing the following information:

**Comment [b68]:** Now in section 151.117 (I)

**Comment [b67]:** Now in section 151.117 (J)(2) -- edited for clarity.

1. The total gross signage for the entire building shall not exceed 1 square foot for each foot of building face parallel, or substantially parallel, to a street lot line



(eliminated in favor of general total signage and location requirements) or a maximum of 25 square feet per business;

2. The location, sizes, types, and elevations of all signs; and
3. All signs shall be visually consistent in location, design, and scale.

(2) *Freestanding signs.*

(a) The gross surface area of a ground sign shall not exceed 30 square feet for each exposed face nor exceed an aggregate gross surface area of 60 square feet.

(b) A ground sign may be set back 15 feet from front or side property lines.

(c) A ground sign shall not project higher than 6 feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is lower.

(d) There shall be 1 freestanding sign per development site. (removed – unnecessary for ALL businesses to have a ground, monument, or pole sign)

(3) *Multi-tenant Master Sign Program.* A building Master Sign Program shall be required (for multi-tenant commercial buildings) besides the individual tenant and occupant signs. A building master identification sign may be permitted according to the following requirements.

(a) Building master identification signs shall not contain the names of any tenants or occupants of the center.

(b) If the multi-tenant commercial building has a floor area of 40,000 square feet or less, the building may have a freestanding sign with a maximum of 1 square foot of sign for each 5 feet of building frontage or 40 square feet maximum in height of 8 feet.

(c) If a multiple tenant commercial building has a floor area greater than 40,000 square feet, but less than 100,000 square feet, the center may have a master identification sign with a maximum of 75 square feet on each side and with a maximum height of 9 feet.

(d) If a multiple tenant commercial building has a floor area of greater than 100,000 square feet, the center may have a master identification sign with a maximum area of 120 square feet on each side and a maximum height of 15 feet.

(1997 Code, § 535.07) Penalty, see § 10.99

§ 151.122 DIRECTORY SIGNS.

Comment [b69]: Now in section 151.117 (P)(1)(c)

Comment [b70]: Now in section 151.117 (I)(I)

Comment [b71]: Now in section 151.117 (P)(1)(c)

Comment [b72]: Now in section 151.118 (B)

Comment [b73]: Now in section 151.118 (A)

Comment [b74]: Consistent with the new definition for ground sign.

Comment [b75]: Now in section 151.117 (I) – edited for clarity

Comment [b76]: Now in section 151.117 (U)(1) – edited for clarity

Comment [b77]: Now in section 151.117 (J)(1)(a)

Comment [b78]: Now in section 151.117 (J)(1)(b)

Comment [b79]: Now in section 151.117 (J)(1)(c)

(A) *Generally.* Directory signs are used to guide pedestrians to individual businesses within a multiple tenant commercial area and are permitted.

(B) *Placement.*

(1) Sign must be placed on the site of the development.

(2) Sign shall be erected only in internal pedestrian access areas and not in vehicle access areas.

(3) Directory signs area to be used for the purpose of direction and identification only.

(4) Directory signs may be freestanding but shall not exceed 4 feet in height.

(C) *Area.* A directory sign may have maximum area of 1 square foot for each business listed on the sign and 4 square feet for the name of the building or complex.

(1997 Code, § 535.08) Penalty, see § 10.99

Comment [b80]: Replaced by new section 151.117(M)

### **§ 151.123 AUTOMOBILE SERVICE STATION SIGNS. (This section and all subsections were removed because they are content specific)**

(A) Automobile service stations are allowed 1 wall sign and 1 ground sign subject to the following conditions.

(B) (1) *Wall signs.* There shall be no more than 1 wall sign per building face with a maximum sign area of 0.75 square feet for each lineal foot of building frontage.

(2) *Freestanding signs.* There shall be no more than 1 freestanding sign for each principal building. A freestanding sign shall be set back 15 feet from the front and side property line. A freestanding sign shall not project higher than 6 feet as measured from grade or contain more than 30 square feet of signage.

(3) *Service bay and island identification signs.* Service bay and island identification signs are permitted providing direction or instructions to persons using the facility, but shall contain no advertising material of any kind.

(1997 Code, § 535.09) Penalty, see § 10.99

### **§ 151.124 VARIANCE STANDARDS.**

(A) *Variances.* The Planning Commission shall hear requests for a variance to the literal provisions of §§ 151.115 *et seq.* in instances where the strict enforcement would cause an undue hardship because of circumstances unique to the individual property under consideration and to grant the variance only when it is demonstrated that:

(1) There are extraordinary circumstances that apply to this property which do not generally apply to other properties in the same zone. These circumstances may include the narrowness, shallowness, shape, and topography of the parcel of land or setback from right-of-way;

(2) The literal interpretation of the provisions of the sign ordinance deprives the applicant rights commonly enjoyed by other properties in the same district under the terms of the sign ordinance;

(3) The special circumstances are not the result of the applicant;

(4) The granting of the variances requested do not confer on the applicant a special privilege that is denied by §§ 151.115 *et seq.* to owners of other lands, structures, and building in the same district;

(5) The variances requested are the minimum variances, which would alleviate the hardship;

(6) The variance requested would not be materially detrimental to the purposes of the sign ordinance; and/or

(7) The design of the sign or signs are as follows:

(a) Compatible with the character of the adjacent buildings and with the character of the adjacent neighborhood;

(b) Have good scale and proportion in the visual relationship to buildings and adjacent areas;

(c) The material, size, color, lettering, location, and arrangement of the sign(s) is an integral part of the site and building design; and/or

(d) The colors, materials, and lighting of the sign(s) are restrained and harmonious, as interpreted by the City Planner.

(B) *Application.* An application for a variance to §§ 151.115 *et seq.* shall be processed according to the zoning code.

(1997 Code, § 535.10) |

<b>Comment [b81]:</b> Now in section 151.119
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**Section 151.125 SUBSTITUTION CLAUSE.**

The owner of any sign which is otherwise allowed by this sign ordinance may substitute non-commercial speech signs in lieu of any other commercial speech sign or other non-commercial speech sign. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial speech over any other non-commercial speech. This provision prevails over any more specific provision to the contrary.

Comment [b82]: Now in section 151.117 (T)

**Section 151.126 SEVERABILITY.**

If any section, subsection, sentence, clause, or phrase in sections 151.115 through 151.125 are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Sign Ordinance. The City Council hereby declares that it would have adopted the Sign Ordinance in each section, subsection, sentence, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Comment [b83]: Now in section 151.115 (B)



CITY OF LAKE ELMO  
COUNTY OF WASHINGTON  
STATE OF MINNESOTA

ORDINANCE NO. 14

AN ORDINANCE REPEALING EXISTING SIGN CODE REGULATIONS  
AND ADOPTING NEW REGULATIONS TO GOVERN SIGNS IN ALL  
ZONING DISTRICTS IN THE CITY OF LAKE ELMO

**SECTION 1.** The City Council of the City of Lake Elmo hereby amends Title I: General Provisions; Chapter 11: General Code Provisions, by amending section 11.01 Definitions to eliminate existing definitions as follows:

~~—SIGN, 3-DIMENSIONAL. A type of projecting sign which depicts a physical object, such as a shoe or product sold, as opposed to utilizing lettering to convey the signing message.~~

~~—SIGN, ADVERTISING. A sign that directs attention to a business or profession or to a commodity, service, or entertainment not sold or offered upon the premises, where the sign is located or to which it is attached.~~

~~—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 AREA. The area which is framed either physically or visually by the construction, design, or layout of a sign itself but not including supporting structures.~~

~~—SIGN, AWNING. Any sign that is painted on or attached to an awning.~~

~~—SIGN, BANNER. A temporary sign intended to be hung either with or without a frame possessing characters, letters, illustrations, or ornamentations applied to paper, plastic, or fabric of any kind excluding flags, emblems, and insignia or political, professional, religious, education, or corporate organizations providing that the flags, emblems, and insignia are displayed for non-commercial purposes.~~

~~—SIGN, BILLBOARD. A non-accessory sign erected for the purpose of advertising a product, event, person, or subject not usually related to the premises on which the sign is located.~~

~~—SIGN, BUILDING SIGN PLAN. An illustration that shows all signs on a building or group of related buildings.~~

~~—**SIGN, BUSINESS.** A sign that direct attention to a business or provision or to the commodity, service, or entertainment sold or offered upon the premises where the sign is located or to which it is attached.~~

~~—**SIGN, CITY IDENTIFICATION.** A sign that contains the name of the city, the city logo, and may also include identification of civic organizations located within the city.~~

~~—**SIGN, CONSTRUCTION.** A temporary sign placed at a construction site identifying the project or the name of the architect, engineer, contractor, financier, or other involved parties.~~

~~—**SIGN, DIRECTIONAL.** A sign which contains no advertising of any kind and provides direction or instruction to guide persons or vehicles to facilities intended to serve the public.~~

~~—**SIGN, ELECTRICAL.** An illuminated sign upon which the artificial light is not kept constant in terms of intensity or color at all times when the sign is illuminated.~~

~~—**SIGN, FLASHING.** An illuminated sign which as a light source not constant in intensity or color at all times while the sign is in use.~~

~~—**SIGN, FREESTANDING.** Any stationary, self-supporting sign standing on the ground not affixed to any other structure. Includes monument, ground, or pedestal signs.~~

~~—**SIGN, GOVERNMENTAL.** A sign which is erected by a governmental unit for identification or traffic.~~

~~—**SIGN, GRAPHIC.** 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. A graphic design shall be considered a sign for the purpose of this code.~~

~~—**SIGN, GROUND.** A sign which is supported by 1 or more uprights, poles, or braces in or upon the ground.~~

~~—**SIGN, HISTORICAL.** Any sign that is of historical significance and that is a historical resource within the meaning of M.S. Ch. 116B, as it may be amended from time to time.~~

~~—**SIGN, IDENTIFICATION.** A sign which identifies the inhabitant of the dwelling, not to exceed 2 square feet in size.~~

~~—**SIGN, ILLUMINATED.** Any sign, which is lighted by an artificial light source, either directed upon it or illuminated from an interior source.~~

~~—**SIGN, MARQUEE.** A permanent roof-like structure extending from part of the wall of a building but not supported by the ground, and constructed of durable material such as metal or glass.~~

~~—**SIGN, MOBILE.** Signs on wheels or otherwise designed to be transportable.~~

~~—**SIGN, MOTION.** Any sign which revolves, rotates, has any moving parts, or gives the illusion of motion.~~

~~—**SIGN, NAMEPLATE.** A sign which states the name and/or address of the business, industry, or occupant of the site and is attached to the building or site.~~

~~—**SIGN, NEIGHBORHOOD/SECTOR.** A freestanding sign which identifies, by name, the section of the city.~~

~~—**SIGN, OFF PREMISE.** 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, ON PREMISES.** A sign which identifies or advertises an establishment, person, activity, goods, products or services located on the premises where the sign is installed.~~

~~—**SIGN, PEDESTAL.** A ground sign usually erected 1 central shaft or post which is solidly affixed to the ground.~~

~~—**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, PORTABLE.** Any sign that is designed to be moved.~~

~~—**SIGN, PROJECTING.** Any sign projecting from a building wall.~~

~~—**SIGN, PUBLIC UTILITY.** Signs which identify public utilities.~~

~~—**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.~~

~~—**SIGN, REAL ESTATE.** A sign offering property (land and/or buildings) for sale, lease, or rent.~~

~~—**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, REVOLVING.** A sign which has moving parts (structural); does not include flashing signs which blink on and off but may include signs which produce moving effect through use of illumination. Signs which revolve or turn on an axis point such as a pedestal, string, or post shall not be considered revolving if less than 2 complete revolutions per minute.~~

~~—**SIGN, ROOF.** A sign erected upon or above a roof or parapet of a building.~~

~~**SIGN, SEASONAL.** A sign placed on a lot or parcel of land for a period not to exceed 30 days out of any 12 month period. No sign permit fee is required.~~

~~**SIGN, SHOPPING CENTER, OR INDUSTRIAL PARK.** A business sign designating a group of shops or offices (more than 3).~~

~~**SIGN, STRUCTURE.** The supports, uprights, braces, and framework of the sign.~~

~~**SIGN, SUBDIVISION IDENTIFICATION DISPLAY.** A display, illustration, structure, or device which directs attention to or defines a residential subdivision.~~

~~**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.~~

~~**SIGN, WARNING.** A sign which warns the public of a danger or hazard in the immediate vicinity and is obviously not intended for advertising purposes.~~

~~**SIGN, WAYSIDE STAND.** A sign located on a temporary structure or vehicle being used to sell agricultural, floricultural, or horticultural products.~~

~~**SIGN, WINDOW.** A sign affixed to a window glass or door glass. This does not include merchandise on display.~~

~~**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.~~

**SECTION 2. The City Council of the City of Lake Elmo hereby amends Title I: General Provisions; Chapter 11: General Code Provisions, by amending section 11.01 Definitions to add the following definitions in alphabetical order with the already existing definitions:**

**ANIMATION.** The movement or the optical illusion of movement of any part a sign, sign structure, design, or pictorial segment, including the movement of any illumination or the flashing or varying of light intensity; the automatic changing of all or any part of the facing of a street sign.

**AWNING.** A shelter supported entirely from the exterior wall of a building.

**CANOPY.** A detachable, rooflike cover, supported from the ground or deck, floor or walls of a structure, for protection from the sun or weather.

**COMMERCIAL SPEECH.** Speech or graphics advertising a business, profession, commodity, service or entertainment.

**MULTI-TENANT BUILDING.** A grouping of two or more business establishments that either share common parking on the lot where they are located, or that occupy a single structure or separate structures that are physically or functionally related or attached.

**NON-COMMERCIAL SPEECH.** A sign that contains a non-commercial message. Examples of non-commercial messages include, but are not limited to, messages concerning political, religious, social, ideological, public service and informational topics.

**UNIFIED RESIDENTIAL AREA.** A residential grouping of lots that share a plat name over one or more additions.

**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 one (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 one (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, 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 one hundred (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.** 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, colorless 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 six (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 six (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-PREMISE.*** 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.*** 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, 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, 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, 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 one (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 3.** 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 151.126 in their entirety.

**SECTION 4.** The City Council of the City of Lake Elmo hereby amends Chapter 151 to add the following language:

**151.115 PURPOSE**

**(A) Purpose and Findings.**

**(1) Purpose.**

(a) The Lake Elmo Sign Regulations are intended to establish a comprehensive and balanced system of sign control that accommodates the need for a well-maintained, safe, and attractive community, and the business community's need for effective communication and identification. It is not the purpose or intent of these regulations to favor commercial messages or speech over non-commercial messages or speech or to discriminate between types of non-commercial speech or the viewpoints represented therein. It is the intent of these regulations to promote the health, safety, general welfare, and desirable rural community image through the regulation of signs with the following objectives in mind:

- a. Signs shall demonstrate a high standard of aesthetic character and encourage the use of monument and individual letter-style signs;

- b. Permit large enough copy/graphic area to effectively convey the intended message but not so large as to unduly distract the reader and insist on lettering large enough to be easily read to encourage simple, uncluttered messages;
- c. Signs shall be proportioned to the size of, and architecturally compatible with, the structures and other signs on the premises;
- d. Permanent signs shall only advertise on-premise businesses, services, facilities, etc;
- e. Allow temporary business signs for grand openings and occasional sales events; allow temporary signs to advise the public of the seasonal sale of agricultural and horticultural products in keeping with the City's rural image; and to allow temporary directional signs permitting the public to more easily locate land conservation developments which enhances the City's rural image, without creating continuous visual clutter or traffic hazards along streets or at intersections; and
- f. Signs shall be properly maintained.
- g. Signs that distract drivers, cyclists and pedestrians shall not be permitted. Studies conducted by public and private agencies have identified that dynamic signs, including multi-vision signs, electronic signs and video displays can be highly distracting to drivers, pedestrians, and cyclists and that distraction is a significant underlying cause of traffic accidents. With respect to electronic signs, including video display signs, the City finds that they are highly visible from long distances and at very wide viewing angles both day and night and are designed to catch the eye of persons in their vicinity and hold it for extended periods of time. If left uncontrolled, electronic signs, including video display signs, constitute a serious traffic safety threat. Studies conducted by the Federal Highway Administration (FHWA), Research Review of Potential Safety Effects of Electronic Billboards on Driver Attention and Distraction, Sept. 11, 2001, and The Role of Driver Inattention in Crashes: New Statistics from 1995; the University of North Carolina Highway Safety Research Center, Distractions in Everyday Driving, May 2003 and The Role of Driver Distraction in Traffic Crashes, May 2001; the Wisconsin Department of Transportation, Synthesis Report of Electronic Billboards and Highway Safety, June 10, 2003; the Municipal Research and Services Center of Washington, Sign Control Provisions, Jan. 2006; the Veridan Group, Video Signs in Seattle, Gerald Wachtel, May 2001, reveal that electronic signs are highly distracting to drivers and that driver distraction continues to be a significant underlying cause of traffic accidents.

**(2) Findings.**

The City of Lake Elmo hereby finds that regulation of the construction type, location, size, and maintenance of signs is necessary to accomplish the above referenced objectives, because:

- (a) The presence of permanent and temporary signage affects the rural image of the City of Lake Elmo;
- (b) Properly regulated signage can create an atmosphere of prosperity, stimulate commercial activity, and consequently, lead to increased employment and a healthier tax base;
- (c) The safety of motorists, cyclists, and pedestrians can be threatened by signage that interferes with necessary sight-distances and/or unduly diverts the attention of such persons.
- (d) Signs that are too bright, overly illuminated, flash, blink, scroll, twirl, change messages or color, or imitate movement, including video displays, can distract drivers, cyclists and pedestrians and impact traffic safety.

- (B) **Severability.** If any section, subsection, sentence, clause, or phrase in sections 151.115 through 151.119 are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Sign Ordinance. The City Council hereby declares that it would have adopted the Sign Ordinance in each section, subsection, sentence, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

**151.116 ADMINISTRATION AND ENFORCEMENT****(A) Permit Required.**

No sign shall be erected, altered, reconstructed, maintained or moved in the city without first securing a permit from the city. The content of the message or speech displayed on the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit.

- (1) **Permanent Signs.** To apply for a permanent sign permit, a complete application shall be submitted to the City containing the following:
- (a) Names and addresses of the applicant, owners of the sign, and lot;
  - (b) The address at which the sign(s) are to be erected;
  - (c) The legal description of the property on which the sign(s) are to be erected and the street on which they are to front;
  - (d) A complete set of scaled plans showing the sign dimensions, area, height, ground elevations, applicable setbacks, and other details to fully and clearly represent the safe construction and placement of the proposed sign(s);
  - (e) Type of sign(s) being requested (i.e. wall sign, monument sign, etc.);



- (f) The permit fee; and
  - (g) The following if applicable:
    - i. Written authorization from the property owner upon who's land the sign is to be erected.
    - ii. A permit from either MnDOT or Washington County if the proposed sign is along a state highway or county road.
    - iii. A sign plan showing signs for all businesses if the sign is located on a building with more than one business.
    - iv. Photographs of the building face and the building faces of both adjacent buildings if the sign is being placed on an existing structure.
    - v. If replacing a historical sign, pictorial proof or other information that the sign is of historical significance or is a reproduction of a historic sign.
- (2) **Temporary Signs.** To apply for a permit to allow a temporary sign, a complete application shall be submitted to the City containing the following:
- (a) Names and addresses of the applicant, owners of the sign, and lot;
  - (b) The address at which the sign(s) are to be erected;
  - (c) A generalized plan set showing the sign dimensions and height, and a notation of the materials to be used.
  - (d) A scaled site plan which clearly represents the placement of the proposed sign(s) on the applicable property;
  - (e) The proposed timeframe(s) over which the sign(s) will be posted;
  - (f) The permit fee; and
  - (g) The following if applicable:
    - i. Written authorization from the property owner upon who's land the sign is to be erected.
    - ii. A permit from either MnDOT or Washington County if the proposed sign is along a state highway or county road.
- (3) **Temporary Sign Renewal.** A temporary sign permit issued by the City may be renewed provided the sign design, size, location, or other previously approved details are not proposed to change. A sign renewal application shall include the following:
- (a) Names and addresses of the applicant, owners of the sign, and lot;
  - (b) The address at which the sign(s) are to be erected;
  - (c) The date of issuance of the permit being renewed;
  - (d) The proposed timeframe(s) over which the sign(s) will be posted;

- (e) Written authorization from the property owner upon who's land the sign is to be erected (if applicable); and
- (f) The permit renewal fee.

- (4) **Review.** The planning department shall approve or deny complete sign permit applications upon receipt of a complete application. If the permit is denied, the planning department will send a written notice of denial to the applicant. The written notice will indicate the reason(s) for denial and a description of the applicant's appeal rights.

**(B) Exemptions.**

The following signs shall not require a permit, but shall still comply with all provisions of this ordinance or any other law or ordinance regulating signs.

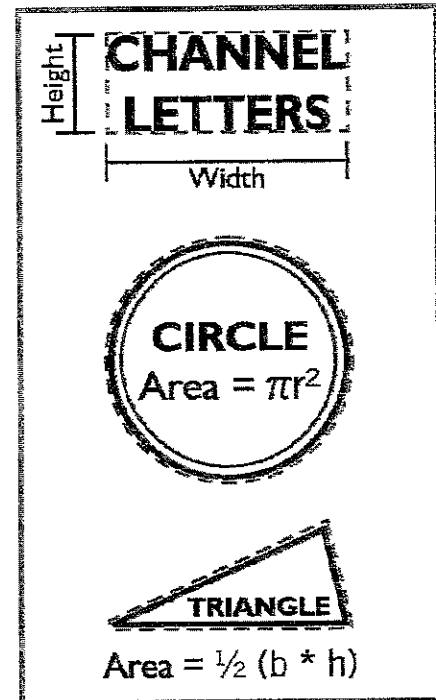
- (1) The changing of the display surface on a previously approved sign.
- (2) Signs six (6) square feet or less in size, per surface if double sided.
- (3) Window Signage that does not cover more than 1/3 of the total area of the window in which the sign is displayed
- (4) Governmental Signage.

