

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-086

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

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

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

Article 5 - General Regulations

§154.205 Fencing Regulations

§154.205 Fencing Regulations

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

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

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

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

2. *Temporary Fence.* Temporary fencing that complies with subsection (F) and all other applicable provisions of this Ordinance shall be exempt from permit requirements.
- D. *General Requirements.* All fences erected in the city of Lake Elmo are subject to the following requirements:
1. *Maintenance.* All fences shall be properly maintained with respect to appearance and safety. Fences that remain in a state of disrepair for an extended period of time shall constitute a nuisance per §96.03.
 2. *Face of Fence.* The finished side of any fence or wall must face abutting property or street rights of way.
 3. *Fence Materials.* Permitted fence materials shall be limited to brick, stone, wood, wrought iron, vinyl, composite material, steel, aluminum, chain-link and, in cases of temporary fencing only, materials that are consistent with temporary fencing as regulated under subsection (F)
 4. *Traffic Obstruction.* No fence or wall shall obstruct a motorist's or a pedestrian's safe view from the driveway or street.
 5. *Location.*
 - a. Fences may be installed on any portion of a lot subject to the height restrictions of §154.205.E and may be installed along property lines provided the adjacent property agrees, in writing, that such fence may be erected on the boundary line of the respective properties. Any portion of the fence and all footing material shall not encroach on the neighboring property.
 - b. All pertinent property pins shall be visible upon inspection for fences installed within one foot of a property boundary.
 - c. In the case of a dispute, the City may require a survey to establish the boundary line of a property.
 6. *Easement Encroachment.* An easement encroachment agreement must be approved by the City Council, along with a fence permit, for any fence that will be installed within a City easement.
 7. *Swimming Pools.* All swimming pools shall be enclosed with required fencing per §151.085.
- E. *Fence Height and Design*
1. *Fences within Front and Side (Corner) Yards.* Any fence within a front or side (corner) yard setback may not exceed forty-two (42) inches in height and must be 50% open to air and light.
 2. *Residential and Mixed-Use Districts.* No fence shall exceed six feet (6') in height, and shall be subject to the design requirements of §154.205.E.3.
 3. *Residential Fence Design Requirements.* Solid wall fences over four (4) feet in height shall be prohibited on any lot under ½ acre (21,780 square feet) in size. Any portion of a fence over four (4) feet on such lots shall be at least 75% open to light