**(C) Fees.**

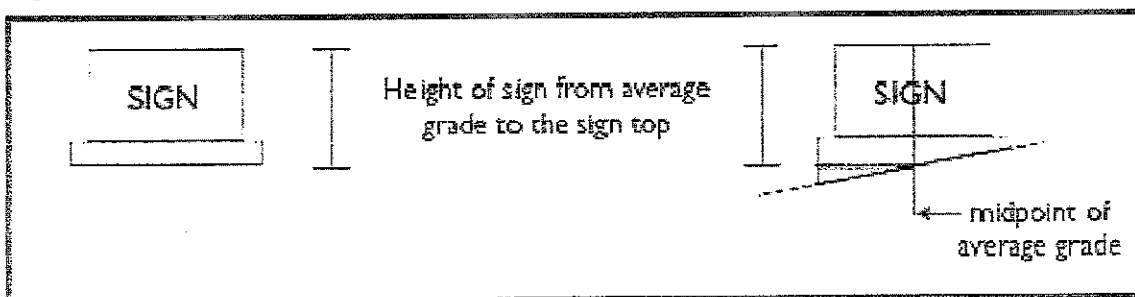
The fee for a sign permit is established yearly in the City's adopted fee schedule as indicated in section 11.02.

**(D) Computations.****(1) Sign Area Measurement.**

The area of a sign shall be computed by means of the smallest circle, rectangle or triangle that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the building facade against which it is placed. When a sign has two back-to-back sign faces containing sign copy, the sign area for both faces are counted toward the total allowed sign area. Poles, bases, and other supports shall not be included in the sign area calculation.

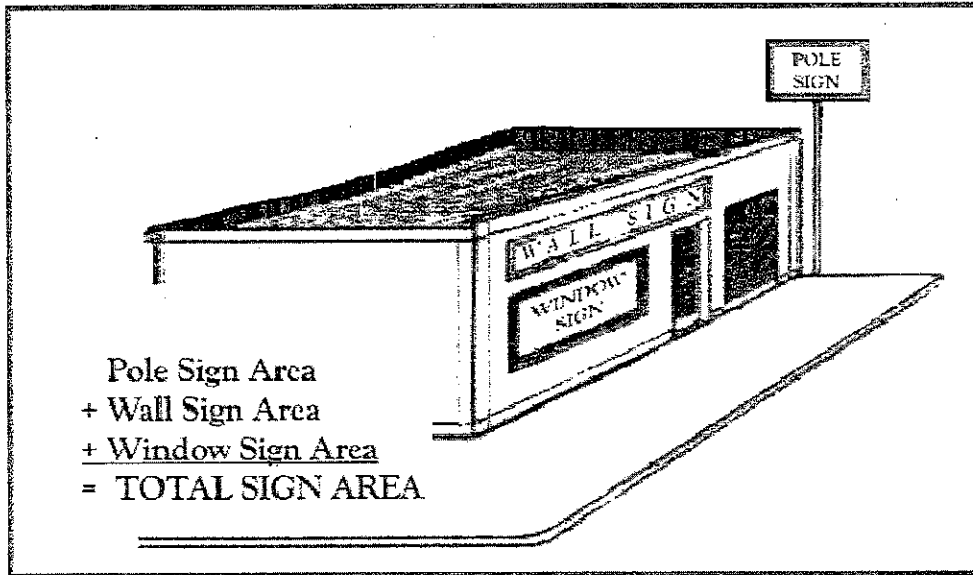
**Figure 1: Sign Area Measurement****(2) Sign Height Measurement**

The height of the sign shall be computed as the vertical distance measured from the average grade at the base of the sign to the top of the highest attached component of the sign.

**Figure 2: Sign Height Measurement**

(3) **Total Sign Area Calculation**

The total square footage of all sign surfaces shall be computed by adding together the sign areas of all signs on a property.



**Figure 3: Total Sign Area Measurement Example**

(E) **Construction, Maintenance and Repairs.**

- (1) The construction of all signs, unless otherwise stated herein, shall be in conformance with the provisions of the Uniform Sign Code published by the International Conference of Building Officials, 1997 Edition, as may be amended, which is hereby adopted by reference and made a part of this ordinance.
- (2) All signs and structures shall be properly maintained and shall be constructed of sufficiently permanent material so that they shall not succumb to deterioration from weathering.
- (3) Any existing sign or sign structure which is rotted, unsafe, deteriorated, defaced, or otherwise altered, shall be repainted, repaired, replaced, or removed if repair is not feasible. Sign maintenance shall be the responsibility of the underlying fee owner.

**(F) Abatement.**

If the City finds that any sign has been erected without the necessary approvals or any sign is being maintained in violation of any zoning provision, the City may give written notice of such violation to the installer of said sign; to the permit holder; and/or to the owner, lessee or manager of said property. If after receiving said notice such person fails to remove or alter said sign so as to comply with the provisions of the zoning ordinance, the sign shall be deemed to be a nuisance and may be abated by the City under Minnesota Statutes, Chapter 429. The cost of such abatement, including administrative expenses and reasonable attorneys' fees, may be levied as a special assessment against the property upon which the sign is located.

**151.117 GENERAL STANDARDS****(A) Abandoned Signs**

Abandoned signs shall be removed.

**(B) Building identification.**

A building address, date of construction, commemorative tablet, etc; shall not count towards the overall permitted signage on a building or parcel. All forms of building identification, except for the building address, shall be cut into a masonry surface or be constructed of bronze or other incombustible material.

**(C) Building Official Review.** No sign shall be attached to or be allowed to hang from any building until all necessary wall and roof attachments have been approved by the City Building Official.**(D) Changeable Copy Signs.** A changeable copy sign, such as a reader board, may be integrated into an allowable sign subject to the following restrictions:

- (1) The message conveyed by the sign face shall not blink, flash, scroll or be so animated as to be deemed a distraction to passing motorists;
- (2) Copy on the sign shall not change more than once per day on average (except for time, temperature, and price information which must change when necessary for accuracy);
- (3) Characters and backgrounds depicted on a changeable copy sign shall not use florescent coloring.
- (4) All changeable copy sign faces shall be limited to a maximum of 25 square feet in sign area, or the maximum size of the type of sign on which the face is placed, whichever is less.

**(E) Flags.** No more than 3 flags may be displayed on any given parcel. Individual flags shall not exceed one-hundred (100) square feet in size per surface.



**(F) Illumination.**

- (1) Illumination of signs shall comply with Chapter 150 code requirements governing Lighting, Glare Control, and Exterior Lighting Standards.
- (2) Indirect illumination for signs shall be so constructed and maintained that the source of light (i.e. the bulb; not the fixture) is not visible from the public right-of-way or residential property.
- (3) Back-lit awnings are prohibited.

**(G) Ingress or egress.** No sign or structure shall be erected or maintained if it prevents free ingress or egress from any door, window, or fire escape. No sign or sign structure shall be attached to a standpipe or fire escape.

**(H) Landscaping.** Sign owners shall be required to maintain the appearance of the ground around all signs detached from buildings and to landscape where possible.

**(I) Master Sign Program.**

A Master Sign Program shall be reviewed and approved for all multi-tenant commercial buildings and for all business park development to coordinate all signage for current and future tenants. The Master Sign Program shall be reviewed as a permanent sign permit, but shall only authorize the general locations and sizes of signs to be erected within a development or on a multi-tenant building. Individual permanent sign permits shall still be needed for the placement of permanent signs in accordance with an approved Master Sign Program. Master Sign Programs shall be subject to the following requirements:

- (1) A Master Sign Program shall include a to-scale site plan which identifies the overall sign types, sizes, and locations for all proposed signage on the site(s). The site plan shall not contain the names of any current or future tenants or occupants of the center or overall development.
- (2) The Master Sign Program shall include a calculation of allowable sign square footage for the site(s) based on applicable zoning requirements and lot characteristics.
- (3) The Master Sign Program shall include square footage calculations for individual signs proposed for the site(s), along with a total sign square footage area calculation.
- (4) All signs within a Master Sign Program shall be visually consistent in location, design, and scale.

- (5) The Master Sign Program may be reviewed concurrently with a separate permanent sign permit for the individual sign(s) identified in the Master Sign Program. The separate permanent sign permit shall include all information required by section 151.116(A)(1), and may only be approved if the Master Sign Program is approved.

**(J) Multi-Tenant Buildings.**

- (1) Multi-tenant buildings are herein considered a single commercial establishment, and shall be limited to one (1) freestanding sign amongst all planned/allowed signage subject to the following requirements:
  - (a) If the multi-tenant commercial building has a floor area of 40,000 square feet or less, the sign shall not exceed forty (40) square feet (per side) and shall not exceed eight (8) feet in height.
  - (b) If a multiple tenant commercial building has a floor area greater than 40,000 square feet but less than 100,000 square feet, the sign shall not exceed seventy-five (75) square feet (per side) and shall not exceed nine (9) feet in height.
  - (c) If a multiple tenant commercial building has a floor area of greater than 100,000 square feet, the sign shall not exceed 120 square feet (per side) and shall not exceed fifteen (15) feet in height.
- (2) Where a building, group of attached buildings on the same block, or center contains more than one business, the allowable sign area for any single business shall be its portion of the gross square footage of the building or center applied as a percentage to the allowable sign area of the entire building or center, subject to size limitations for specific signs within an approved Master Sign Program.

**(K) Neighborhood Identification Signs**

Independent of the total allowable sign area for individual residences within a residential zoning district, two (2) ground signs for a unified residential area with six (6) or more lots may be allowed consistent with the following provisions:

- (1) New subdivisions:
  - (a) Neighborhood identification sign(s) shall be approved as a component of a preliminary and final plat to be included as part of a new subdivision.
  - (b) Each sign may not exceed a total of thirty-two (32) square feet in area.

- (c) Signs are to be located on outlots of sufficient size and area to accommodate them or within a dedicated permanent sign easement. A homeowners or neighborhood association is required for the area identified by the signs which shall own and be responsible for the upkeep, perpetual maintenance, taxes, insurance, utilities, and other costs associated with the sign(s) and their property. The association rules or by-laws shall specify how the aforementioned sign responsibilities will be delegated and paid for. City staff shall review the proposed bylaws to ensure that they specify the aforementioned responsibilities.
  - (d) Outlots or easements for signs are to be considered and planned for at the time of preliminary plat application and shall be included in the final plat. A developers agreement shall specify the designated use of the outlot or easements, its ownership, and the respective home owners association responsibilities regarding the proposed improvements.
  - (e) Only indirect lighting of neighborhood identification may be approved. The electric costs and maintenance of such lighting shall be the responsibility of the homeowners association or neighborhood association of the area identified by the sign(s) and shall be clearly noted in the association's rules or bylaws.
  - (f) The area around the sign is to be landscaped and maintained in such a manner to accent and enhance the sign while remaining sensitive to the natural features of the site. Detailed site and landscape plans shall be included with each sign permit application and shall be subject to review by the Planning Commission and City Council at the time of Preliminary Plat.
  - (g) The design and construction of neighborhood area identification signs shall be done with the highest quality materials and workmanship to keep maintenance and upkeep costs to a minimum and to minimize the potential for vandalism. Neighborhood area identification signs are to be aesthetically pleasing when designed and constructed. The signs shall be compatible with nearby or potential homes and other structures in the area. Detailed construction plans and a materials list shall be included with the preliminary plat application.
  - (h) The City reserves the right to require the removal—at the owner's expense—of any sign when the requirements of this Section and this Ordinance are not completely followed and adhered to or if the sign is not properly maintained or falls into a state of disrepair. The City shall not have any obligation or liability to replace any sign or nearby landscaping when removed by the City.
- (2) Existing Unified Residential Areas: A neighborhood identification sign may be allowed by Conditional Use Permit for existing unified residential areas. If no outlots or easements were originally designated for signs, the plat may be amended to provide for such a proposal and shall meet the same criteria and requirements as set forth for new subdivisions.

(L) **Non-commercial speech signs.** Notwithstanding any other provisions of this sign ordinance, all signs of any size containing non-commercial speech may be posted from August 1 in any general election year until ten (10) days following the general election and thirteen (13) weeks prior to any special election until ten (10) days following the special election.

(M) **Private on-premises directional signs.** Signs located on, above or beside entrances or exits to buildings or driveways which direct pedestrians or vehicles (e.g. "employees entrance," "exit only," "rest rooms," etc) shall not count towards the overall permitted signage on a site provided such signs are no more than four (4) square feet in area.

(N) **Prohibited Signs**

The following signs are prohibited in all zoning districts.

- (1) **Signs obstructing vision.** Any sign which obstructs the vision of drivers or pedestrians or detracts from the visibility of any official traffic-control device. This includes indoor signs that are visible from public streets.
- (2) **Unofficial traffic signs or signals.** Any sign which contains or imitates an official traffic sign or signal, except for private, on-premises directional signs which do not interfere with traffic flows on public roads.
- (3) **Off premises advertising signs.** Off premises advertising signs except as specifically allowed.
- (4) **Signs with moving parts, moving lighting or animation.** No sign shall display any moving parts, be illuminated with any flashing or intermittent lights, use changing light intensity, utilize spotlights giving off an intermittent or rotating beam existing as a collection or concentration of rays of light (including but not limited to revolving beacons, beamed lights, or similar devices), or be animated. The only exceptions to this provision include static time, temperature, and price information changing only when necessary (which shall be allowed provided the message depicted is reasonably accurate), allowable changeable copy signs and barbershop poles.
- (5) **Roof signs.**
- (6) **Banners, pennants, ribbons, streamers.** No sign which contains or consists of banners, pennants, ribbons, streamers, string of light bulbs, spinners, or similar devices; except when used for non-commercial purposes, as a governmental sign, or as part of an approved master sign program or special event temporary sign permit.

- (7) **Portable signs.** Including but not limited to signs with wheels removed, attached temporarily or permanently to the ground, structure or other signs, mounted on a vehicle for advertising purposes, parked and visible from the public right-of-way, hot air or gas filled balloons or semitruck umbrellas used for advertising. This prohibition shall not include business vehicle identification signs when the vehicle is being used for the normal day-to-day operations of a permitted business.
  - (8) **Signs supported by a guy wire.**
  - (9) **Billboards.**
  - (10) **Electronic Variable Message Signs.**
  - (11) **Signs on natural surfaces.** No sign shall be painted, attached or in any other manner affixed to trees, rocks, or similar naturally occurring surfaces within the City of Lake Elmo. This shall not prohibit the use of natural building materials (e.g. boulders) in the construction of a legally permitted sign.
  - (12) **Snipe signs.**
- (O) **Public lands and rights-of-way.** No signs other than governmental signs shall be erected or temporarily placed within any street right-of-way or upon public lands or easements or rights-of-ways without Council approval.
- (P) **Regulations for Specific Sign Types**
- (1) **Wall signs**
    - (a) A wall sign shall be located on the outermost wall of any principal building but shall not project more than 16 inches from the wall to which the sign is to be affixed.
    - (b) A wall sign shall not project higher than the parapet line of the wall to which the sign is to be affixed.
    - (c) Wall signs authorized by a Master Sign Program shall not exceed 25 square feet per business, and all signs shall be visually consistent in location, design, and scale.
    - (d) Wall signs may be placed on not more than three walls of rectangular shaped structures or not more than 75 percent of the major walls on non-rectangular shaped buildings.
  - (2) **Mural Sign.**
    - (a) Mural signs shall not be limited in size, but any commercial or non-commercial language incorporated into the mural sign shall be limited in size by the restrictions established for the applicable zoning district.
    - (b) In addition to the standard conditional use criteria in section 154.018, mural signs shall also be subject to the following:



- i. The location for the proposed mural sign shall be viewable by the public and be accessible;
- ii. The scale and suitability of the mural sign shall be appropriate in the context of the surrounding properties;
- iii. The artist(s) commissioned to complete the mural must provide documentation of demonstrated craftsmanship on similar projects;
- iv. The applicant shall provide sureties to the city guaranteeing completion of the project within the proposed timeframe;
- v. The applicant shall demonstrate that the necessary funds are available for the proposed project;
- vi. The applicant must be able to show the final mural will last a minimum of five years and be reasonably resistant to vandalism and weather.

**(3) Projecting, Awning, and Canopy Signs.**

- (a) Projecting signs and awning signs shall be located on street level.
- (b) If lighted, projecting, awning, and canopy signs shall use indirect illumination.
- (c) Awning or canopy signs shall not project higher than the top of the awning or canopy or below the awning or canopy.
- (d) Clearance. The bottom of a projecting sign or awning shall be a minimum of eight feet (8') above the ground surface when projecting over a private or public walkway.

**(4) Freestanding Signs.** Freestanding signs shall not be erected or maintained any closer than three feet to any building.

**(Q) Separation Angle.** So as not to create a double exposure or increase sign size limitations, there shall be a maximum separation angle of forty-five degrees for signs which are back to back. In all residential districts, double-faced signs shall be parallel.

**(R) Signs needing electricity.** Signs needing electricity shall be subject to all applicable electrical codes as may be amended. Overhead wiring for such signs is prohibited.

**(S) Special Sign Districts.** All general sign regulations shall apply to signs within each of the special sign districts except as specifically noted herein.

**(1) Old Village.**

- (a) Boundary. The boundary of the Old Village Sign District is depicted on the city's official sign district map. Modifications to the district boundary may be completed using the zoning map amendment process.

- (b) Illumination. Indirect illumination or reverse lit letters shall be the permitted techniques for lighting all signs within the Old Village Sign District. Other forms of direct illumination are prohibited.
- (c) Wall Signs.
  - i. Wall signs in the Old Village Sign District shall not project higher than the parapet line of the wall to which the sign is to be affixed or 15 feet as measured from the base of the building wall to which the sign is affixed, whichever is lower.
  - ii. Wall signs in the Old Village Sign District authorized by a Master Sign Program shall not exceed 20 square feet per business, and all signs shall be visually consistent in location, design, and scale.
- (d) Freestanding Signs.
  - i. The area of a freestanding sign in the Old Village Sign District shall not exceed thirty (30) square feet.
  - ii. Freestanding signs in the Old Village Sign District shall not project higher than 12 feet, as measured from the average grade at the base of the sign or grade of the nearest roadway, whichever is lower.

**(2) Agricultural Sales District.**

- (a) Boundary. The Agricultural Sales District shall include all properties zoned Agricultural or Rural Residential.
- (b) On-premises sign(s). Independent of the total allowable sign area for an individual property within the agricultural sales district, one or more additional 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. Sign(s) shall be in the form of an allowable sign type in the underlying zoning district.
  - v. No dimension of any sign shall exceed 15 feet exclusive of supporting structures.
  - vi. Any illuminated sign shall be illuminated only during those hours when business is open to the public for conducting business.
- (c) Temporary off-premises sign(s). 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 two off-premises signs at any given time to direct the public to the location of the business.
  - ii. Timeframe of use. Temporary off-premises signs may be erected for 45-day time periods no more than four times in any given calendar year. The required temporary sign permit shall stipulate the range of dates for each of the four 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' from all side property lines, and a minimum of 50' 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.

**(3) I-94 District.**

- (a) **Boundary.** The I-94 district shall include parcels within the BP, GB, HB, CB, and LB zoning districts which meet the following criteria:
- i. The property is a buildable lot located to the south of Hudson Boulevard and to the north of Interstate 94.
  - ii. The property's southern boarder abuts Hudson Boulevard, and is not directly north—either wholly or partially—of a developable parcel lying between Hudson Boulevard and Interstate 94.
- (b) **Illumination.** All forms of illumination which conform to the general illumination standards for all signs shall be the permitted within the I-94 Sign District.

- (c) **Maximum total square footage of ALL sign surfaces.** The maximum total square footage of all sign surfaces in the I-94 district shall be dictated by the maximum sign sizes for allowable sign types.
  - (d) **Wall Signs.** The least restrictive of the following may be used to determine the allowable area for wall signs in the I-94 District:
    - i. The total area of all wall signs on any wall shall not exceed ten percent of the area of the wall with a maximum allowable area of 80 square feet; or
    - ii. The total area of all wall signs on any wall shall not exceed five percent of the area of the wall with a maximum allowable area of 300 square feet.
  - (e) **Freestanding Signs.** In lieu of a freestanding sign meeting underlying zoning requirements, a building site within the I-94 District may have one freestanding sign within 50 feet of the property line nearest the Interstate provided the sign does not exceed 150 square feet per side (300 square feet total) or 30 feet in height. The base of such a sign shall be at least 75 percent of the width of the sign and be constructed of materials that match those used on the building for which the sign is installed.
  - (f) **Window Signs.** Window signs in the I-94 district shall not cover more than 1/3 of the window area.
  - (g) **Awning, Canopy, and Projecting Signs.** One awning, canopy or projecting sign, in conformance with the underlying zoning requirements for height, location, and maximum size may also be erected for each business on a building site in the I-94 District.
- (T) **Substitution Clause.** The owner of any sign which is otherwise allowed by this sign ordinance may substitute non-commercial speech signs in lieu of any other commercial speech sign or other non-commercial speech sign. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial speech over any other non-commercial speech. This provision prevails over any more specific provision to the contrary.
- (U) **Temporary Signs.**
- (1) **Special Events.** Temporary signs may be allowed upon issuance of a permit for on-site advertising of special events such as openings and closings, change in management, sales events, or other special occasions. No more than four temporary sign permits may be issued in any calendar year for a given destination, and each temporary sign permit shall run for 15 days. Temporary signs for special events shall be subject to the following regulations:
    - (a) Only one on-premises temporary sign shall be allowed per business or event.

- (b) Temporary signs shall be in the form of an allowable sign type in the underlying zoning district.
  - (c) Temporary signs shall not exceed 32 square feet in area and shall not be taller than 10 feet in height.
- (2) **Residential development advertising signs.** Independent of the total allowable sign area for individual properties or residences within a residential zoning district, one or more additional ground signs may be erected within a newly established unified residential area development subject to the following:
- (a) **Minimum Development Size**
    - i. Projects of less than 25 acres which create ten or more dwelling units are allowed one (1) on-premises ground sign not to exceed 100 square feet of advertising surface;
    - ii. Projects of 26 through 50 acres which create ten or more dwelling units are allowed 1 or 2 on-premises ground signs not to exceed 200 aggregate square feet of advertising surface on the project site; and
    - iii. Projects over 50 acres which create ten or more dwelling units are allowed 1, 2, or 3 on-premises ground signs not to exceed 200 aggregate square feet of advertising surface on the project site.
  - (b) **Restrictions.**
    - i. No dimension shall exceed 25 feet exclusive of supporting structures.
    - ii. The sign shall not remain once 90% of the lots in the development have been issued building permits.
    - iii. The permit for the sign must be renewed annually by the Council.
    - iv. Only indirect illumination is permitted and shall only occur during those hours when an on-site sales office or model home is open for conducting business.
- (3) **Temporary Off-Premises Signs.** Temporary off-premises signs may be erected if all of the following criteria are met:
- (a) The destination to which the off-premises sign is advertising is a property for sale;
  - (b) An agent must be present at the destination property for sale, and the property must be open for viewing.
  - (c) The sign must be located on private property, and permission must have been obtained from the private property owner to erect the temporary sign;
  - (d) The temporary off-premises sign shall not exceed six (6) square feet in size;



- (e) The temporary off-premises sign shall not cause the total square feet of signage on a property to exceed the allowed maximum in the underlying zoning district.

- (V) **Warning Signs.** Warning signs which do not exceed the minimum statutory requirements for size and number may be posted, and shall not count towards the overall permitted signage on a given property. Increases in either size or number over minimum statutory requirements shall count against the overall permitted signage on a given property unless authorized by conditional use permit which finds sufficient evidence that larger or more frequent signage is necessary to provide the intended warning.

### 151.118 Specific Regulations by Zoning District

- (A) **Sign Setbacks.** Signs shall conform to the set back regulations listed in table 1 for the zoning district in which the signs are located except as may be specifically exempted or restricted in sections 151.117 and 151.118.

**Table 1: SETBACKS BY ZONING DISTRICT [1]**

	Base Zoning Districts													
	A	RR	R1	R2	R3	R4	RE	OP	GB	HB	CB	LB	BP [2]	PF
Front Lot Line	5	5	5	5	5	5	5	5	1	1	1	1	1	5
Side Lot Line	5	5	5	5	5	5	5	5	5	5	5	5	5	5
Rear Lot Line	5	5	5	5	5	5	5	5	10	10	10	10	10	5
Vehicular Access	5	5	5	5	5	5	5	5	15	15	15	15	15	5

[1]: Awning/Canopy signs, mural signs, projecting signs, wall signs, or window signs proposed to be located on a building legally non-conforming to setback requirements shall be permitted without a variance provided all other zoning code provisions are met.

[2]: Signs within Business Parks shall also adhere to the requirements of a master sign program approved by the City Council in conjunction with the business park establishment.

- (B) **Allowable Sign Area.** The maximum allowable sign area for an individual sign and for total site signage is listed in table 2 by zoning district. These maximums shall apply except as may be specifically exempted or restricted in sections 151.117 and 151.118.

**Table 2: ALLOWABLE SIGN AREA BY ZONING DISTRICT**

District(s)	Maximum sign area in square feet (per surface) by sign type [1]								Maximum total square footage of ALL sign surfaces
	Awning/Canopy Sign	Ground Sign [2]	Monument Sign [2]	Mural Sign	Pole Sign [2]	Projecting Sign	Wall Sign	Window Sign	
A, RR, R1, R2, RE, OP [3]		6		C	6		6	6	12 square feet
R3 & R4 [3]		12		C	12		12	12	24 square feet
GB, HB, CB, LB, BP, & PF	[4]	30	60	C	30	6	[5]	No max	1.0 square foot per lineal foot of building parallel or substantially parallel to public road frontage (excluding alleys). [6]

[1]: Sign types with shaded cells are prohibited in the applicable zoning district(s). Sign types with a maximum sign area of "C" shall require a conditional use permit.

[2]: Ground, monument, or pole signs, where permitted, shall be limited to one (1) per commercial establishment.

[3]: All sign types in residential districts shall have no more than two (2) surfaces.

[4]: The gross surface of an awning or canopy sign shall not exceed 30% of the gross surface area of the smallest face of the awning or canopy of which the sign is to be affixed.

[5]: On any wall parallel or substantially parallel to a public roadway, the gross surface area of a wall sign shall not exceed 0.75 square feet for each lineal foot of building facing the applicable roadway. For walls not facing a public roadway, the maximum wall sign size shall be twelve (12) square feet.

[6]: Open sales lots or other approved uses on lots without a building shall be limited to thirty (30) square feet of total sign surfaces.

- (C) **Freestanding Sign Height.** The maximum allowable sign height for a freestanding sign is listed in table 3 by zoning district. These maximums shall apply except as may be specifically exempted or restricted in sections 151.117 and 151.118.

**Table 3: ALLOWABLE FREESTANDING SIGN HEIGHT IN FEET  
BY ZONING DISTRICT**

	Base Zoning Districts													
	Residential Districts								Business Districts					
	A	RR	R1	R2	R3	R4	RE	OP	GB	HB	CB	LB	BP	PF
Allowable Height in feet	5	5	5	5	8	8	5	5	20	20	20	20	20	20

#### **151.119 Sign Variances**

Variances from sign provisions shall be administered in accordance with section 154.017, and shall be subject to the following additional requirements:

- The sign(s) shall be compatible with the character of the adjacent buildings and with the character of the adjacent neighborhood;
- The sign(s) shall have good scale and proportion in the visual relationship to buildings and adjacent areas;
- The material, size, color, lettering, location, and arrangement of the sign(s) is an integral part of the site and building design; and/or

The colors, materials, and lighting of the sign(s) are restrained and harmonious, as interpreted by the City Planner.

**SECTION 5.** The City Council of the City of Lake Elmo hereby amends Chapter 151 of City Code by adopting the map depicted in Exhibit "A" to serve as the City's official Sign District Map.

#### **SECTION 6. Effective Date**

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

**SECTION 7. Adoption Date**

This Ordinance No. \_\_\_\_\_ was adopted on this \_\_\_\_\_ day of \_\_\_\_\_, 2009,  
by a vote of \_\_\_\_ Ayes and \_\_\_\_ Nays.

\_\_\_\_\_  
Mayor Dean Johnston

ATTEST:

\_\_\_\_\_  
Craig Dawson  
City Administrator

This Ordinance No \_\_\_\_\_ was published on the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

**ITEM: Update on the Hardy House Rehabilitation (9224 31<sup>st</sup> Street North)**

SUBMITTED BY: Ben Gozola, Consulting Planner

REVIEWED BY: Craig W. Dawson, Interim City Administrator

**SUMMARY:**

On October 7, 2008, the City Council entered into an agreement with Linda and David Hardy to address all current and past issues surrounding the house rehabilitation at 9224 31<sup>st</sup> Street. The new agreement established a list of twenty-five items that needed to be completed by April 7<sup>th</sup>, 2009, to allow the City to issue a temporary certificate of occupancy for the house. As of the deadline, only two (2) of the twenty-five (25) items had been addressed. Because taking action at this time will move this matter from enforcement by the planning department to possible action by the city attorney, staff is currently recommending delaying action until the new City Attorney (Dave Snyder) is on-board in early May.

**FULL REVIEW:**

On October 7, 2008, the City Council entered into an agreement with Linda and David Hardy to address all current and past issues surrounding the home rehabilitation at 9224 31<sup>st</sup> Street. The new agreement established the following:

- 1) Both parties agreed to terminate the former agreement dated November 6, 2006;
- 2) Escrow funds being held by the City were released to the property owner for use in the housing rehabilitation project;
- 3) The property owner was given six months to complete a documented list of improvements necessary to obtain a temporary certificate of occupancy for the property. If that deadline was met, the property owner would be given an additional three months in order to complete final improvements necessary to obtain a permanent certificate of occupancy.

The status of the property following the deadline on April 7<sup>th</sup>, 2009—in relation to the required list of improvements outlined in the agreement—was as follows:

<u>Status</u>	<u>TASK</u>	<u>Legend</u> X = INCOMPLETE; <input checked="" type="checkbox"/> = Done
X	1. All plumbing, mechanical, electrical and building inspections have passed final inspection.	
X	2. Call for framing inspection before any work is covered up and basement floor is poured.	
X	3. All septic inspections are to be completed and approved by the City of Lake Elmo.	



<u>Status</u>	<u>TASK</u>	<u>Legend</u> <b>X = INCOMPLETE; <input checked="" type="checkbox"/> = Done</b>
X	<b>4.</b> Repair and seal all penetrations into the foundation, siding, and roof to make structure weather tight.	
<input checked="" type="checkbox"/>	<b>5.</b> Install exterior windows, trim and doors to make structure weather tight.	
X	<b>6.</b> Must meet legal egress requirements for a temporary C.O. Upon inspection all exterior doors are to have an exterior landing and stairs, handrail / guardrail as needed. One operational door is required and the others may be temporarily screwed closed or an exterior guardrail is to be installed across the door opening. Guardrails to have maximum 4" spacing.	
X	<b>7.</b> Install basement floor and basement footings (if needed). Six-mil poly required under slab.	
X	<b>8.</b> Install basement stairs, handrails and guardrails.	
X	<b>9.</b> Install egress ladder in window wells greater than 44 inches in depth.	
X	<b>10.</b> Install drain tile, basket and sump pump.	
X	<b>11.</b> Install interconnected smoke detectors on every floor and in every bedroom.	
X	<b>12.</b> Install address numbers on the front of the house.	
X	<b>13.</b> Install one approved egress window in each of the bedrooms.	
X	<b>14.</b> Install handrail from main floor to upstairs.	
X	<b>15.</b> Complete one bathroom with the minimum installation of a water closet and sink. Submit bathroom plan to the inspection department to verify correct placement of water closet. All completed bathrooms are to have either a window or bath fan.	
X	<b>16.</b> Kitchen sink to be installed and operational.	
X	<b>17.</b> Install one automatic clothes washer connection for washing machine.	
X	<b>18.</b> Install insulation, vapor barrier and either gyp board or plaster on all interior perimeter wall cavities.	
X	<b>19.</b> Insulate basement rim joist with 2" of rigid insulation that meets fire code standards.	
X	<b>20.</b> Insulate and seal the attic access, seal penetrations into the attic and insulate the attic floor to a minimum of R-38 or to a standard approved by the building official that meets the C.O.	
X	<b>21.</b> Repair all holes in the ceiling and exterior walls.	
X	<b>22.</b> All floors within the house are to be structurally sound and free of holes.	
<input checked="" type="checkbox"/>	<b>23.</b> Remove all trash, debris, and unlicensed / inoperable vehicles from the yard.	
X	<b>24.</b> Complete the final grade with a positive slope of 2% away from the structure for a minimum distance of feet from the structure as identified on the approved grading plan.	
X	<b>25.</b> If adding or deleting any walls, then a floor plan would need to be submitted and reviewed.	

As shown above, only two (2) of the twenty-five (25) items necessary to obtain a temporary certificate of occupancy have been completed as of the April 7<sup>th</sup> deadline. Staff has been in constant contact with the property owner throughout the six-month timeframe and can provide the following observations:

- The property owner has been very clear that financing/labor issues have hampered the rehabilitation project, and that funds which could have been used on the house were instead directed towards improving other properties outside of Lake Elmo. Staff has been very clear to the property owner that while we understand they are making hard financial decisions, such decisions must take into account the possible consequences of defaulting on the agreement. The property owner contends that improvements to the other properties have made said properties financially solvent which in turn has created a revenue stream which can be used for the house restoration.
- Funding and available labor appear to be the largest limiting factors in the progress of the house rehabilitation. While the property owner has obtained a great deal of materials necessary for the project (i.e. new windows, doors, kitchen cabinets, sheetrock, insulation, etc), much has gone unused to-date presumably because laborers have not been hired.
- The property owner has been unresponsive at times when instructed to address issues identified by staff. Specifically, the property owner was asked on multiple occasions to secure a hole on the eastern side of the home that was being used to move materials in and out of the home. Staff was assured on each occasion that the moving of cabinets, windows, etc was nearly complete, and that the home would be secured within a day or two. On each occasion, the property owner failed to follow up on such assurances. To the property owner's credit, this hole IS now secure following the installation of new doors and windows on the eastern side of the house.

According to the October 7, 2008, agreement, Council is now authorized to take any actions it deems necessary to resolve the on-going housing restoration project at 9224 31<sup>st</sup> Street. Per the agreement:

*"...the City may exercise its authority pursuant to Minnesota Statutes § 463.15 – 463.26 in regards to Hazardous Buildings or Property; and its authority pursuant to Minnesota Statutes § 412.221, 429.021, 429.101 and Lake Elmo City Code Sections 96.01 – 96.12 in regards to the abatement of Public Nuisances; or any other applicable regulations."*

#### RECOMMENDATION:

Because taking action at this time may move this matter from enforcement through the planning department to possible action through the city attorney, staff is currently recommending delaying action until the new City Attorney (Dave Snyder) is on-board in early May. Once he is familiar with the situation and its history, he can provide a set of recommended options for Council consideration, which may include commencement of the statutory process for a hazardous building and/or abatement of a public nuisance. Until that time, staff will continue to monitor the site, track on-going progress, and will update Mr. Snyder once he joins the City.

#### SUGGESTED MOTION:

***Move to approve the staff recommendation to postpone action on this matter at this time, and permit the property owner to continue to make progress on the improvements identified in the agreement.***

ATTACHEMENTS:

- None

ORDER OF BUSINESS:

- |  |                   |
|--|-------------------|
| • Introduction   | Craig Dawson      |
| • Report by staff  | Ben Gozola        |
| • Questions from City Council members to the presenter   | Mayor facilitates |
| • Questions/comments from the public to the City Council | Mayor facilitates |
| • Action on motion                                       | City Council      |

City Council  
Date: 4-7-09  
REGULAR  
Item: 8  
Motion

ITEM: Inwood Avenue (CSAH 13) Turn Lane Improvements, Resolution of Municipal Consent

SUBMITTED BY: Jack Griffin, City Engineer

REVIEWED BY: Ryan Stempski, Assistant City Engineer

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SUMMARY AND ACTION REQUESTED: The City Council is being asked approve the resolution for Municipal Consent for the Inwood Avenue (CSAH 13) Turn Lane Improvements.

This is a County State Aid project and is being funded through the Minnesota Department of Transportation's Local Road Improvement Program (LRIP). Projects funded by LRIP require Municipal Consent.

BACKGROUND INFORMATION:

The project consists of the construction of a center turn lane in both directions on Inwood Avenue (CSAH 13) at its intersection of 15<sup>th</sup> Street North. The turn lanes will allow for storage of the left turn movement, allowing the driving lane to freely pass through the intersection. The addition of the turn lane will also increase safety by discouraging vehicles from illegally passing on the shoulder.

The project will be constructed entirely within the County Right-of-Way and will be funded by the Local Road Improvement Program (LRIP), at no cost to the City of Lake Elmo.

RECOMMENDATION:

It is recommended that the Council approve Resolution 09-017, Approving County Project within Municipal Corporate Limits. By approving this Resolution the Council is authorizing the City Engineer to sign the Washington County Construction Plans.

SUGGESTED MOTION FOR CONSIDERATION:

*Move to approve Resolution No. 2009-017, Approving County Project within Municipal Corporate Limits.*

ATTACHMENTS:

1. Project Location Map
2. Resolution No. 09-017

## ORDER OF BUSINESS

- Introduction Craig Dawson, Interim City Administrator
- Report by staff or other presenter Jack Griffin, City Engineer
- Questions/comments from the public to the City Council Mayor Facilitates
- Action on motion





Legend



Scale: 1:31,639

This drawing is the result of a compilation and reproduction of land records as they appear in various Washington County offices. The drawing should be used for reference purposes only. Washington County is not responsible for any inaccuracies.

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

**RESOLUTION NO. 09-017**

**A RESOLUTION APPROVING COUNTY PROJECT  
WITHIN MUNICIPAL CORPORATE LIMITS**

WHEREAS, Washington County has completed the design and plans, dated February 26, 2009, for Project No. SAP 82-613-27, showing proposed excavation, grading, alignment, cross-sections and bituminous paving for the improvement of County State Aid Highway (CSAH) No. 13 (Inwood Avenue), and

WHEREAS, the plans have been reviewed by City Staff and presented to the City Council, and

WHEREAS, the project is necessary to improve safety along CSAH 13 at the intersection of 15<sup>th</sup> Street by adding a left turn lane in each direction, and

NOW, THEREFORE, BE IT RESOLVED,

1. The City hereby approves said final plans for the improvements of CSAH 13 within the corporate limits.
2. The City Engineer is hereby authorized to sign the County Construction Plans on the City's behalf.

Date: April 7, 2009      CITY OF LAKE ELMO

By: \_\_\_\_\_  
Dean Johnston  
Mayor

ATTEST:

\_\_\_\_\_  
Craig Dawson  
Interim City Administrator

City Council  
Date:  
Item: 9.  
Motion

April 7, 2009

ITEM: I-94 Corridor Joint Powers Agreement;  
Appointment of Representative and Alternate

SUBMITTED BY: Craig W. Dawson, Interim City Administrator

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**SUMMARY AND ACTION REQUESTED:** The Washington and Ramsey County Railroad Authorities have approved the joint powers agreement (JPA) to establish the I-94 Corridor Commission. The focus of work of the Commission will be on transit. The JPA gives the eight cities and one town directly along I-94 from Saint Paul to the Saint Croix River the opportunity to join the organization as "non-financial parties." The City Council needs to adopt a resolution to approve the JPA and to appoint its representative and alternate (each of whom must serve on the City Council) to the Board of the Commission.

**BACKGROUND:** The City Council reviewed the draft JPA for this proposed commission at its February 10, 2009, work session, and officially indicated its intent to participate in the commission at its February 17, 2009, meeting. The regional railroad authorities of Washington County and Ramsey County have since made revisions based on comments by the several parties, and their governing boards approved the JPA on March 10 and 17, respectively. The Commission now officially exists. The other cities/town who may participate, and it is expected that all of them will, have since been adopting resolutions to join the Commission and to appoint their representatives and alternates to the board.

The revisions have been relatively minor, and have been designed so as minimize the need (and cumbersome process) to make amendments to the JPA. The revised JPA also provides that only one of the positions of chair or vice-chair needs to be filled by a Financial Party member (i.e., from the railroad authorities). Additionally, the official name of the organization may easily be changed if it's deemed appropriate to do so.

General background for this item is summarized in the one-page staff memorandum for the February 10 work session (attached).

It is expected that the Commission's Board will begin meeting in late April.

**RECOMMENDATION:** Staff recommends that the Council adopt the resolution approving and authorizing execution of the joint powers agreement for the I-94 Corridor Commission, and appointing the City's representative and alternate to the Commission for 2009.

**SUGGESTED MOTION FOR CONSIDERATION**

*Move adoption of the resolution to:*

- 1) *approve and authorize execution of the joint powers agreement for the I-94 Corridor Commission, and*
- 2) *appoint the City's representative and alternate to the Commission for 2009. (The representative and the alternate must currently serve on the City Council.)*

ATTACHMENTS:

Resolution to approve JPA and appoint City's representatives  
Staff memorandum for February 10 work session  
Final version of I-94 Corridor Commission joint powers agreement (JPA)

ORDER OF BUSINESS:

- |  |                      |
|--|----------------------|
| • Introduction   | Craig Dawson         |
| • Report by staff or other presenter                     | Craig Dawson         |
| • Questions from City Council members to the presenter   | facilitated by Mayor |
| • Questions/comments from the public to the City Council | facilitated by Mayor |
| • Action on motion                                       | City Council         |

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

**RESOLUTION NO. 2009 - \_\_\_\_\_**

**A RESOLUTION APPROVING JOINT POWERS AGREEMENT  
FOR THE I-94 CORRIDOR COMMISSION  
AND APPOINTING THE CITY'S REPRESENTATIVE AND ALTERNATE  
TO THE BOARD OF THE I-94 CORRIDOR COMMISSION**

**WHEREAS**, the I-94 Corridor currently carries over 130,000 vehicles per day at Highway 52 and 110,000 vehicles per day at Interstate 694; and

**WHEREAS**, the 2030 Transportation Policy Plan has been approved by the Metropolitan Council and shows that traffic and congestion are forecast to increase substantially by 2030 resulting in the entire length of I-94 from downtown St Paul to the St Croix River as being congested; and

**WHEREAS**, the 2030 Transportation Policy Plan identifies the I-94 Corridor as a Transitway Corridor in need of additional analysis;

**WHEREAS**, the transitway analysis is needed to identify how mobility can be maintained and improved in the corridor; and

**WHEREAS**, transitway analysis has been completed on similar Ramsey and Washington County transitway corridors including Red Rock and Rush Line; and

**WHEREAS**, this partnership on these similar transitway corridors has been formalized through a joint powers agreement, the members of which include the Washington County Regional Railroad Authority, the Ramsey County Regional Railroad Authority, and may include any of the municipalities through which I-94 traverses from Union Station in St. Paul to the St. Croix River.

**NOW THEREFORE BE IT RESOLVED**, by the City Council of the City of Lake Elmo that the it approves the I-94 Corridor Joint Powers Agreement and authorizes its execution.

**BE IT FURTHER RESOLVED**, that the City Council hereby appoints \_\_\_\_\_  
as the I-94 Corridor Commission representative and \_\_\_\_\_  
as the alternate for 2009.

ADOPTED by the City Council of the City of Lake Elmo this 7<sup>th</sup> day of April, 2009

ATTEST:

\_\_\_\_\_  
Dean A. Johnston, Mayor

\_\_\_\_\_  
Craig W. Dawson, Interim City Administrator





## City of Lake Elmo

651/777-5510

3800 Laverne Avenue North / Lake Elmo, MN 55042

### MEMORANDUM

**TO:** City Council  
**FROM:** Craig W. Dawson, Interim City Administrator  
**DATE:** February 5, 2009  
**SUBJECT:** I-94 Corridor Joint Powers Agreement (Work Session Item #4)

**Background:** Efforts by numerous parties, primarily with the lead taken by Washington and Ramsey counties, resulted in the designation of I-94 as a transitway corridor in the Metropolitan Council's 2030 Transportation Policy Plan. The specific form of transit – light rail transit (LRT), busway, bus rapid transit (BRT), or commuter rail – is not identified in the plan, but rather all of these forms of transit and others will be considered.

**Purpose:** To get started on the planning process, the Washington County Regional Railroad Authority and the Ramsey County Regional Railroad Authority have drafted a joint powers agreement (JPA) to create the I-94 Corridor Commission. The Commission would be the forum for “collaborative planning of multi-modal transportation improvements along the Corridor and for the related land use and development impacts.” Those invited to be parties to the JPA are the regional railroad authorities, the eight cities, and the one township along the Corridor from the Union Depot in Saint Paul to the Saint Croix River.

In speaking with Washington County staff, the Commission will be formed of the regional railroad authorities and of those municipalities that wish to join. It is not necessary for all of the municipalities along the corridor to become members in order for the Commission to be established.

**Highlights of the JPA :** The JPA is straightforward and the obligations of the municipalities are relatively few. There will be two types of members: Financial Parties (the two regional railroad authorities), and Non-financial Parties (all of the member cities/township). The financial parties shall each have two votes, and each non-financial party shall have one vote on the Joint Powers Board. The non-financial parties would have no financial obligations unless the JPA is amended, and any amendment needs unanimous approval by the parties (both financial and non-financial). As drafted, all actions of the Commission's Board requiring the expenditure of funds would need a simple majority of the members and the unanimous vote of the financial members. Essentially, the only obligation of any municipality is to invest the time to participate in the Commission's activities.

**Discussion by Council:** The regional railroad authorities have asked for comments on the draft JPA and an indication of the city's intent to participate by February 13. Given the late date we received this communication, the first date that the City Council can take any formal action is February 17. This item will be placed on the agenda for the Council's February 17 meeting.



**JOINT POWERS AGREEMENT  
ESTABLISHING THE  
INTERSTATE 94 CORRIDOR COMMISSION**

**THIS AGREEMENT**, is entered into by and between the undersigned Regional Railroad Authorities, Cities, and Townships all being governmental units of the State of Minnesota, pursuant to the authority contained the Minn. Statutes §§471.59 and 398A.

**WITNESSETH**

**WHEREAS**, the Interstate 94 Corridor is defined as the transitway corridor originating at the Union Depot in downtown St. Paul and traveling east through Washington County with connections to other multi—modal transportation options; and

**WHEREAS**, the Interstate 94 Corridor has significant transportation safety, and land use issues; and

**WHEREAS**, there are opportunities for a variety of multi-modal transportation improvements to the Interstate 94 Corridor, including light rail transit, bus rapid transit or commuter rail along with multi-use trails, Intelligent Transportation Systems (ITS) and roadway improvements as related to the implementation of light rail transit, bus rapid transit or commuter rail; and

**WHEREAS**, the parties wish to collaboratively plan for multi-modal transportation improvements to the Interstate 94 Corridor and for the related land use and development impacts; and

**WHEREAS**, the Interstate 94 Corridor Commission intends to work collaboratively with the Minnesota Department of Transportation and the Metropolitan Council for the planning and development of light rail transit, bus rapid transit or commuter rail along with multi-use trails, Intelligent Transportation Systems (ITS) and roadway improvements as related to the implementation of light rail transit, bus rapid transit or commuter rail in the Interstate 94 Corridor.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants herein, the parties hereto agree to as follows:

**ARTICLE 1.**

**DEFINITIONS**

Unless context otherwise requires, the terms defined in this section shall have the meanings stated herein:

**Agreement** means this Joint Powers Agreement as it now exists and as it may hereafter be amended.

**Commission (I-94 Corridor Commission)** shall mean the Joint Powers body established hereby

**Party or Parties** shall mean any Regional Railroad Authorities, Cities or Townships identified in Article 6 of this Agreement as signatories to this Agreement.

**Financial Parties** shall mean the financial party or parties so identified in Article 6 of this Agreement.

**Interstate 94 (I-94) Corridor** shall be defined as the Interstate 94 transportation corridor originating at the Union Depot in downtown St. Paul and traveling east through Washington County.

**Member** shall mean an individual appointed to the Commission as provided in Article 4 of this Agreement.

**Quorum** shall mean a majority of members, provided such majority includes at least two (2) Financial Members as defined in the Agreement. A quorum shall not be found if fewer than two (2) Financial Members are present.

## **ARTICLE 2.**

### **PURPOSE**

The purpose of this Agreement is to form a joint powers board under the provision of Minnesota Statutes Section 471.59 and 398.A to enable the parties to cooperatively analyze the feasibility, environmental impacts, engineering, and construction of multi-modal transportation improvements in the I-94 Corridor including light rail transit, bus rapid transit or commuter rail along with multi-use trails, Intelligent Transportation Systems (ITS), roadway improvements as related to the implementation of light rail transit, bus rapid transit or commuter rail and the associated land use and development impacts. These activities may include but not be limited to the acquisition and management of federal, state, and local funding in conjunction with the Minnesota Department of Transportation and the Metropolitan Council, and may perform any responsibilities delegated by the Commissioner of Transportation or Metropolitan Council Chair subject to the conditions that sufficient funds are received.

The Parties will communicate and coordinate the Commission's activities as necessary with private corporations, state agencies, counties, municipalities, the Federal Transit Administration, other regulatory, planning, and funding agencies, and other stakeholders for advancement of the Commission's purposes.

The method of accomplishing the purpose of this Agreement is the establishment of a Joint Powers Board to provide a mechanism whereby the Parties jointly address the stated purposes.

## **ARTICLE 3.**

### **TERM**

This Agreement shall be effective (the Effective Date) and the joint powers board established herein may commence exercising the powers and authorized in this Agreement on the day that the Agreement has been approved by resolution and duly executed by the Ramsey County Regional Railroad Authority and the Washington County Regional Railroad Authority by action of their governing boards. This Agreement shall remain in full force and effect until terminated by the Parties pursuant to Article 10 of the Agreement.

**ARTICLE 4.****JOINT POWERS BOARD**

- A. There is hereby created a Joint Powers Board as a public entity, to be known as the I-94 Corridor Commission. The Commission shall be an entity separate from its member Parties and shall not be deemed an agent or partner of the member Parties and the member Parties shall not be liable for the actions of the Commission. The Commission shall have full authority to exercise all powers stated herein.
- B. The Commission shall consist of one Member and one alternate appointed through resolution by a Party for an initial term commencing with the execution of this Agreement until January 15, 2010. Each Member or alternate must be a member of the governing body, commission, or council which appoints him or her, and must remain so during his or her term.
- C. After January 15, 2010, the governing body, commission, or council shall appoint by resolution its member and alternate for one year terms. In the event that any Member or alternate shall not have been appointed by January 15 in any year, the incumbent Member shall serve until a successor has been appointed. Removal of any Member or alternate during the term for which the Member has been appointed may be done at any time but shall be done only by resolution of the appointing governing body, commission, or council, or automatically if the Member ceases to be a member of the Party which appointed him or her.

**ARTICLE 5.****VOTING**

Board voting shall be as follows: Each Financial Party Member receives three (3) votes and each non-Financial Party Member receives one (1) vote.

- A. In the event that the appointed Member is not present at the meeting, their alternate may cast all of their Party's allocated votes.
- B. All actions of the Board require both a simple majority vote of the Members present and a simple majority vote of the Financial Members present. However, for all actions involving the expenditure of funds and adoption of the budget, a simple majority of the whole Board plus a unanimous vote of all Financial Members is required.

**ARTICLE 6.****MEMBERSHIP**

The government units that are eligible for participation in this Commission upon adoption of this agreement by resolution and duly executed by their respective governmental units on or before December 31, 2009 include:

- A. Financial Parties
  - a. Ramsey County Regional Railroad Authority

- b. Washington County Regional Railroad Authority
- B. Non-financial Parties
  - a. City of St. Paul
  - b. City of Maplewood
  - c. City of Landfall
  - d. City of Oakdale
  - e. City of Woodbury
  - f. City of Lake Elmo
  - g. City of Afton
  - h. City of Lakeland
  - i. Town of West Lakeland
- C. If an entity identified in this Article 6 does not elect to become a Party by December 31, 2009, it may do so thereafter by amendment to this Agreement pursuant to Article 11 hereof.
- D. Following the initial term, Commission Members' terms shall commence on January 15 of a calendar year and end on January 14 of the next succeeding year, or until a successor is appointed.

#### **ARTICLE 7.**

#### **POWERS OF COMMISSION**

The Commission has such authority as is necessary and proper to make all decisions to carry out its purpose as described in Article 2. Such powers shall be subject to the provisions of Minn. Stat. § 471.59 and 398A and will include, but not be limited to, any or all of the following:

- A. Adopt an annual budget, together with a statement of the sources of funding and an estimated amount required of each Financial Party.
- B. Enter into transactions, including contracts or leases, required in furtherance of this Agreement and statutory mandate and enforce such transactions to the extent available in equity or at law. The contracting and purchasing requirements of one of the Financial Parties designated by the Commission shall apply hereto. The Commission may approve any contract relating to this Agreement up to the amount approved in the annual budget and may authorize the Chair of the Commission to execute those contracts.
- C. Have the power to adopt such by-laws that it may deem necessary or desirable for the conduct of its business. Such by-laws shall be consistent with this Agreement and any applicable laws or regulations. The by-laws may provide for the appointment of ex officio, non-voting members to the Board by the Commission. Approval of the by-laws shall be in accordance with Article 5 of this Agreement.
- D. Apply for and accept gifts, grants and loans of money, other property, or assistance from the United States government, the State of Minnesota, or any person, corporation, partnership, association, or agency public or private for any of its purposes; enter into any

agreement in connection therewith to hold, use and dispose of such money, other property; and assistance in accordance with the terms of the gifts, grants, or loans relating thereto.

- E. Acquire and hold such real and personal property as may be required to accomplish the purposes of this Agreement and, upon termination of this Agreement, make distribution of such property as is provided for in this Agreement.
- F. Employ agents and employees, and to fix the compensation and all other terms and conditions of employment thereof.
- G. Incur debts, liabilities, or obligations which do not constitute a debt of any of the Parties. The Joint Powers Board does not have authority to incur debts, liabilities, or obligations which constitute a debt of any of the Parties. The obligations or other forms of indebtedness must be issued in the same manner as would apply to one of the Financial Parties.
- H. Enter into agreements and non-binding memoranda of understanding between the Commission and the United States government, the State of Minnesota, or any person, corporation, partnership, association, or agency public or private in accordance with applicable law.
- I. Sue and be sued in its own name.

All powers granted herein shall be exercised by the Commission in accordance with the legal requirements applicable to the regional railroad authorities.

## **ARTICLE 8.**

## **OFFICERS, EMPLOYEES, AND SERVICES**

### **A. Chair and Vice-Chair**

The Commission shall elect a Chair and Vice-Chair at its first regular meeting each year. The Chair and Vice-Chair shall consist of at least one Financial Party member. The Chair and Vice-Chair shall be elected by the Commission for a term of one (1) year. The Chair shall preside at all meetings of the Commission, may establish such committees as may be needed from time to time and shall perform other duties and functions as may be determined by the Commission. The Vice-Chair shall assume the duties of the Chair during the absence of the Chair and perform such other duties as may be determined by the Commission. If both the Chair and Vice-Chair are absent, the Commission may elect a temporary Chair to conduct its business, provided a quorum is present. Election of a temporary chair shall be by a simple majority vote of the quorum.

### **B. Executive Committee**

The Commission may establish an Executive Committee of the Commission consisting of the representative of each Financial Member. The Executive Committee shall develop and make recommendations to the Commission regarding the ongoing responsibilities of



the Commission and shall have such other duties as set forth in the Commission's by-laws.

**C. Staff**

Any Party may provide staff support to the Commission subject to the approval of the Commission.

**D. Vacancies**

If an appointment of any Member or alternate is vacated before the end of his or her term, the vacancy shall be filled by appointment by the appropriate Party pursuant to Articles 4 and 6 of this Agreement. Vacancies shall be filled within thirty (30) days of their occurrence. A vacancy shall be deemed to have occurred when any of the conditions specified in Minn. Stat. § 351.02 exist.

**E. Meetings**

The Commission shall meet at regular intervals at such times and places as the Commission shall establish in its by-laws. Special meetings may be held on reasonable notice by the Chair or any two members upon terms and conditions as the Commission may determine and that conform to the Minnesota Open Meeting Law, Minn. Stat. § 13D.

**F. Committees**

The Commission may establish standing committees of the Commission by providing for such committees by resolution. The Chair may establish ad hoc committees of the Commission.

**ARTICLE 9.**

**FUNDING**

It is understood by the Parties that the activities and duties of the Commission are to be funded primarily by grant monies from the United States Government, the State of Minnesota or any other association or agency. Nevertheless, the Financial Parties identified in this Agreement agree to provide funding, if necessary, for the feasibility, environmental impacts, engineering, and construction of a multi-modal transportation improvement in the I-94 Corridor including light rail transit, bus rapid transit, commuter rail, multi-use trails, and Intelligent Transportation Systems (ITS) along with the associated land use and development impacts, and administrative expenses of the Commission (to the extent not covered by grant funds), and other items deemed necessary to facilitate development of the corridor. The Financial Parties will establish an initial budget. The Financial Members contribution to the initial budget and all subsequent budgets shall be allocated as follows:

50%	Ramsey County Regional Railroad Authority
50%	Washington County Regional Railroad Authority

Each Financial Party shall pay its appropriate initial contribution to the regional railroad authority acting as fiscal agent of the Commission within sixty (60) days of the Commission approving a budget.

**A. Annual Budget**

For the calendar year next following the calendar year in which the Effective Date occurs and all subsequent years, the Commission shall establish and approve a budget. Each Financial Member shall be assessed for its proportionate share of the budget according to the schedule established above. The Commission shall establish its first budget within sixty (60) days of the commencement of the Commission.

**B. Financial Members' Budget Approval**

Adoption of the budget and any other matter requiring expenditure of funds shall be in accordance with Article 5 of this Agreement.

**C. Contribution Date**

Except for any initial contribution required by this Agreement, assessments made under the provisions of this article shall be paid by each Financial Party by January 15 of each year. The initial contribution shall be made within sixty (60) days of the adoption of the budget pursuant to Article 7(A) hereof.

**D. Budgeting, Accounting, Fiscal Agent, and Other Services**

The Commission may contract with any Party to provide contract management, legal review, and budgeting and accounting services necessary or convenient for the Commission and otherwise act as the Commission's fiscal agent. Such services shall include, but not be limited to, management of all funds, including contributions and grant monies, payment for contracted services, and relevant bookkeeping and record keeping. The contracting and purchasing requirements of the Party so selected shall apply to transactions of the Commissions. Such Party shall identify the staff person to work as liaison with the Commission.

**E. Accountability for Funds**

All funds shall be accounted for according to generally acceptable accounting principles. A report on all receipts and disbursements shall be forwarded to the Commission on an annual basis. The Parties have the authority to request reports pertaining to any and all budgeting and accounting services. All interest earned from established Commission funds shall be credited back to that same fund.

**ARTICLE 10.**

**WITHDRAWAL AND TERMINATION**

**A. Withdrawal**

Any Party may withdraw from this Agreement upon 90-days prior written notice evidenced by resolution of the Party's governing body to the Commission. In the event of withdrawal by any Party, this Agreement shall remain in full force and effect as to all remaining Parties.

**B. Effect of Withdrawal, Disposition of Property, Funds, and Obligations**

A Financial Party withdrawing from this Agreement shall, prior to such withdrawal, pay the full amount of any unpaid assessments to the Commission as defined in Article 9. A Party withdrawing from this Agreement shall not receive a distribution of property or

funds until such time as this Agreement is terminated by all Parties pursuant to this Article 10. Such disposition of property shall be in accordance with the provisions of Section D of this Article 10.

Any Financial Party withdrawing shall be liable for any assessment in the year in which the withdrawal becomes final only for the period in such year that the Financial Party remains a party. The Financial Party's assessment shall not exceed the sum of one-twelfth (1/12<sup>th</sup>) the full assessment multiplied by the number of months or fractions thereof in the year during which the party remains a party.

**C. Termination**

This Agreement shall terminate upon the occurrence of any one of the following events:

- a. When necessitated by operation of law or as a result of a decision by a court of competent jurisdiction; or
- b. When all of the Financial Parties agree, by resolution adopted by the respective governing bodies, to terminate this Agreement and all obligations of the Commission shall have been paid or otherwise defeased in full.

**D. Disposition of Property and Funds**

At such time as this Agreement is terminated, any property interest remaining in the Commission, following discharge of all obligations owed by the Commission shall be disposed of and the proceeds of the property shall be returned to the Parties in proportion to their contribution.

**E. Effect of Withdrawal of Financial Party on Budget**

In the event a Financial Party withdraws, the unpaid assessment allocable to such member in the year of withdrawal and subsequent years shall be reallocated to the remaining Financial Party.

**ARTICLE 11.**

**MISCELLANEOUS**

**A. Amendments**

This Agreement may be amended by unanimous agreement of the Parties as evidenced by resolutions adopted by the respective governing bodies.

**B. Records, Accounts, and Reports**

The Commission shall establish and maintain such funds and accounts as may be required by good accounting practices. The books and records of the Commission shall be subject to the provisions of Minn. Stat. Ch. 13, the Minnesota Government Data Practices Act, and Minn. Stat. § 16C.05, subd. 5. The Commission, within one hundred twenty (120) days after the close of each fiscal year which shall be January 1 to December 31, shall give a complete written report of all financial activities for such fiscal year to the Parties.

**C. Counterparts**

This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

**D. Severability**

The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of the Agreement is for any reason held to be contrary to law, or contrary to any rule or regulation having the force and effect of law, such decision shall not affect the remaining portions of this Agreement.

**E. Entire Agreement**

This Agreement constitutes the entire agreement between the Parties and supersedes all prior written or oral agreements relating to the Commission.

**F. Alternative Dispute Resolution**

In the event of a dispute arising under this Agreement, the Parties and the Commission agree to attempt to resolve their dispute by following the process described below:

- a. A Party shall provide written notice to the Commission describing perceived conflict, positions, and underlying reasons.
- b. The Commission shall provide written response to notice within seven (7) days of receipt of notice.
- c. The Parties shall meet within 14 days of receipt of response with a neutral facilitator. The neutral facilitator will be a representative from the Minnesota Office of Dispute Resolution. Costs of such facilitator shall be shared equally by all parties to the dispute.
- d. At the first meeting, the neutral facilitator will assist the Parties in identifying the appropriate Parties and participants in the dispute resolution process, their concerns, a meeting agenda and design for any subsequent meetings. The Parties shall agree on a process for resolving the problem that would involve additional negotiations, mediation, or arbitration.
- e. In developing the process, the parties will be guided by the following principles:
  - i. the Parties will attempt in good faith to reach a negotiated settlement;
  - ii. the Parties agree that there must be fair representation of the parties directly involved in the dispute;
  - iii. the Parties will use legal proceedings as a last resort; and

- iv. in the event the Parties are unable to resolve the dispute, each Party retains all rights, remedies, or defenses it had prior to entering the process.
- f. The parties will report to the Commission within 60-days of their first meeting on the resolution of the dispute or a recommendation to commence legal proceedings.

**G. Minnesota Laws Govern**

The Laws of the State of Minnesota shall govern all questions and interpretations concerning the validity and construction of this Agreement and the legal relations between the Parties and their performance. The appropriate venue and jurisdiction for any litigation shall be in State district court located within the County of Ramsey, State of Minnesota. Litigation, however, in the federal courts involving the Parties will be in the appropriate federal court within the State of Minnesota. If any provision of this agreement is invalid, illegal, or unenforceable the remaining provisions will not be affected.

**IN WITNESS WHEREOF**, the parties to this Agreement have hereunto set their hands on the date written below.

## WASHINGTON COUNTY REGIONAL RAIL AUTHORITY

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Myra Peterson, Chair  
Washington County Board of Commissioners

Date

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James R. Schug  
County Administrator

Date

Approved as to form:

---

Asst. County Attorney

Date



**CITY OF**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
City Administrator

\_\_\_\_\_  
Date

Approved as to form:

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date

City Council  
Date:  
REGULAR  
Item: 10.  
Motion

April 7, 2009

ITEM: MAC Joint Airport Zoning Board, Lake Elmo Airport

SUBMITTED BY: Craig W. Dawson, Interim City Administrator

REVIEWED BY: Kyle Klatt, Planning Director  
Jerry Filla, City Attorney

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**SUMMARY AND ACTION REQUESTED:** In a letter received March 4, 2009, the Metropolitan Airports Commission (MAC) proposes to establish a Joint Airport Zoning Board (JABZ) to implement Airport Safety Zoning at and around the Lake Elmo Airport. The Board would consist of two representatives each from Lake Elmo, West Lakeland Township, Baytown Township, Oak Park Heights, Washington County, and the MAC. The MAC would like the Board to begin meeting in late April. The MAC is requesting that Lake Elmo participate and appoint two representatives to the Board.

**BACKGROUND:** State statute provides for the establishment of JABZs in order to regulate land use for the safety of aircraft operations around airports (usually referred to as "safety zones"). The statute provides that "[t]he Metropolitan Airports Commission shall request creation of one joint airport zoning board for each airport operated under its authority." According to MSA § 360.063, Subd. 3(c), if a city, within 60 days of receiving a request from the MAC, fails to join in creating the JABZ, the MAC or the JABZ that is formed with other parties will have zoning jurisdiction within the airport zone in that city. In short, the City of Lake Elmo will be subject to the MAC's/JABZ's airport zone regulations whether the City joins in the JABZ or not.

The MAC adopted the Long-Term Capital Plan for the Lake Elmo Airport late in 2008. In the Plan,

"Shortly following the finalization of the proposed future development plans for Lake Elmo Airport, the MAC will convene a Joint Airport Zoning Board (JABZ) that will include the respective Responsible Governmental Units (RGUs) that control land use development around the Lake Elmo Airport. This effort will address land uses around Lake Elmo Airport in the context of the preferred alternative runway zones."

The JABZ will draft, adopt, and enforce a zoning ordinance specific to the Lake Elmo Airport. Zoning matters generally deal with height restrictions for buildings and vegetation. The JABZ will not be a planning body regarding the future use or expansion of the airport. In a conversation with MAC staff, the MAC will not push the 60-day schedule in the statute, but rather wants to be deliberative in getting the parties together and in agreement with the JABZ for Lake Elmo Airport.

The final draft of the AUAR for Lake Elmo Village, which has been distributed for final comment by agencies, states that the City intends to participate in the JABZ.

**Other JABZs:** Few of the metropolitan airports have JABZs. According to MAC staff, the only one currently active is for Saint Paul/Holman Field. The MAC is currently working on establishing one for Flying Cloud Airport in Eden Prairie. A JABZ exists for Minneapolis/Saint Paul International Airport. The Crystal Airport has a joint airport zoning ordinance that was established in 1984, and the MAC is in the process of re-establishing the JABZ and updating that ordinance.

One of the issues arising with recent formation of JABZs is indemnification of the cities who appoint members of the JABZ. The MAC has provided indemnification for participants in the Saint Paul/Holman Field and MSP JABZs, and its staff has related that it would be the MAC's intention to provide indemnification as other JABZs are established. Should the City Council elect to join the JABZ for Lake Elmo Airport, it state its expectation that the MAC will provide indemnification to the City from claims based upon the City's adoption of more restrictive zoning standards which could have an adverse impact on property values within hazard zone areas.

Participation/Membership on the JABZ: As the JABZ is not organized under the joint powers organization statute, there is no requirement that the City's members on the Board be City councilmembers. The Council may appoint anyone to be its representatives on the Board. The Council may wish to consider a member of the Planning Commission, a resident or owner of business property near the airport, a member of the City Council, or a Lake Elmo resident for appointment to the Board.

While only an action (i.e., a motion) of the Council to appoint members to the Board is necessary to join the JABZ, staff suggests that if the Council take action to join by a resolution authorizing the City to join the JABZ, requiring that the MAC indemnify the City for its participation on the JABZ, and appointing the two members to the Board.

**RECOMMENDATION:** Staff recommends that the City Council direct the preparation of a resolution for the City to join the Joint Airport Zoning Board for Lake Elmo Airport, and that this resolution be placed on the agenda for the Council's April 21, 2009, meeting. This timing will provide the Council with two weeks to identify persons who may be appointed the Board.

**SUGGESTED MOTION FOR CONSIDERATION**

*Move that staff prepare a resolution that will authorize the City to join the Joint Airport Zoning Board for the Lake Elmo Airport, and place this item on the agenda for the April 21, 2009, City Council meeting.*

**ATTACHMENTS:**

- March 3, 2009, Letter from the MAC proposing creation of the Lake Elmo Airport JABZ

**ORDER OF BUSINESS:**

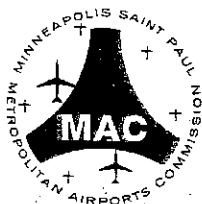
- |  |                       |
|--|-----------------------|
| • Introduction   | Craig Dawson          |
| • Report by staff or other presenter                     | Craig Dawson & others |
| • Questions from City Council members to the presenter   | Mayor facilitates     |
| • Questions/comments from the public to the City Council | Mayor facilitates     |
| • Action on motion                                       | City Council          |

# METROPOLITAN AIRPORTS COMMISSION

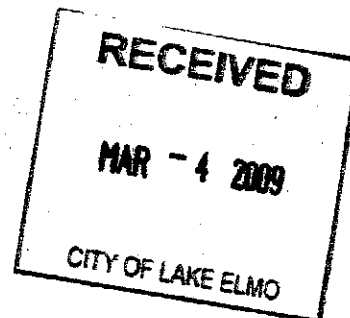
Minneapolis-Saint Paul International Airport

6040 - 28th Avenue South • Minneapolis, MN 55450-2799

Phone (612) 726-8100



March 3, 2009



Mr. Craig Dawson  
City Administrator  
City of Lake Elmo  
Lake Elmo City Hall  
3800 Laverne Avenue North  
Lake Elmo, MN 55042

Dear Mr. Dawson:

The Metropolitan Airports Commission (MAC) proposes to establish a Joint Airport Zoning Board to implement Airport Safety Zoning at the Lake Elmo Airport. State Airport Safety is prescribed in Minnesota Statute and MnDOT Aeronautics rules and deals with both land use and height restrictions in the vicinity of airports, particularly off the ends of runways.

State Statute requires MAC to create a Joint Airport Zoning Board for each of its airports. The Joint Airport Zoning Board consists of two representatives from each affected community and two representatives from MAC (Commissioners Robert Nelson and Andy Westerberg for this Board). While most of the airport affects at the Lake Elmo Airport are within the existing airport boundaries, there are zoning issues in Lake Elmo, West Lakeland Township, Baytown Township, Oak Park Heights, and Washington County. Each of these communities and the County is requested to participate in this process and to appoint two representatives to the Board.

In order to move forward with this process, MAC requests that you appoint two representatives to participate in a Joint Airport Zoning Board for Lake Elmo Airport. We would like to convene the Board for its first meeting in late April. If you would like additional information regarding either airport safety zoning or its potential impacts, please contact Chad Leque at 612-725-6326.

Sincerely,

Dennis Probst  
Deputy Executive Director  
Planning and Environment

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

**RESOLUTION NO. 2009 - 015**

**A RESOLUTION APPROVING JOINT POWERS AGREEMENT  
FOR THE I-94 CORRIDOR COMMISSION  
AND APPOINTING THE CITY'S REPRESENTATIVE AND ALTERNATE  
TO THE BOARD OF THE I-94 CORRIDOR COMMISSION**

**WHEREAS**, the I-94 Corridor currently carries over 130,000 vehicles per day at Highway 52 and 110,000 vehicles per day at Interstate 694; and

**WHEREAS**, the 2030 Transportation Policy Plan has been approved by the Metropolitan Council and shows that traffic and congestion are forecast to increase substantially by 2030 resulting in the entire length of I-94 from downtown St Paul to the St Croix River as being congested; and

**WHEREAS**, the 2030 Transportation Policy Plan identifies the I-94 Corridor as a Transitway Corridor in need of additional analysis;

**WHEREAS**, the transitway analysis is needed to identify how mobility can be maintained and improved in the corridor; and

**WHEREAS**, transitway analysis has been completed on similar Ramsey and Washington County transitway corridors including Red Rock and Rush Line; and

**WHEREAS**, this partnership on these similar transitway corridors has been formalized through a joint powers agreement, the members of which include the Washington County Regional Railroad Authority, the Ramsey County Regional Railroad Authority, and may include any of the municipalities through which I-94 traverses from Union Station in St. Paul to the St. Croix River.

**NOW THEREFORE BE IT RESOLVED**, by the City Council of the City of Lake Elmo that the it approves the I-94 Corridor Joint Powers Agreement and authorizes its execution.

**BE IT FURTHER RESOLVED**, that the City Council hereby appoints \_\_\_\_\_  
as the I-94 Corridor Commission representative and \_\_\_\_\_  
as the alternate for 2009.

ADOPTED by the City Council of the City of Lake Elmo this 7<sup>th</sup> day of April, 2009

ATTEST:

\_\_\_\_\_  
Dean A. Johnston, Mayor

\_\_\_\_\_  
Craig W. Dawson, Interim City Administrator



ITEM: Provide Direction on Proceeding with an Ordinance and Permit for Special Events Held within the City

REQUESTED BY: Planning Department

SUBMITTED BY: Kelli Matzek, City Planner

REVIEWED BY: Craig Dawson, Interim City Administrator  
Kyle Klatt, Director of Planning

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#### SUMMARY AND ACTION REQUESTED:

The City Council is being asked to review the attached examples of permits and an ordinance regarding Special Event Permits and to provide staff direction as to whether or not the Council would like to consider adopting a similar ordinance for Lake Elmo. The request received by the Minnesota Boat Club to hold a rowing regatta on Lake Elmo in 2009 has prompted city staff to do a preliminary investigation of the permit and process used by other communities in Minnesota for regulating large temporary events. If the City Council chooses to move forward with a Special Event Permit, it would not pertain to the Boat Club's current request.

A Special Event Permit would be intended to provide some regulation of temporary events on a case-by-case basis and is intended to assure adequate provision of parking, traffic, sanitary facilities, utilities, public safety services, proper insurance, and peace and tranquility of residential neighborhoods.

A special events permit would apply to other events that have occurred within the city such as: Huff n' Puff Days, Pet Carnival, and a Rowing Regatta. The Council may choose to either waive the fee or to not require the permit for public-sponsored events such as the Fall Festival.

#### *City History*

In 2006 the Council approved an ordinance allowing Commercial Social Outdoor Events as a conditional use in the agricultural zoning district, which it then repealed in April of 2007. A Special Event Permit, should the Council direct staff to further research and prepare the information, is different than the Commercial Social Outdoor Events in the following ways:

- 1) - A Special Event permit would be required and reviewed for each event and would not guarantee a future permit would be received by the applicant or property owner.
  - A Commercial Social Outdoor event was established as a conditional use permit (CUP) and would have run with the property in perpetuity.
- 2) - The City Council would have the discretion to deny a Special Event Permit.
  - If a CUP were received and the conditions of a Commercial Social Outdoor Event were being met, the city would have a difficult time revoking the permit.
- 3) - A Special Event permit would not necessarily be based on a zoning district.
  - A CUP for a Commercial Social Outdoor Event was allowed only in the Agricultural zoning district.



- 4) - A Special Event permit could be intended to regulate temporary, outdoor privately-sponsored event open to the general public, held on public or privately-owned property, and impacting city facilities or services. The sample ordinance provided identifies specific gathering types that would not require a permit, such as a wedding.
- The only applicant received by the city to implement the Commercial Social Outdoor Event ordinance was to hold weddings on a property in the city.

**RECOMMENDATION:**

The attached information is being presented for informational purposes.

**SUGGESTED MOTION FOR CONSIDERATION**

*No action is necessary from the Council on this item. City staff is asking for direction from the Council.*

**ORDER OF BUSINESS:**

Introduction ..... Craig Dawson, Interim City Administrator  
Report ..... Kyle Klatt, Planning Director  
Questions to staff ..... Mayor and Councilmembers  
Questions from the public (3 minutes) ..... Mayor facilitates  
Discussion ..... Mayor and Councilmembers

**ATTACHMENTS:**

1. Sample Ordinance from the City of North St. Paul
2. Sample Special Event Permit
3. Repealed Ordinance 97-167; Commercial Social Outdoor Events

CITY OF NORTH ST. PAUL

ORDINANCE NO. 668

AN ORDINANCE AMENDING THE NORTH SAINT PAUL CITY CODE OF ORDINANCES BY ADDING A NEW CHAPTER TO TITLE XI : BUSINESS REGULATIONS TO PROMOTE THE ORDERLY, COMPATIBLE AND SAFE USE OF PROPERTY FOR TEMPORARY SPECIAL EVENTS AND TO ASSURE ADEQUATE PROVISION OF PARKING, TRAFFIC, SANITARY FACILITIES, UTILITIES, PEACE AND TRANQUILITY OF RESIDENTIAL NEIGHBORHOODS AND SAFETY SERVICES

The City Council of the City of North St. Paul does hereby ordain:

I.

Ordinance number 668 amends Title XI, Business Regulations, of the City Code of Ordinances by adding Chapter 122: Special Event Permits

II

Purpose and Intent

The purpose of this Chapter is to promote the orderly, compatible and safe use of property for temporary special events and to assure adequate provision of parking, traffic, sanitary facilities, utilities, peace and tranquility of residential neighborhoods and safety services.

III

Definitions

- (a) Applicant means any individual, partnership, corporation, association, society or group seeking and/or receiving a Special Event Permit from the City.
- (b) Permit means a permit issued by the City to allow a special event.
- (c) Outdoor means activity conducted outside of a permanent structure or building.
- (d) Person means any person, association, partnership, firm, business trust, corporation or company.
- (e) Special Event means any temporary, outdoor privately-sponsored event open to the general public and held on public or privately owned property. "Special Event" shall not apply to the following:
  - (1) Any permanent place of worship, stadium, athletic field, arena, theatre, auditorium, or fairs conducted pursuant to Minn. Stats. Chapter 38.
  - (2) Special events or activities permitted or permitted by other State laws or regulations of the City of North St. Paul, including publicly-sponsored activities in the local park system and any other established special event operating prior to adoption of this ordinance.
  - (3) Family gatherings, including family reunions, graduation parties, baptisms, confirmations, weddings, etc.
  - (4) Garage sales

- (5) Events such as but not limited to National Night-Out established through the City of North St. Paul.

#### IV

##### Permit Required

No person on or after the effective date of this Chapter shall conduct or allow to be conducted any special event as defined in this ordinance without first obtaining a Special Event Permit.

#### V

##### Requirements for Issuance of a Permit

- (a) The following standards shall apply to all special events:
  - (1) Maximum Number of People. The permittee shall not sell tickets to nor permit attendance at the permit location of more than the maximum number of people stated in the special event permit.
  - (2) Sound Equipment. Sound producing equipment, including but not limited to public address systems, radios, phonographs, musical instruments and other recording devices, shall not be operation on the premises of the special event so as to be unreasonably loud or be a nuisance or disturbance to the peace and tranquility of the citizens of North St. Paul.
  - (3) Sanitary Facilities. In accordance with Minnesota State Board of Health regulations and standards and local specifications, adequate sanitary facilities must be provided which are sufficient to accommodate the projected number of person expected to attend the event.
  - (4) Security. The permittee shall employ at his own expense such security personnel as are necessary and sufficient to provide for the adequate security and protection of the maximum number of persons in attendance at the special event and for the preservation of order and protection of property in and around the event site. No permit shall be issued unless the City's Chief of Police is satisfied that such necessary and sufficient security personnel will be provided by the permittee for the duration of the event.
  - (5) Food Service. If food service is made available on the premises, it shall be delivered only through concessions permitted by the Ramsey County Health Department.
  - (6) Fire Protection. The permittee shall, at his own expense, take adequate steps to insure fire protection as determined by the City of North St. Paul Fire Chief.
  - (7) Duration of Special Event. The permittee shall operate the special event only on those days and during the hours specified on the permit.
  - (8) Cleanup Plan. The special event applicant is responsible for clean up. Any clean up required by the City may be charged to the applicant. Any city service that requires overtime will be at the expense of the applicant.
  - (9) Waiver. The City Council may grant a waiver from the requirements of this Chapter in any particular case where the applicant can show that strict compliance with this Chapter would cause exceptional and undue hardship by reason of the nature of the special event or by reason of the fact that the circumstances make the requirement of this Chapter unnecessary. Such waiver must be granted without detriment to the public health, safety or welfare and without impairing the intent and purpose of these regulations.

- (10) Insurance. Before the issuance of a permit, the permittee shall obtain public liability insurance and property damage insurance with limits determined by the City Manager. Such insurance shall remain in full force and effect in the specified amounts for the duration of the permit. Evidence of insurance shall include an endorsement to the effect that the insurance company will notify the City Clerk in writing at least ten (10) days before the expiration or cancellation of said insurance.
- (11) Miscellaneous. Prior to the issuance of a permit, the City Council may impose any other conditions reasonably calculated to protect the health, safety and welfare of persons attendant or of the citizens of the City of North St. Paul.

## VI Application Procedures.

A written application for a Special Event Permit shall be filed on forms provided by the City with the City Manager not less than thirty (30) days before the date proposed for holding the special event. The written application shall be signed by the person, persons, or parties conducting the event and shall be accompanied by the fee payable hereunder. Upon submission of an application for a Special Event Permit, City staff will review the request and advise the applicant of the need for additional information, if any.

## VII Fees

The fee for a Special Event License shall be as established by the City Council

## VIII Granting a Permit

The City Council, in its sole discretion, reserves the right to review and determine whether or not a request for a special event and/or street closing is acceptable. It is the stated purpose of the City Council that all such special events and/or street closing shall be for family-friendly activities only. Special event activities must be inclusive of events and activities for both adults and children. In the event the City Council determines the activity does not meet these criteria, such application shall be denied.

## IX Denial of Permit

The City Council shall have the right to deny the permit if, in the judgment of the City Council, the granting of a license would adversely affect the safety, health and welfare of the citizens of North St. Paul. The applicant shall be notified of such denial and may appear before the City Council to appeal such denial.

## X Transferability

No permit granted under this Chapter shall be transferred to any other person or place without consent of the City Council, upon written application made therefore.

XI  
Enforcement and Penalties

- (a) The police department and other such officers, employees, or agents as the City Council or City Manager may designate, shall enforce the provisions of this Chapter.
- (b) The holding of a special event in violation of any provision of this Chapter shall be deemed a public nuisance and may be abated as such.
- (c) Any person violation any provision of this Chapter is guilty of a misdemeanor and upon conviction shall be subject to the penalties set forth in Minnesota Statutes.

XII  
Revocation of Permit

The permit for a special event may be revoked by the City Council at any time if any of the conditions necessary for the issuing of or contained in the license are not complied with or if any of the provisions of this Chapter are violated.

XIII  
Special Event Vendors

- (a) Vendors. A person who temporarily sets up business on public or private property for purposes of selling or delivering goods in conjunction with a City approved Special Event.
- (b) License. All Special Event Vendors shall be licensed by the City.
- (c) Process. The City Manager shall determine appropriate requirements to safeguard the health, safety and welfare of the community and its inhabitants. Forms shall be determined by the City Manager to gather the necessary information to assure safety.
- (d) Fees. All Special Event vendors shall pay an inspection fee the City of North St. Paul as determined by the City Council. Exception to the fee following shall be exempt from the City Fee:
  - (1) All public charities as defined by IRS Code 501C(3)
  - (2) Any governmental institution
  - (3) Any business headquartered in the City of North St. Paul
- (e) Umbrella Fee. Any special event conducted by a public charity as defined by IRS Code 501C(3) is subject to one (1) special event vendor fee for all vendors conducting business at the special event.

XIV  
Effect

This ordinance shall take effect and be in force from and after its adoption and publication as required by law.

**ADOPTED** by the City Council of the City of North St. Paul this 6<sup>th</sup> day of May, 2008.

On motion by Council Member Anderson  
Second by Council Member Walczak

Voting: Ayes: Acting Mayor Kuehn  
Council Member Zick  
Council Member Walczak  
Council Member Anderson  
Absent: None

/s/ Michael R. Kuehn, Acting Mayor

ATTEST:

/s/ Walter T. Wysopal, City Manager

Publish Review: Wednesday, May 14, 2008





## SPECIAL EVENT PERMIT APPLICATION

### I. TITLE AND BRIEF DESCRIPTION OF EVENT:

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### II. APPLICANT INFORMATION:

The Applicant will be responsible for answering all questions, including inquiries from media and citizens.

Applicant: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_

Business/Organization Name: \_\_\_\_\_

Daytime Phone: \_\_\_\_\_ Evening Phone: \_\_\_\_\_ Emergency Phone: \_\_\_\_\_

### III. EVENT TIMETABLE:

A. Requested day and date: \_\_\_\_\_

B. Requested hours of operation, from \_\_\_\_\_ a.m./p.m. to \_\_\_\_\_ a.m./p.m.

C. Set-up beginning day and date \_\_\_\_\_, time \_\_\_\_\_ a.m./p.m.

D. Dismantle by day and date \_\_\_\_\_, time \_\_\_\_\_ a.m./p.m.

E. Anticipated number of participants: \_\_\_\_\_ and spectators \_\_\_\_\_

### 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 WHICH APPLY TO YOUR EVENT:

- ☐ A. Use of Community Center (check with Steve Roe at 747-2486);
- ☐ B. Event participant and/or spectator parking areas (describe) \_\_\_\_\_;
- ☐ C. Entertainment or stage locations (provide to-scale drawing);
- ☐ D. Construction/erection of temporary structure(s) (may need permit, check with Community Services);
- ☐ E. Trash containers (indicate number/location): \_\_\_\_\_;
- ☐ F. Portable toilet facilities (indicate number/location) \_\_\_\_\_;
- ☐ G. First aid facilities (indicate who is providing): \_\_\_\_\_;
- ☐ H. Parade and/or parade floats (may need permit, check with Fire Department);
- ☐ I. Fireworks or pyrotechnics site (may need permit, check with Fire Department);
- ☐ J. Cooking facilities, open flame, or vehicle fuels (may need permit, check with Fire Department);
- ☐ K. Electricity (The cost of the electrical hook-up is applicants responsibility. Payment must be made to the City of North Saint Paul. Please call Brian Frandle at 747-2472.)
- ☐ L. 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.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- 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 alcoholic beverages will be possessed and consumed only by those persons 21 years or older. Describe all security measures in place.

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

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

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H. If yes, you will need to have a Temporary Food License from Ramsey County. To obtain such a license, call 773-4466. 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.

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#### VII. VENDORS OR CONCESSIONAIRES:

A. List what vendors/concessionaires you will have at your event and include Sales Tax ID Number:

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VIII. SECURITY AND SAFETY PROCEDURES:

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

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

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IX. CLEAN-UP:

List persons responsible for clean-up duties: \_\_\_\_\_

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X. MITIGATION OF THE IMPACT ON OTHERS:

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

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**NOTE: Any condition which causes adverse impacts may be cause to revoke the Special Event Permit.**

Applicant Signature: \_\_\_\_\_ Date of Application: \_\_\_\_\_

CITY OF LAKE ELMO  
WASHINGTON COUNTY, MINNESOTA

ORDINANCE NO. 97-167

Repealed by  
Ord. 97-191  
on April 3, 2007

AN ORDINANCE ADDING SECTION 300.07 SUBDIVISION 4.A.2.(h) RELATING  
TO CONDITIONAL USES IN THE AGRICULTURAL ZONING DISTRICT

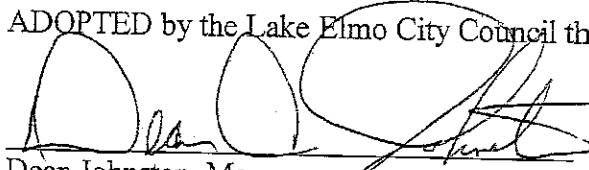
The City Council hereby ordains that Section 300.07, Subdivision 4.A.2(h) of the Lake Elmo Municipal Code is hereby added to read as follows:

h. Commercial Outdoor Social Events, subject to the following required conditions:

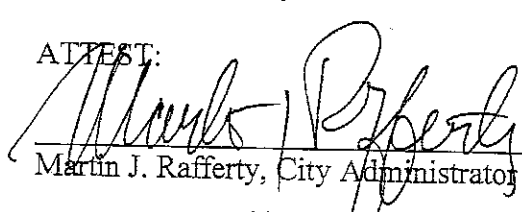
1. A site tax parcel area not less than 10 acres.
2. No existing permanent or newly constructed structures may be used. Tents are allowed.
3. Events limited to twice weekly and only during the months of May through October.
4. Attendance at events shall be limited to 250 people.
5. Compliance with City Code Ambient Noise standards.
6. All parking shall be off-street, and shall be set back and/or adequately screened from adjoining properties.
7. Limiting the hours for any event to 10:00 a.m. to 10:00 p.m. including take down activity. All event-related people must be off the site by 10:00 p.m.
8. On-site portable sanitation adequately sized for the events.
9. Prohibiting charging an admission fee for any commercial outdoor social event.
10. The lighting meets code and lights go off at 10:00 p.m..

This ordinance shall become effective upon its passage and publication according to law.

ADOPTED by the Lake Elmo City Council this 16th day of May, 2006.

  
Dean Johnston, Mayor

ATTEST:

  
Martin J. Rafferty, City Administrator

Published in the MAY 26, 2006 Lake Elmo Leader

City Council

Date:

April 7, 2009

REGULAR

Item: ~~13~~ 12

Motion

ITEM: City Administrator Appointment Process

SUBMITTED BY: Craig W. Dawson, Interim City Administrator

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**SUMMARY AND ACTION REQUESTED:** Craig Dawson has been serving as interim city administrator since January 5, 2009. In its employment agreement, the City Council indicated its expectation that it would take approximately three months to decide on the process for the selection of the City Administrator. There has been discussion among the City Council about conducting a search for the City Administrator, and as well some discussion about whether to forgo a search if the Council is comfortable to work with Mr. Dawson to develop an employment agreement with him for a regular appointment as the City Administrator.

**BACKGROUND:** The City Council may wish to consider the use of services by an executive search firm in filling the position of city administrator. The City has used these services in prior recruitments. A search firm typically develops an announcement and profile of the position, assesses and presents recommendations of candidates to remain in the process, conducts background and reference checks, and assists in the interview process itself. Firms may also have their own capabilities or subcontract for personality/psychological assessments if the City desires them.

Firms in the Twin Cities that provide these services give a general cost estimate range of \$15,000-\$20,000 to conduct a search. They report that typically it's a three- to four-month process from the time the firm is engaged until the City Council selects a person to take the position. After that, it may take a few weeks to finalize an employment agreement, and it's common that someone may need to give 30 days' notice to one's current employer. At the front end of the process is usually a four- to six-week period to request proposals from firms, interview them, and select and engage their services. The whole process from the decision to engage a search firm until someone is in place as the city administrator typically runs from six to eight months.

**SUGGESTED MOTION FOR CONSIDERATION:** *Two motions are suggested for Council's consideration, although the Council of course may formulate different ones.*

- *Move to direct staff to prepare and solicit responses to a Request for Proposal for Executive Search Consulting Services To Select a City Administrator for the City of Lake Elmo.*
- *Move to negotiate an employment agreement with Craig Dawson for regular appointment to the City Administrator position.*

**ORDER OF BUSINESS:**

- |  |                   |
|--|-------------------|
| • Introduction   | Mayor Johnston    |
| • Report by presenter                                    | Mayor Johnston    |
| • Questions from City Council members to the presenter   | Mayor facilitates |
| • Questions/comments from the public to the City Council | Mayor facilitates |
| • Action on motion                                       | City Council      |



City Council  
Date: April 7, 2009  
REGULAR  
Item: 14.13  
Informational Item – No Motion

ITEM: Update on Activities at the Regional Council of Mayors

SUBMITTED BY: Craig W. Dawson, Interim City Administrator

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**SUMMARY AND ACTION REQUESTED:** Mayor Johnston has been active in the Regional Council of Mayors, and wishes to provide an update on the activities of that group. As this is an informational item, no action is requested of the Council, although the Council may wish to offer comments and identify any follow-up for staff.

**ATTACHMENTS:**

- "Economic Development Thoughts", slides from PowerPoint presentation made at March 31, 2009, meeting of the Regional Council of Mayors
- Article by Richard Florida published in the March 2009 issue of *The Atlantic*.

**ORDER OF BUSINESS:**

- |  |                   |
|--|-------------------|
| • Introduction   | Mayor Johnston    |
| • Report by presenter                                    | Mayor Johnston    |
| • Questions from City Council members to the presenter   | Mayor facilitates |
| • Questions/comments from the public to the City Council | Mayor facilitates |
| • Action (if any)  | City Council      |

# Economic Development Thoughts

Stan Harpstead  
Regional Council of Mayors

# **Objectives (Draft)**

- **Develop Long-Term strategy for growth in Gross State Product (specifically emphasize Metro Region)**
- **Enhance relationships/collaborations within Regional Clusters**
- **Develop momentum in Science and Technology Regional Economic Segment**
- **Identify Short-Term and Long-Term investments to achieve strategic goals**
- **Identify and measure appropriate “dashboard” or “scorecard” benchmarks**

# Regional Statistics

- **Other Statistics (2007 Development Report Card)**
  - MN ranks 48<sup>th</sup> in New Company Formation
  - 28<sup>th</sup> in SBIR grants
  - 23<sup>rd</sup> in Manufacturing Investment
  - 22<sup>nd</sup> in VC Investments
  - 19<sup>th</sup> in PhD scientists and engineers

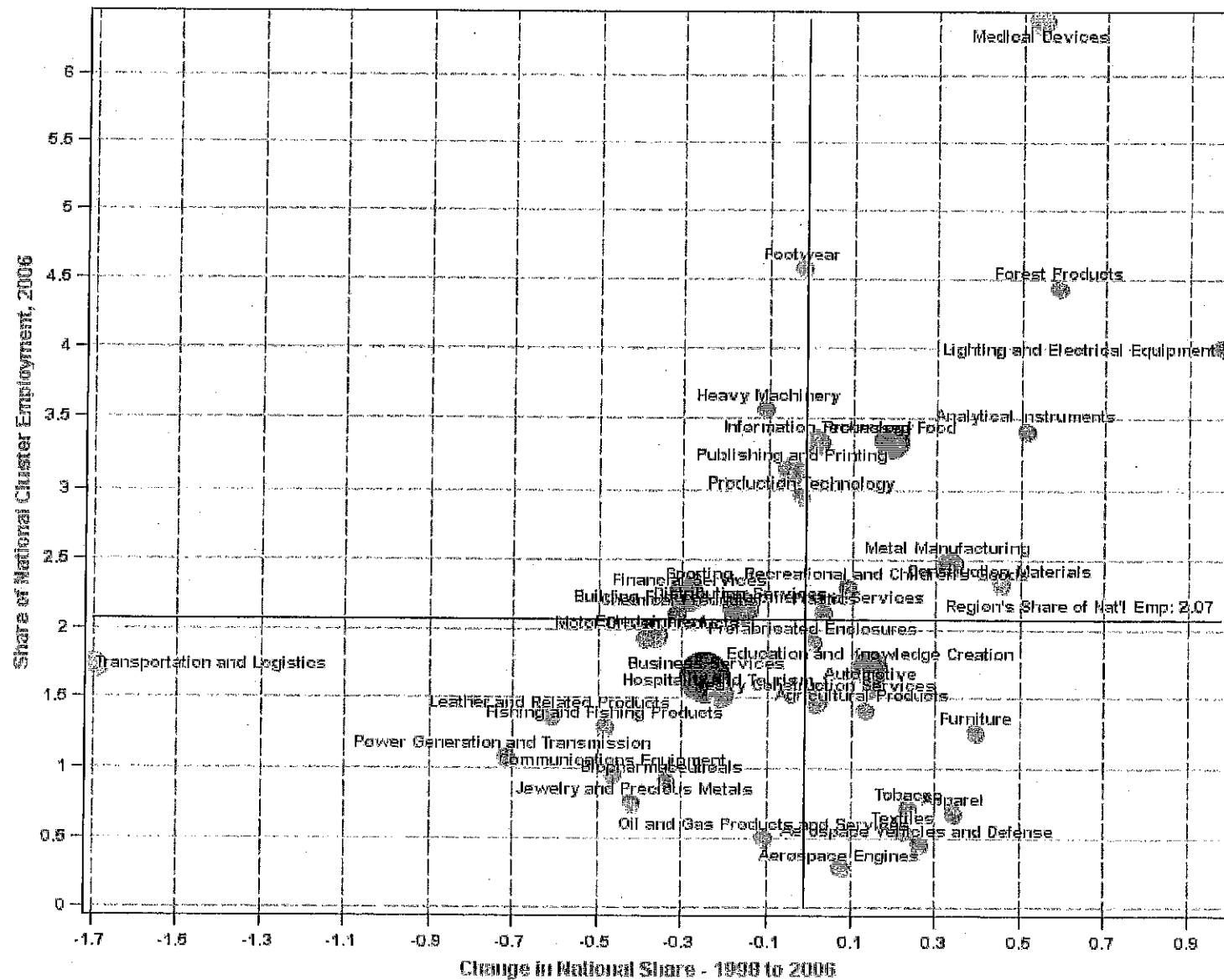
# Regional Statistics

U.S. Metro Economies

U.S. Metro Economies; Gross Metropolitan Product with Housing Update, January 2007

- A key success behind the economic development of metro areas is the proximity of businesses and skilled labor. The synergy provided by
  - **labor,**
  - **extensive business networks,**
  - **cutting edge research at institutes of higher learning, that**
  - **attracts both capital and entrepreneurs to metro areas.**
- Metro areas are at the center of the development of new technologies, such as nanotechnology or biotechnology, and play a major role in shaping the future economic development.

# MN Economic Clusters



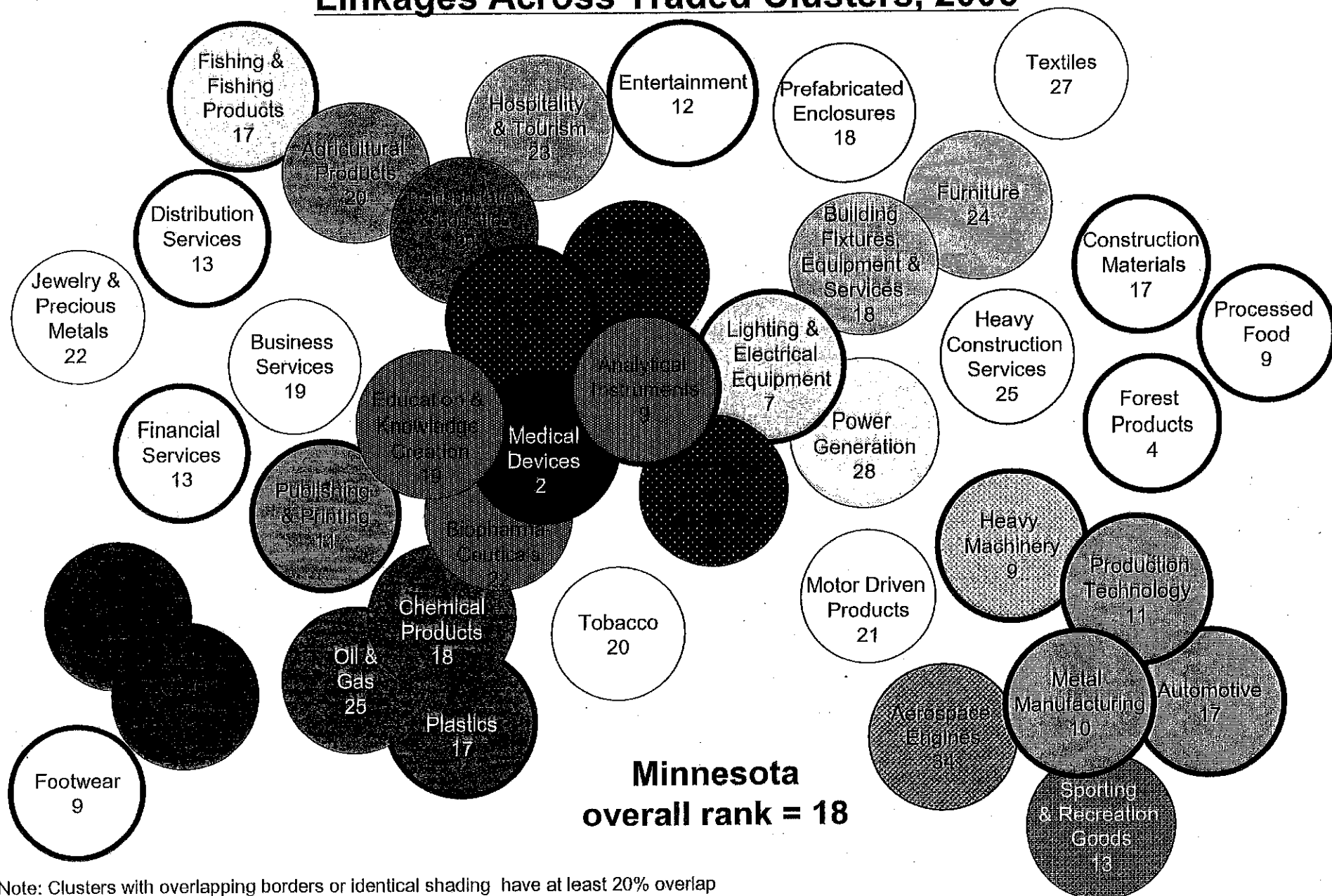
Source: Lee W. Munnich, Jr. University of MN

0-19999 20000-39999 40000-79999 80000+



# Competitiveness and Composition of Minnesota Economy

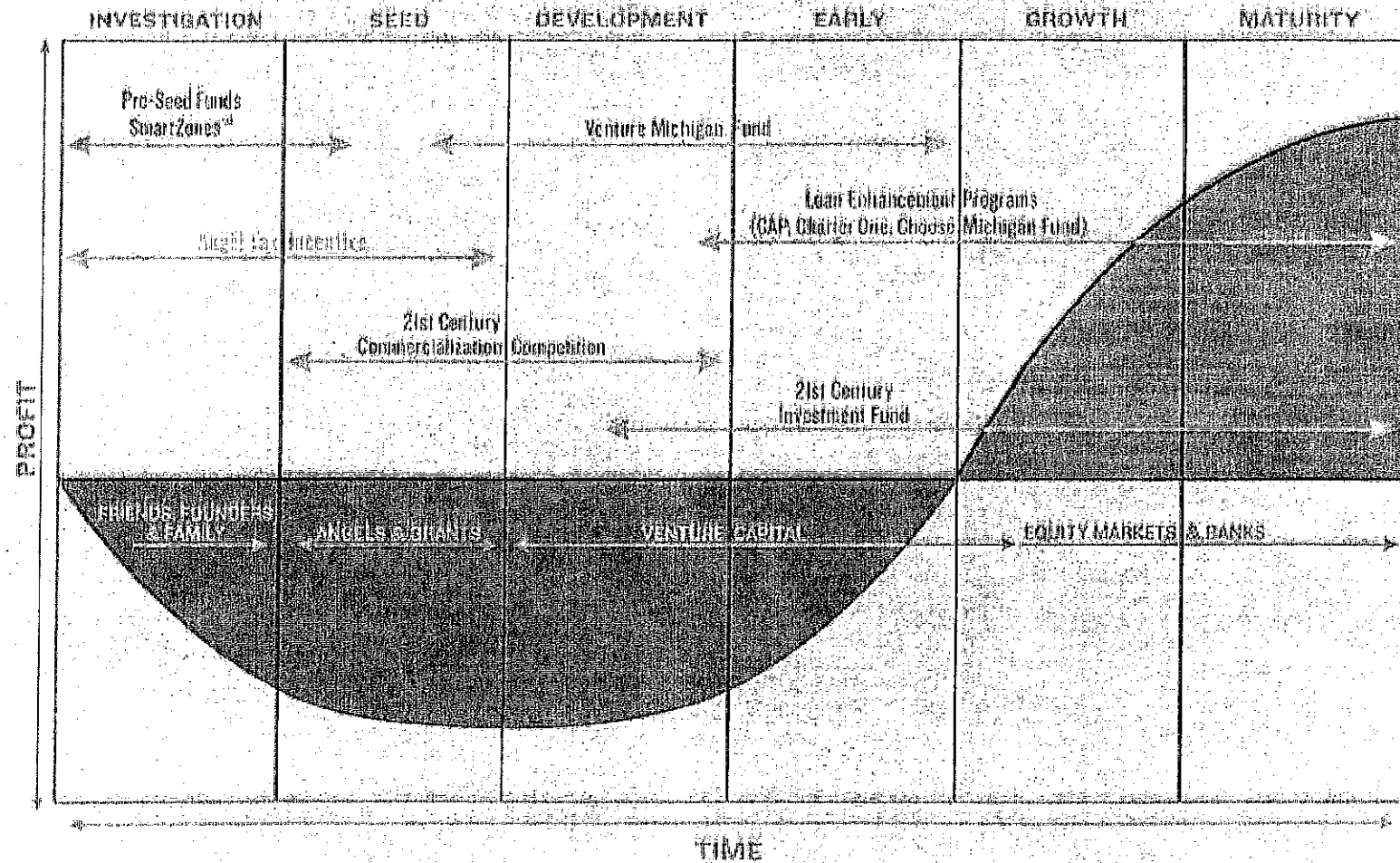
## Linkages Across Traded Clusters, 2006



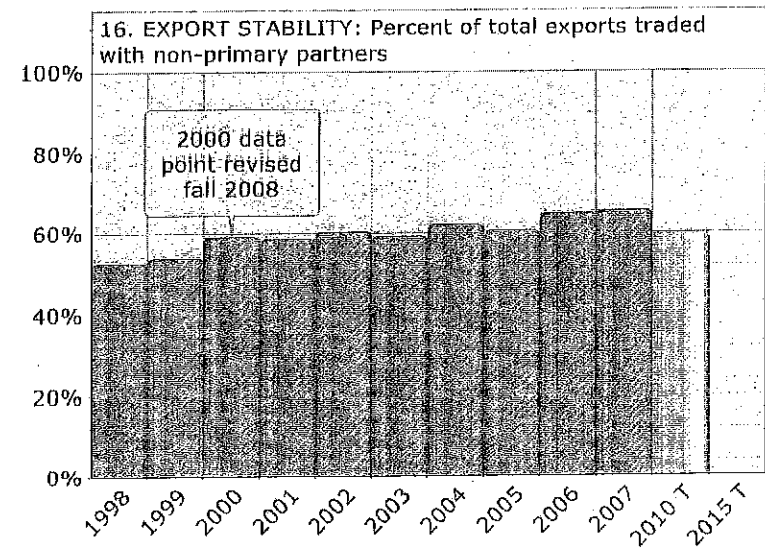
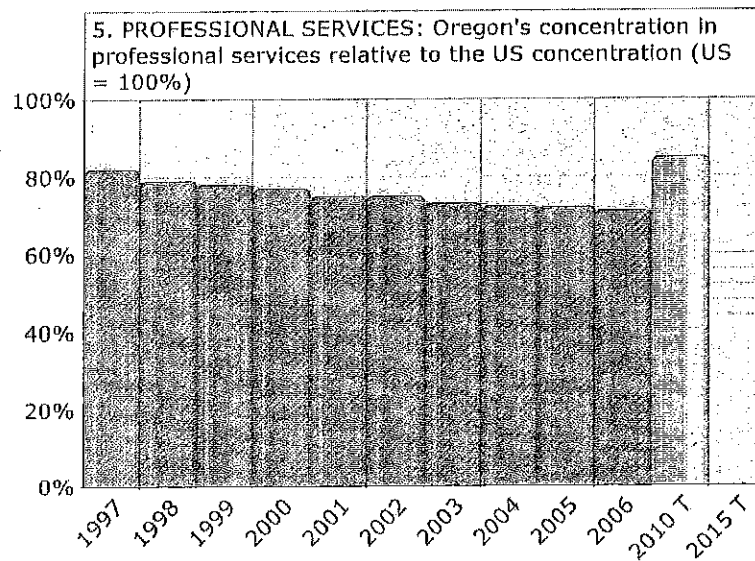
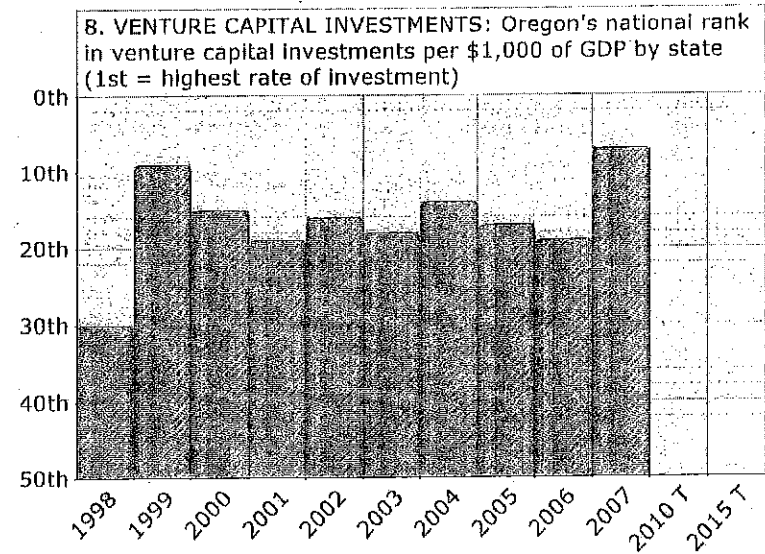
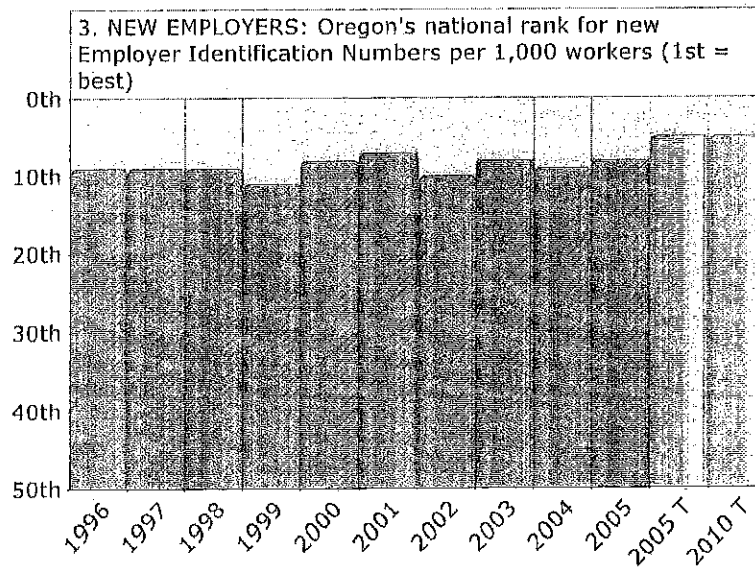
Note: Clusters with overlapping borders or identical shading have at least 20% overlap (by number of industries) in both directions.

Source: Lee W. Munnich, Jr. University of MN

# Business Development - Michigan



# Oregon Benchmarks <http://benchmarks.oregon.gov/>



# **Proposed Current Activities**

- **Setting up a Meeting of Participating Mayor's in Bloomington (Gene's support)**
- **Applying for funding support from appropriate foundations**
- **Networking with Workforce Centers, HT-Alliance, MN-Nano, BioBusiness Alliance, Large Corporations, U of MN, MNSCU**
- **Encouraging meetings between city community development groups (common borders and/or common industries)**
- **Identifying appropriate "dashboard" or "scorecard" benchmarks**
- **Support proposed legislation (this Thursday) in the Senate to establish a North Star Rising Commission  
→ EDCorp with emphasis on Science and Technology Initiative**

# **How to enhance Regional Economic Clusters**

# Industry Clusters (Porter)

- Geographic concentrations of competing, complementary, or interdependent firms
- Common needs for talent, technology, and infrastructure
- Dynamic, changing as the industries themselves or external conditions change
- Centered on firms that sell outside the local, state, national market
- Driving forces in a national, regional, state or metropolitan economy



# How to create a portfolio of clusters?

As with “financial portfolio theory” the benefit of a portfolio of clusters are the spread of risk and ability to maintain regional momentum when clusters behave “out-of-phase”.

However, strategic management of a portfolio of economic clusters will also benefit from:

- Inter-cluster economic transactions (sustainable energy as both an exporter and productivity improver)
- An educational culture that does not depend on the content of education
- Technology spillovers
- Intellectual revolutions of ideas and advocates willing to spend their reputations and careers in spreading ideas through actions as well as words.

For Example: A Science and technology initiative should be developed to focus on the three key areas of need in Minnesota including:

- Human Capital – training and development
- Science and Technology Infrastructure – research labs (public and private)
- Commercialization Assistance – capital for start up company growth; from seed grants to support innovation to investment capital formation (Angel Tax Credits, VC funding)

# High-Technology Location Factors

**EXISTING HIGH-TECH PRESENCE is CRITICAL**

## **Traditional Business Factors**

- Tax Structure
- Compensation Costs
- Space Costs
- Capital Costs
- Business Climate

## **High-Tech Specific Factors**

- Proximity to Excellent Research Institutions
- Access to Venture Capital
- Educated Workforce
- Network of Suppliers
- Technology Spillovers
- Climate and Quality of Life

Source: Milken Institute, *America's High-Tech Economy*, 1999

Source: Atlanta Forum - Mary Jo Walts

# How to enhance a technological cluster?

- *Scientific personal interaction (Watering Holes) are required with minimal “empire building”*
- *Significant data handling technology and informatics will be a cluster backbone*
- *“Re-tooling” of the informatics system to open-source and open-access will increase content and revise access algorithms*
- *Opportunity to perform early feasibility evaluations of the intuitively conceived technologies*
- *First Class scientific characterization facilities and laboratories for prototype design and assessment*
- *Seamless interaction between industry businesses, especially between large and small businesses*

From **The Atlantic**  
March 2009

*The crash of 2008 continues to reverberate loudly nationwide—destroying jobs, bankrupting businesses, and displacing homeowners. But already, it has damaged some places much more severely than others. On the other side of the crisis, America's economic landscape will look very different than it does today. What fate will the coming years hold for New York, Charlotte, Detroit, Las Vegas? Will the suburbs be ineffably changed? Which cities and regions can come back strong? And which will never come back at all?*

by **Richard Florida**

# How the Crash Will Reshape America

This article has been corrected since it was published in the print magazine.

**M**Y FATHER WAS a child of the Great

Depression. Born in Newark, New Jersey, in 1921 to Italian immigrant parents, he experienced the economic crisis head-on. He took a job working in an eyeglass factory in the city's Ironbound section in 1934, at age 13, combining his wages with those of his father, mother, and six siblings to make a single-family income. When I was growing up, he spoke often of his memories of breadlines, tent cities, and government-issued clothing. At Christmas, he would tell my brother and me how his parents, unable to afford new toys, had wrapped the same toy steam shovel, year after year, and placed it for him under the tree. In my extended family, my uncles occupied a pecking order based on who had grown up in the roughest economic circumstances. My Uncle Walter, who went on to earn a master's degree in chemical engineering and eventually became a senior executive at Colgate-Palmolive, came out on top—not because of his academic or career achievements, but because he grew up with the hardest lot.



IMAGE CREDIT: SEAN MCCABE

My father's experiences were broadly shared throughout the country. Although times were perhaps worst in the declining rural areas of the Dust Bowl, every region suffered, and the residents of small towns and big cities alike breathed in the same uncertainty and distress. The Great Depression was a national crisis—and in many ways a nationalizing event. The entire country, it seemed, tuned in to President Roosevelt's fireside chats.

The current economic crisis is unlikely to result in the same kind of shared experience. To be sure, the economic contraction is causing pain just about everywhere. In October, less than a month after the financial markets began to melt down, Moody's Economy.com\* published an assessment of recent economic activity within 381 U.S. metropolitan areas. Three hundred and two were already in deep recession, and 64 more were at risk. Only 15 areas were still expanding. Notable among them were the oil- and natural-resource-rich regions of Texas and Oklahoma, buoyed by energy prices that have since fallen; and the Greater Washington, D.C., region, where government bailouts, the nationalization of financial companies, and fiscal expansion are creating work for lawyers, lobbyists, political scientists, and government contractors.

No place in the United States is likely to escape a long and deep recession. Nonetheless, as the crisis continues to spread outward from New York, through industrial centers like Detroit, and into the Sun Belt, it will undoubtedly settle much more heavily on some places than on others. Some cities and regions will eventually spring back stronger than before. Others may never come back at all. As the crisis deepens, it will permanently and profoundly alter the country's economic landscape. I believe it marks the end of a chapter in American economic history, and indeed, the end of a whole way of life.

#### GLOBAL CRISES AND ECONOMIC TRANSFORMATION

"One thing seems probable to me," said Peer Steinbrück, the German finance minister, in September 2008. As a result of the crisis, "the United States will lose its status as the superpower of the global financial system." You don't have to strain too hard to see the financial crisis as the death knell for a debt-ridden, overconsuming, and underproducing American empire—the fall long prophesied by Paul Kennedy and others.

Big international economic crises—the crash of 1873, the Great Depression—have a way of upending the geopolitical order, and hastening the fall of old powers and the rise of new ones. In *The Post-American World* (published some months before the Wall Street meltdown), Fareed Zakaria argued that modern history's third great power shift was already



upon us—the rise of the West in the 15th century and the rise of America in the 19th century being the two previous sea changes.

But Zakaria added that this transition is defined less by American decline than by “the rise of the rest.” We’re to look forward to a world economy, he wrote, “defined and directed from many places and by many peoples.” That’s surely true. Yet the course of events since Steinbrück’s remarks should give pause to those who believe the mantle of global leadership will soon be passed. The crisis has exposed deep structural problems, not just in the U.S. but worldwide. Europe’s model of banking has proved no more resilient than America’s, and China has shown that it remains every bit the codependent partner of the United States. The Dow, down more than a third last year, was actually among the world’s better-performing stock-market indices. Foreign capital has flooded into the U.S., which apparently remains a safe haven, at least for now, in uncertain times.

It is possible that the United States will enter a period of accelerating relative decline in the coming years, though that’s hardly a foregone conclusion—a subject I’ll return to later. What’s more certain is that the recession, particularly if it turns out to be as long and deep as many now fear, will accelerate the rise and fall of specific places *within* the U.S.—and reverse the fortunes of other cities and regions.

By what they destroy, what they leave standing, what responses they catalyze, and what space they clear for new growth, most big economic shocks ultimately leave the economic landscape transformed. Some of these transformations occur faster and more violently than others. The period after the Great Depression saw the slow but inexorable rise of the suburbs. The economic malaise of the 1970s, on the other hand, found its embodiment in the vertiginous fall of older industrial cities of the Rust Belt, followed by an explosion of growth in the Sun Belt.

The historian Scott Reynolds Nelson has noted that in some respects, today’s crisis most closely resembles the “Long Depression,” which stretched, by one definition, from 1873 to 1896. It began as a banking crisis brought on by insolvent mortgages and complex financial instruments, and quickly spread to the real economy, leading to mass unemployment that reached 25 percent in New York.

During that crisis, rising industries like railroads, petroleum, and steel were consolidated, old ones failed, and the way was paved for a period of remarkable innovation and industrial growth. In 1870, New England mill towns like Lowell, Lawrence, Manchester, and

Springfield were among the country's most productive industrial cities, and America's population overwhelmingly lived in the countryside. By 1900, the economic geography had been transformed from a patchwork of farm plots and small mercantile towns to a landscape increasingly dominated by giant factory cities like Chicago, Cleveland, Pittsburgh, Detroit, and Buffalo.

How might various cities and regions fare as the crash of 2008 reverberates into 2009, 2010, and beyond? Which places will be spared the worst pain, and which left permanently scarred? Let's consider how the crash and its aftermath might affect the economic landscape in the long run, from coast to coast—beginning with the epicenter of the crisis and the nation's largest city, New York.

#### WHITHER NEW YORK?

At first glance, few American cities would seem to be more obviously threatened by the crash than New York. The city shed almost 17,000 jobs in the financial industry alone from October 2007 to October 2008, and Wall Street as we've known it has ceased to exist. "Farewell Wall Street, hello Pudong?" begins a recent article by Marcus Gee in the *Toronto Globe and Mail*, outlining the possibility that New York's central role in global finance may soon be usurped by Shanghai, Hong Kong, and other Asian and Middle Eastern financial capitals.

This concern seems overheated. In his sweeping history, *Capitals of Capital*, the economic historian Youssef Cassis chronicles the rise and decline of global financial centers through recent centuries. Though the history is long, it contains little drama: major shifts in capitalist power centers occur at an almost geological pace.

Amsterdam stood at the center of the world's financial system in the 17th century; its place was taken by London in the early 19th century, then New York in the 20th. Across more than three centuries, no other city has topped the list of global financial centers. Financial capitals have "remarkable longevity," Cassis writes, "in spite of the phases of boom and bust in the course of their existence."

The transition from one financial center to another typically lags behind broader shifts in the economic balance of power, Cassis suggests. Although the U.S. displaced England as the world's largest economy well before 1900, it was not until after World War II that New York eclipsed London as the world's preeminent financial center (and even then, the eclipse was not complete; in recent years, London has, by some measures, edged out New York). As Asia

has risen, Tokyo, Hong Kong, and Singapore have become major financial centers—yet in size and scope, they still trail New York and London by large margins.

In finance, “there is a huge network and agglomeration effect,” former assistant U.S. Treasury secretary Edwin Truman told *The Christian Science Monitor* in October—an advantage that comes from having a large critical mass of financial professionals, covering many different specialties, along with lawyers, accountants, and others to support them, all in close physical proximity. It is extremely difficult to build these dense networks anew, and very hard for up-and-coming cities to take a position at the height of global finance without them. “Hong Kong, Shanghai, Singapore, and Tokyo are more important than they were 20 years ago,” Truman said. “But will they reach London and New York’s dominance in another 20 years? I suspect not.” Hong Kong, for instance, has a highly developed IPO market, but lacks many of the other capabilities—such as bond, foreign-exchange, and commodities trading—that make New York and London global financial powerhouses.

“A crucial contributory factor in the financial centres’ development over the last two centuries, and even longer,” writes Cassis, “is the arrival of new talent to replenish their energy and their capacity to innovate.” All in all, most places in Asia and the Middle East are still not as inviting to foreign professionals as New York or London. Tokyo is a wonderful city, but Japan remains among the least open of the advanced economies, and admits fewer immigrants than any other member of the Organization for Economic Cooperation and Development, a group of 30 market-oriented democracies. Singapore remains for the time being a top-down, socially engineered society. Dubai placed 44th in a recent ranking of global financial centers, near Edinburgh, Bangkok, Lisbon, and Prague. New York’s openness to talent and its critical mass of it—in and outside of finance and banking—will ensure that it remains a global financial center.

**I**N THE SHORT RUN, the most troubling question for New York is not how much of its

finance industry will move to other places, but how much will simply vanish altogether. At the height of the recent bubble, Greater New York depended on the financial sector for roughly 22 percent of local wages. But most economists agree that by then the financial economy had become bloated and overdeveloped. Thomas Philippon, a finance professor at New York University, reckons that nationally, the share of GDP coming from finance will

probably be reduced from its recent peak of 8.3 percent to perhaps 7 percent—I suspect it may fall farther, to perhaps as little as 5 percent, roughly its contribution a generation ago. In either case, it will be a big reduction, and a sizable portion of it will come out of Manhattan. Lean times undoubtedly lie ahead for New York. But perhaps not as lean as you’d think—and certainly not as lean as those that many lesser financial outposts are likely to experience. Financial positions account for only about 8 percent of the New York area’s jobs, not too far off the national average of 5.5 percent. By contrast, they make up 28 percent of all jobs in Bloomington-Normal, Illinois; 18 percent in Des Moines; 13 percent in Hartford; 10 percent in both Sioux Falls, South Dakota, and Charlotte, North Carolina. Omaha, Nebraska; Macon, Georgia; and Columbus, Ohio, all have a greater percentage of population working in the financial sector than New York does.

New York is much, much more than a financial center. It has been the nation’s largest city for roughly two centuries, and today sits in America’s largest metropolitan area, as the hub of the country’s largest mega-region. It is home to a diverse and innovative economy built around a broad range of creative industries, from media to design to arts and entertainment. It is home to high-tech companies like Bloomberg, and boasts a thriving Google outpost in its Chelsea neighborhood. Elizabeth Currid’s book, *The Warhol Economy*, provides detailed evidence of New York’s diversity. Currid measured the concentration of different types of jobs in New York relative to their incidence in the U.S. economy as a whole. By this measure, New York is more of a mecca for fashion designers, musicians, film directors, artists, and—yes—psychiatrists than for financial professionals.

The great urbanist Jane Jacobs was among the first to identify cities’ diverse economic and social structures as the true engines of growth. Although the specialization identified by Adam Smith creates powerful efficiency gains, Jacobs argued that the jostling of many different professions and different types of people, all in a dense environment, is an essential spur to innovation—to the creation of things that are truly new. And innovation, in the long run, is what keeps cities vital and relevant.

In this sense, the financial crisis may ultimately help New York by reenergizing its creative economy. The extraordinary income gains of investment bankers, traders, and hedge-fund managers over the past two decades skewed the city’s economy in some unhealthy ways. In 2005, I asked a top-ranking official at a major investment bank whether the city’s rising real-estate prices were affecting his company’s ability to attract global talent. He responded simply: “We are the cause, not the effect, of the real-estate bubble.” (As it turns out, he was only half right.) Stratospheric real-estate prices have made New York less diverse over time,

and arguably less stimulating. When I asked Jacobs some years ago about the effects of escalating real-estate prices on creativity, she told me, "When a place gets boring, even the rich people leave." With the hegemony of the investment bankers over, New York now stands a better chance of avoiding that sterile fate.

#### AMERICA'S "FAST" CITIES: CRISIS AND REINVENTION

In his 2005 book, *The World Is Flat*, Thomas Friedman argues, essentially, that the global economic playing field has been leveled, and that anyone, anywhere, can now innovate, produce, and compete on a par with, say, workers in Seattle or entrepreneurs in Silicon Valley. But this argument isn't quite right, and doesn't accurately describe the evolution of the global economy in recent years.

In fact, as I described in an earlier article for this magazine ("The World Is Spiky," October 2005 [[link opens PDF](#)]), place still matters in the modern economy—and the competitive advantage of the world's most successful city-regions seems to be growing, not shrinking. To understand how the current crisis is likely to affect different places in the United States, it's important to understand the forces that have been slowly remaking our economic landscape for a generation or more.

Worldwide, people are crowding into a discrete number of mega-regions, systems of multiple cities and their surrounding suburban rings like the Boston–New York–Washington Corridor. In North America, these mega-regions include SunBelt centers like the Char-Lanta Corridor, Northern and Southern California, the Texas Triangle of Houston–San Antonio–Dallas, and Southern Florida's Tampa–Orlando–Miami area; the Pacific Northwest's Cascadia, stretching from Portland through Seattle to Vancouver; and both Greater Chicago and Tor-Buff-Chester in the old Rust Belt. Internationally, these mega-regions include Greater London, Greater Tokyo, Europe's Am-Brus-Twerp, China's Shanghai–Beijing Corridor, and India's Bangalore–Mumbai area. Economic output is ever-more concentrated in these places as well. The world's 40 largest mega-regions, which are home to some 18 percent of the world's population, produce two-thirds of global economic output and nearly 9 in 10 new patented innovations.

Some (though not all) of these mega-regions have a clear hub, and these hubs are likely to be better buffered from the crash than most cities, because of their size, diversity, and regional role. Chicago has emerged as a center for industrial management and has rolled up many of the functions, such as finance and law, once performed in smaller midwestern centers. Los Angeles has a broad, diverse economy with global strength in media and entertainment.

Miami, which is being hit hard by the collapse of the real-estate bubble, nonetheless remains the commercial center for the large South Florida mega-region, and a major financial center for Latin America. Each of these places is the financial and commercial core of a large mega-region with tens of millions of people and hundreds of billions of dollars in output. That's not going to change as a result of the crisis.

Along with the rise of mega-regions, a second phenomenon is also reshaping the economic geography of the United States and the world. The ability of different cities and regions to attract highly educated people—or human capital—has diverged, according to research by the Harvard economists Edward Glaeser and Christopher Berry, among others. Thirty years ago, educational attainment was spread relatively uniformly throughout the country, but that's no longer the case. Cities like Seattle, San Francisco, Austin, Raleigh, and Boston now have two or three times the concentration of college graduates of Akron or Buffalo. Among people with postgraduate degrees, the disparities are wider still. The geographic sorting of people by ability and educational attainment, on this scale, is unprecedented.

The University of Chicago economist and Nobel laureate Robert Lucas declared that the spillovers in knowledge that result from talent-clustering are the main cause of economic growth. Well-educated professionals and creative workers who live together in dense ecosystems, interacting directly, generate ideas and turn them into products and services faster than talented people in other places can. There is no evidence that globalization or the Internet has changed that. Indeed, as globalization has increased the financial return on innovation by widening the consumer market, the pull of innovative places, already dense with highly talented workers, has only grown stronger, creating a snowball effect. Talent-rich ecosystems are not easy to replicate, and to realize their full economic value, talented and ambitious people increasingly need to live within them.

Big, talent-attracting places benefit from accelerated rates of “urban metabolism,” according to a pioneering theory of urban evolution developed by a multidisciplinary team of researchers affiliated with the Santa Fe Institute. The rate at which living things convert food into energy—their metabolic rate—tends to slow as organisms increase in size. But when the Santa Fe team examined trends in innovation, patent activity, wages, and GDP, they found that successful cities, unlike biological organisms, actually get faster as they grow. In order to grow bigger and overcome diseconomies of scale like congestion and rising housing and business costs, cities must become more efficient, innovative, and productive. The researchers dubbed the extraordinarily rapid metabolic rate that successful cities are able to achieve “super-linear” scaling. “By almost any measure,” they wrote, “the larger a city's



population, the greater the innovation and wealth creation per person." Places like New York with finance and media, Los Angeles with film and music, and Silicon Valley with hightech are all examples of high-metabolism places.

Metabolism and talent-clustering are important to the fortunes of U.S. city-regions in good times, but they're even more so when times get tough. It's not that "fast" cities are immune to the failure of businesses, large or small. (One of the great lessons of the 1873 crisis—and of this one so far—is that when credit freezes up and a long slump follows, companies can fail unpredictably, no matter where they are.) It's that unlike many other places, they can overcome business failures with relative ease, reabsorbing their talented workers, growing nascent businesses, founding new ones.

Economic crises tend to reinforce and accelerate the underlying, long-term trends within an economy. Our economy is in the midst of a fundamental long-term transformation—similar to that of the late 19th century, when people streamed off farms and into new and rising industrial cities. In this case, the economy is shifting away from manufacturing and toward idea-driven creative industries—and that, too, favors America's talent-rich, fast-metabolizing places.

#### THE LAST CRISIS OF THE FACTORY TOWNS

Sadly and unjustly, the places likely to suffer most from the crash—especially in the long run—are the ones least associated with high finance. While the crisis may have begun in New York, it will likely find its fullest bloom in the interior of the country—in older, manufacturing regions whose heydays are long past and in newer, shallow-rooted Sun Belt communities whose recent booms have been fueled in part by real-estate speculation, overdevelopment, and fictitious housing wealth. These typically less affluent places are likely to become less wealthy still in the coming years, and will continue to struggle long after the mega-regional hubs and creative cities have put the crisis behind them.

The Rust Belt in particular looks likely to shed vast numbers of jobs, and some of its cities and towns, from Cleveland to St. Louis to Buffalo to Detroit, will have a hard time recovering. Since 1950, the manufacturing sector has shrunk from 32 percent of nonfarm employment to just 10 percent. This decline is the result of long-term trends—increasing foreign competition and, especially, the relentless replacement of people with machines—that look unlikely to abate. But the job losses themselves have proceeded not steadily, but rather in sharp bursts, as recessions have killed off older plants and resulted in mass layoffs that are never fully reversed during subsequent upswings.

In November, nationwide unemployment in manufacturing and production occupations was already 9.4 percent. Compare that with the professional occupations, where it was just a little over 3 percent. According to an analysis done by Michael Mandel, the chief economist at *BusinessWeek*, jobs in the “tangible” sector—that is, production, construction, extraction, and transport—declined by nearly 1.8 million between December 2007 and November 2008, while those in the intangible sector—what I call the “creative class” of scientists, engineers, managers, and professionals—increased by more than 500,000. Both sorts of jobs are regionally concentrated. Paul Krugman has noted that the worst of the crisis, so far at least, can be seen in a “Slump Belt,” heavy with manufacturing centers, running from the industrial Midwest down into the Carolinas. Large swaths of the Northeast, with its professional and creative centers, have been better insulated.

Perhaps no major city in the U.S. today looks more beleaguered than Detroit, where in October the average home price was \$18,513, and some 45,000 properties were in some form of foreclosure. A recent listing of tax foreclosures in Wayne County, which encompasses Detroit, ran to 137 pages in the *Detroit Free Press*. The city’s public school system, facing a budget deficit of \$408 million, was taken over by the state in December; dozens of schools have been closed since 2005 because of declining enrollment. Just 10 percent of Detroit’s adult residents are college graduates, and in December the city’s jobless rate was 21 percent.

To say the least, Detroit is not well positioned to absorb fresh blows. The city has of course been declining for a long time. But if the area’s auto headquarters, parts manufacturers, and remaining auto-manufacturing jobs should vanish, it’s hard to imagine anything replacing them.

When work disappears, city populations don’t always decline as fast as you might expect. Detroit, astonishingly, is still the 11th-largest city in the U.S. “If you no longer can sell your property, how can you move elsewhere?” said Robin Boyle, an urban-planning professor at Wayne State University, in a December Associated Press article. But then he answered his own question: “Some people just switch out the lights and leave—property values have gone so low, walking away is no longer such a difficult option.”

Perhaps Detroit has reached a tipping point, and will become a ghost town. I’d certainly expect it to shrink faster in the next few years than it has in the past few. But more than likely, many people will stay—those with no means and few obvious prospects elsewhere, those with close family ties nearby, some number of young professionals and creative types looking to take advantage of the city’s low housing prices. Still, as its population density dips

further, the city's struggle to provide services and prevent blight across an ever-emptier landscape will only intensify.

That's the challenge that many Rust Belt cities share: managing population decline without becoming blighted. The task is doubly difficult because as the manufacturing industry has shrunk, the local high-end services—finance, law, consulting—that it once supported have diminished as well, absorbed by bigger regional hubs and globally connected cities. In Chicago, for instance, the country's 50 biggest law firms grew by 2,130 lawyers from 1984 to 2006, according to William Henderson and Arthur Alderson of Indiana University.

Throughout the rest of the Midwest, these firms added a total of just 169 attorneys. Jones Day, founded in 1893 and today one of the country's largest law firms, no longer considers its Cleveland office "headquarters"—that's in Washington, D.C.—but rather its "founding office."

Many second-tier midwestern cities have tried to reinvent themselves in different ways, with varying degrees of success. Pittsburgh, for instance, has sought to reimagine itself as a high-tech center, and has met with more success than just about anywhere else. Still, its population has declined from a high of almost 700,000 in the mid-20th century to roughly 300,000 today. There will be fewer manufacturing jobs on the other side of the crisis, and the U.S. economic landscape will be more uneven—"spikier"—as a result. Many of the old industrial centers will be further diminished, perhaps permanently so.

**T**HAT'S NOT TO SAY that every factory town is locked into decline. You need only

look at the geographic pattern of December's Senate vote on the auto bailout to realize that some places, mostly in the South, would benefit directly from the bankruptcy of GM or Chrysler and the closure of auto plants in the Rust Belt. Georgetown, Kentucky; Smyrna, Tennessee; Canton, Mississippi: these are a few of the many small cities, stretching from South Carolina and Georgia all the way to Texas, that have benefited from the establishment, over the years, of plants that manufacture foreign cars. Those benefits could grow if the Big Three were to become, say, the Big Two.

This phenomenon, a sort of lottery whereby some places win merely by outlasting others, will not be limited to towns built around automobiles, or even around manufacturing. As the recession continues and large companies in a variety of industries fail, their remaining competitors may grow stronger, along with the places where those competitors are situated.

Charlotte, North Carolina, offers an interesting case study. The financial crisis left one of the city's two big banks, Wachovia, ailing; this fall, Wachovia was acquired by San Francisco-based Wells Fargo, in a deal that will cost the city many thousands of jobs. But things could have been much worse; the deal also preserved many jobs. What's more, at roughly the same time, Bank of America, Charlotte's other large bank (and the biggest bank in the U.S.) bought Merrill Lynch for pennies on the dollar.

A business truism holds that when your competitors are retrenching, it's a great time to grow your market share. Deborah Strumsky, an economist at the University of North Carolina at Charlotte, told me she believes that in the end, both Charlotte's banking industry and Charlotte itself will emerge from the crisis all the stronger: "The Wells Fargo deal has saved thousands of jobs by keeping Wachovia afloat. More importantly, Bank of America has taken to the banking crisis like a shopaholic with a new credit card; it has been bargain-hunting and cutting some astonishing deals. Bank of America will come out the other side far better than in any fantasy it might have entertained previously."

In recent years, Charlotte's leaders have made some smart decisions about how to attract businesses and professionals, enabling the city to grow into the nation's second-largest traditional banking center; in the lottery of business failure and consolidation, it was well positioned to win. But it was also lucky, and last fall, it escaped losing, big-time, by no more than a hair's breadth. Overall, the roster of places that benefit from the failure of their champions' rivals will probably be pretty short, and the names on the roster somewhat unpredictable. Especially among cities built around declining industries, more places will be weakened than strengthened; as with all lotteries, most players will lose.

#### **CITIES IN THE SAND: THE END OF EASY EXPANSION**

For a generation or more, no swath of the United States has grown more madly than the Sun Belt. Of course, the area we call the "Sun Belt" is vast, and the term is something of a catch-all: the cities and metropolitan areas within it have grown for disparate reasons. Los Angeles is a mecca for media and entertainment; San Jose and Austin developed significant, innovative high-tech industries; Houston became a hub for energy production; Nashville developed a unique niche in low-cost music recording and production; Charlotte emerged as a center for cost-effective banking and low-end finance.

But in the heady days of the housing bubble, some Sun Belt cities—Phoenix and Las Vegas are the best examples—developed economies centered largely on real estate and construction. With sunny weather and plenty of flat, empty land, they got caught in a classic

boom cycle. Although these places drew tourists, retirees, and some industry—firms seeking bigger footprints at lower costs—much of the cities' development came from, well, development itself. At a minimum, these places will take a long, long time to regain the ground they've recently lost in local wealth and housing values. It's not unthinkable that some of them could be in for an extended period of further decline.

To an uncommon degree, the economic boom in these cities was propelled by housing appreciation: as prices rose, more people moved in, seeking inexpensive lifestyles and the opportunity to get in on the real-estate market where it was rising, but still affordable. Local homeowners pumped more and more capital out of their houses as well, taking out home-equity loans and injecting money into the local economy in the form of home improvements and demand for retail goods and low-level services. Cities grew, tax coffers filled, spending continued, more people arrived. Yet the boom itself neither followed nor resulted in the development of sustainable, scalable, highly productive industries or services. It was fueled and funded by housing, and housing was its primary product. Whole cities and metro regions became giant Ponzi schemes.

Phoenix, for instance, grew from 983,403 people in 1990 to 1,552,259 in 2007. One of its suburbs, Mesa, now has nearly half a million residents, more than Pittsburgh, Cleveland, or Miami. As housing starts and housing prices rose, so did tax revenues, and a major capital-spending boom occurred throughout the Greater Phoenix area. Arizona State University built a new downtown Phoenix campus, and the city expanded its convention center and constructed a 20-mile light-rail system connecting Phoenix, Mesa, and Tempe.

And then the bubble burst. From October 2007 through October 2008, the Phoenix area registered the largest decline in housing values in the country: 32.7 percent. (Las Vegas was just a whisker behind, at 31.7 percent. Housing in the New York region, by contrast, fell by just 7.5 percent over the same period.) Overstretched and overbuilt, the region is now experiencing a fiscal double whammy, as its many retirees—some 21 percent of its residents are older than 55—have seen their retirement savings decimated. Mortgages Limited, the state's largest private commercial lender, filed for bankruptcy last summer. The city is running a \$200 million budget deficit, which is only expected to grow. Last fall, the city government petitioned for federal funds to help it deal with the financial crisis. "We had a big bubble here, and it burst," Anthony Sanders, a professor of economics and finance at ASU, told *USA Today* in December. "We've taken Kevin Costner's Field of Dreams and now it's Field of Screams. If you build it, nobody comes."

Will people wash out of these places as fast as they washed in, leaving empty sprawl and all the ills that accompany it? Will these cities gradually attract more businesses and industries, allowing them to build more-diverse and more-resilient economies? Or will they subsist on tourism—which may be meager for quite some time—and on the Social Security checks of their retirees? No matter what, their character and atmosphere are likely to change radically.

### THE LIMITS OF SUBURBAN GROWTH

Every phase or epoch of capitalism has its own distinct geography, or what economic geographers call the “spatial fix” for the era. The physical character of the economy—the way land is used, the location of homes and businesses, the physical infrastructure that ties everything together—shapes consumption, production, and innovation. As the economy grows and evolves, so too must the landscape.

To a surprising degree, the causes of this crash are geographic in nature, and they point out a whole system of economic organization and growth that has reached its limit. Positioning the economy to grow strongly in the coming decades will require not just fiscal stimulus or industrial reform; it will require a new kind of geography as well, a new spatial fix for the next chapter of American economic history.

Suburbanization was the spatial fix for the industrial age—the geographic expression of mass production and the early credit economy. Henry Ford’s automobiles had been rolling off assembly lines since 1913, but “Fordism,” the combination of mass production and mass consumption to create national prosperity, didn’t emerge as a full-blown economic and social model until the 1930s and the advent of Roosevelt’s New Deal programs.

Before the Great Depression, only a minority of Americans owned a home. But in the 1930s and ’40s, government policies brought about longer-term mortgages, which lowered payments and enabled more people to buy a house. Fannie Mae was created to purchase those mortgages and lubricate the system. And of course the tax deduction on mortgage-interest payments (which had existed since 1913, when the federal income-tax system was created) privileged house purchases over other types of spending. Between 1940 and 1960, the homeownership rate rose from 44 percent to 62 percent.

Demand for houses was symbiotic with demand for cars, and both were helped along by federal highway construction, among other infrastructure projects that subsidized a new suburban lifestyle and in turn fueled demand for all manner of household goods. More recently, innovations in finance like adjustable-rate mortgages and securitized subprime

loans expanded homeownership further and kept demand high. By 2004, a record 69.2 percent of American families owned their home.

For the generation that grew up during the Depression and was inclined to pinch pennies, policies that encouraged freer spending were sensible enough—they allowed the economy to grow faster. But as younger generations, weaned on credit, followed, and credit availability increased, the system got out of hand. Housing, meanwhile, became an ever-more-central part of the American Dream: for many people, as the recent housing bubble grew, owning a home came to represent not just an end in itself, but a means to financial independence.

On one level, the crisis has demonstrated what everyone has known for a long time: Americans have been living beyond their means, using illusory housing wealth and huge slugs of foreign capital to consume far more than we've produced. The crash surely signals the end to that; the adjustment, while painful, is necessary.

But another crucial aspect of the crisis has been largely overlooked, and it might ultimately prove more important. Because America's tendency to overconsume and under-save has been intimately intertwined with our postwar spatial fix—that is, with housing and suburbanization—the shape of the economy has been badly distorted, from where people live, to where investment flows, to what's produced. Unless we make fundamental policy changes to eliminate these distortions, the economy is likely to face worsening handicaps in the years ahead.

Suburbanization—and the sprawling growth it propelled—made sense for a time. The cities of the early and mid-20th century were dirty, sooty, smelly, and crowded, and commuting from the first, close-in suburbs was fast and easy. And as manufacturing became more technologically stable and product lines matured during the postwar boom, suburban growth dovetailed nicely with the pattern of industrial growth. Businesses began opening new plants in green-field locations that featured cheaper land and labor; management saw no reason to continue making now-standardized products in the expensive urban locations where they'd first been developed and sold. Work was outsourced to then-new suburbs and the emerging areas of the Sun Belt, whose connections to bigger cities by the highway system afforded rapid, low-cost distribution. This process brought the Sun Belt economies (which had lagged since the Civil War) into modern times, and sustained a long boom for the United States as a whole.



But that was then; the economy is different now. It no longer revolves around simply making and moving things. Instead, it depends on generating and transporting ideas. The places that thrive today are those with the highest velocity of ideas, the highest density of talented and creative people, the highest rate of metabolism. *Velocity* and *density* are not words that many people use when describing the suburbs. The economy is driven by key urban areas; a different geography is required.

#### THE NEXT ECONOMIC LANDSCAPE

The housing bubble was the ultimate expression, and perhaps the last gasp, of an economic system some 80 years in the making, and now well past its “sell-by” date. The bubble encouraged massive, unsustainable growth in places where land was cheap and the real-estate economy dominant. It encouraged low-density sprawl, which is ill-fitted to a creative, postindustrial economy. And not least, it created a workforce too often stuck in place, anchored by houses that cannot be profitably sold, at a time when flexibility and mobility are of great importance.

So how do we move past the bubble, the crash, and an aging, obsolescent model of economic life? What’s the right spatial fix for the economy today, and how do we achieve it?

The solution begins with the removal of homeownership from its long-privileged place at the center of the U.S. economy. Substantial incentives for homeownership (from tax breaks to artificially low mortgage-interest rates) distort demand, encouraging people to buy bigger houses than they otherwise would. That means less spending on medical technology, or software, or alternative energy—the sectors and products that could drive U.S. growth and exports in the coming years. Artificial demand for bigger houses also skews residential patterns, leading to excessive low-density suburban growth. The measures that prop up this demand should be eliminated.

If anything, our government policies should encourage renting, not buying. Homeownership occupies a central place in the American Dream primarily because decades of policy have put it there. A recent study by Grace Wong, an economist at the Wharton School of Business, shows that, controlling for income and demographics, homeowners are no happier than renters, nor do they report lower levels of stress or higher levels of self-esteem.

And while homeownership has some social benefits—a higher level of civic engagement is one—it is costly to the economy. The economist Andrew Oswald has demonstrated that in both the United States and Europe, those places with higher homeownership rates also suffer

from higher unemployment. Homeownership, Oswald found, is a more important predictor of unemployment than rates of unionization or the generosity of welfare benefits. Too often, it ties people to declining or blighted locations, and forces them into work—if they can find it—that is a poor match for their interests and abilities.

As homeownership rates have risen, our society has become less nimble: in the 1950s and 1960s, Americans were nearly twice as likely to move in a given year as they are today. Last year fewer Americans moved, as a percentage of the population, than in any year since the Census Bureau started tracking address changes, in the late 1940s. This sort of creeping rigidity in the labor market is a bad sign for the economy, particularly in a time when businesses, industries, and regions are rising and falling quickly.

The foreclosure crisis creates a real opportunity here. Instead of resisting foreclosures, the government should seek to facilitate them in ways that can minimize pain and disruption. Banks that take back homes, for instance, could be required to offer to rent each home to the previous homeowner, at market rates—which are typically lower than mortgage payments—for some number of years. (At the end of that period, the former homeowner could be given the option to repurchase the home at the prevailing market price.) A bigger, healthier rental market, with more choices, would make renting a more attractive option for many people; it would also make the economy as a whole more flexible and responsive.

Next, we need to encourage growth in the regions and cities that are best positioned to compete in the coming decades: the great mega-regions that already power the economy, and the smaller, talent-attracting innovation centers inside them—places like Silicon Valley, Boulder, Austin, and the North Carolina Research Triangle.

Whatever our government policies, the coming decades will likely see a further clustering of output, jobs, and innovation in a smaller number of bigger cities and city-regions. But properly shaping that growth will be one of the government's biggest challenges. In part, we need to ensure that key cities and regions continue to circulate people, goods, and ideas quickly and efficiently. This in itself will be no small task; increasing congestion threatens to slowly sap some of these city-regions of their vitality.

Just as important, though, we need to make elite cities and key mega-regions more attractive and affordable for all of America's classes, not just the upper crust. High housing costs in these cities and in the more convenient suburbs around them, along with congested sprawl

farther afield, have conspired to drive lower-income Americans away from these places over the past 30 years. This is profoundly unhealthy for our society.

In his forthcoming book, *The Wealth of Cities*, my University of Toronto colleague Chris Kennedy shows that only wholesale structural changes, from major upgrades in infrastructure to new housing patterns to big shifts in consumption, allow places to recover from severe economic crises and to resume rapid expansion. London laid the groundwork for its later commercial dominance by changing its building code and widening its streets after the catastrophic fire of 1666. The United States rose to economic preeminence by periodically developing entirely new systems of infrastructure—from canals and railroads to modern water-and-sewer systems to federal highways. Each played a major role in shaping and enabling whole eras of growth.

The Obama administration has declared its intention to open the federal government's pocketbook wide to help us get through this recession, and infrastructure spending seems poised to play a key role. Done right, such spending could position the United States for the next round of growth. But that will entail more than patching up roads and bridges.

If there is one constant in the history of capitalist development, it is the ever-more-intensive use of space. Today, we need to begin making smarter use of both our urban spaces and the suburban rings that surround them—packing in more people, more affordably, while at the same time improving their quality of life. That means liberal zoning and building codes within cities to allow more residential development, more mixed-use development in suburbs and cities alike, the in-filling of suburban cores near rail links, new investment in rail, and congestion pricing for travel on our roads. Not everyone wants to live in city centers, and the suburbs are not about to disappear. But we can do a much better job of connecting suburbs to cities and to each other, and allowing regions to grow bigger and denser without losing their velocity.

Finally, we need to be clear that ultimately, we can't stop the decline of some places, and that we would be foolish to try. Places like Pittsburgh have shown that a city can stay vibrant as it shrinks, by redeveloping its core to attract young professionals and creative types, and by cultivating high-growth services and industries. And in limited ways, we can help faltering cities to manage their decline better, and to sustain better lives for the people who stay in them.

But different eras favor different places, along with the industries and lifestyles those places embody. Band-Aids and bailouts cannot change that. Neither auto-company rescue packages nor policies designed to artificially prop up housing prices will position the country for renewed growth, at least not of the sustainable variety. We need to let demand for the key products and lifestyles of the old order fall, and begin building a new economy, based on a new geography.

What will this geography look like? It will likely be sparser in the Midwest and also, ultimately, in those parts of the Southeast that are dependent on manufacturing. Its suburbs will be thinner and its houses, perhaps, smaller. Some of its southwestern cities will grow less quickly. Its great mega-regions will rise farther upward and extend farther outward. It will feature a lower rate of homeownership, and a more mobile population of renters. In short, it will be a more concentrated geography, one that allows more people to mix more freely and interact more efficiently in a discrete number of dense, innovative mega-regions and creative cities. Serendipitously, it will be a landscape suited to a world in which petroleum is no longer cheap by any measure. But most of all, it will be a landscape that can accommodate and accelerate invention, innovation, and creation—the activities in which the U.S. still holds a big competitive advantage.

The Stanford economist Paul Romer famously said, “A crisis is a terrible thing to waste.” The United States, whatever its flaws, has seldom wasted its crises in the past. On the contrary, it has used them, time and again, to reinvent itself, clearing away the old and making way for the new. Throughout U.S. history, adaptability has been perhaps the best and most quintessential of American attributes. Over the course of the 19th century’s Long Depression, the country remade itself from an agricultural power into an industrial one. After the Great Depression, it discovered a new way of living, working, and producing, which contributed to an unprecedented period of mass prosperity. At critical moments, Americans have always looked forward, not back, and surprised the world with our resilience. Can we do it again?

Correction: The print version of this piece incorrectly cited an assessment published by Moody’s Investor Services. The assessment was actually published by Moody’s Economy.com.

The URL for this page is <http://www.theatlantic.com/doc/200903/meltdown-geography>

City Council  
Date: April 21, 2009  
REGULAR  
Item: #14  
Motion

ITEM: **Water System Financing Team for Groundwater Contamination Area**

SUBMITTED BY: Craig W. Dawson, Interim City Administrator

REVIEWED BY: David Snyder, incoming City Attorney  
Jack Griffin, City Engineer

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**SUMMARY AND ACTION REQUESTED:** Groundwater has been contaminated in the west-central and southwestern parts of Lake Elmo. Properties having private wells have been negatively affected, and residents are having their wells treated with individual granular activated carbon (GAC) systems, being provided bottled water, or have been connected to a public water supply. The best long-term solution, in terms of economic feasibility and reliable quality of water supply, is to expand the City's water system in order to supply water to this area. Given the high cost to most effectively provide City water, the City needs to find partners and sources for significant funds to make the needed improvements. The Council should consider designating a core team to lead this effort, with the understanding that other key persons will be involved as needed and the Council will be kept up-to-date and involved throughout.

**BACKGROUND:** The public costs for the water system improvements are estimated to be in the area of \$6 million, and the private costs to access the system are estimated to be in the range of \$2 million to \$3+ million. Through a consent decree by the Minnesota Pollution Control Agency (MPCA), 3M has provided funding for the measures taken to date; however, these measures have not addressed the long-term need for a water supply from the City. The City has had meetings with the MPCA and the Minnesota Department of Health (MDH) as recently as last fall, and began some exploratory discussions about possible funding sources. It is apparent that the needed funding will have to come from a variety of sources, and any reasonable opportunity should be pursued.

Since then, staff has submitted application to be on the Project Priority List for the State's Drinking Water Revolving Loan Fund for three water system improvements, including approximately \$6 million for the Southwest Area Watermain Extension Project. This is, however, a loan program, rather than a grant, and would carry long-term costs. Federal stimulus funds *may* reduce the loan obligation. Staff has also submitted a federal appropriations request through Senator Klobuchar's office for approximately \$3.4 million for this project in the 2010 fiscal year.

As recommended during the review of the Water System chapter for the Comprehensive Plan during the April 14 City Council work session, a "team" should be assembled for the necessary financial assistance resulting from the groundwater contamination. The Council indicated its concurrence with this approach.

**Suggested Team:** As the City has had discussions with State agencies and 3M in the past, the mayor and city administrator have participated on behalf of the City. Staff suggests that the persons in these two positions continue to head up the City's team going forward. By their nature, these positions represent the Council and the staff, and they carry weight in representing the City with others. As the mayor has been involved in past meetings, there would be a continuity in the he has developed relationships with other parties. For increased effectiveness, it is also important to the number of persons involved be small and have flexible schedules in order to concentrate on this project. Additionally, if Council were to name two of its members to the team, it would constitute a committee and need to notice anytime it would meet (per the Open Meeting Law), and affect the flexibility of meeting with other parties. Anything the City's team might do that could be characterized as negotiating would need to be done within parameters agreed upon by the Council.

With this approach, the leads on the City team would call upon key people (e.g., city attorney, city engineer, perhaps other specialists) when appropriate to provide assistance. The Council would be kept up-to-date and involved in decision-making throughout the process.

**RECOMMENDATION:** It is recommended that the City Council designate the Mayor and City Administrator to head the City's team to identify and gain commitments for funding for improvements to the City's water system due to the need to address groundwater contamination in southwestern Lake Elmo.

**SUGGESTED MOTION FOR CONSIDERATION:**

***Move to designate the Mayor and City Administrator as the team to lead the City's efforts to work with other governmental agencies and private corporations for funding to improve the City's water system in order to serve those areas of Lake Elmo affected by groundwater contamination.***

**ORDER OF BUSINESS:**

- |  |                   |
|--|-------------------|
| • Introduction   | Craig Dawson      |
| • Report by staff  | Craig Dawson      |
| • Questions from City Council members to the presenter   | Mayor facilitates |
| • Questions/comments from the public to the City Council | Mayor facilitates |
| • Action on motion                                       | City Council      |



City Council

Date:

April 21, 2009

REGULAR

Item:

15

Motion

ITEM:

**Request Planning Commission To Develop Recommendations  
on City Activities for Economic Development**

SUBMITTED BY:

Craig W. Dawson, Interim City Administrator

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**SUMMARY AND ACTION REQUESTED:** At its April 14 work session, the City Council had some discussion about what activities the City might begin to undertake in terms of economic development. At the end of the discussion, the Council decided that it should formally request the Planning Commission to identify what the City needs to be doing at present, and to begin to identify what commercial uses and development standards should be permitted in the City. The Council is requested to provide that formal direction to the Planning Commission.

**BACKGROUND:** As a matter of general information, the Memorandum of Understanding between the City and the Metropolitan Council calls for 1,400 employment residential equivalent connections (RECs) to the sewer system by 2030; in 2000, the estimated number of these employment RECs was 100. For employment RECs in the urban (sewered) areas south of 10<sup>th</sup> Street, non-residential development will meet or exceed an average of 40 employees per acre. The City has the discretion to determine what types of businesses will be developed. The proposed review of economic development by the Planning Commission would include the entire City, not just the area south of 10<sup>th</sup> Street.

**SUGGESTED MOTION FOR CONSIDERATION:**

***Move to direct the Planning Commission to identify what activities the City should undertake in terms of economic development, and to identify what commercial uses and standards for commercial development should be permitted in the City.***

**ORDER OF BUSINESS:**

- |  |                          |
|--|--------------------------|
| • Introduction   | Craig Dawson             |
| • Report by staff  | Craig Dawson, Kyle Klatt |
| • Questions from City Council members to the presenter   | Mayor facilitates        |
| • Questions/comments from the public to the City Council | Mayor facilitates        |
| • Action on motion                                       | City Council             |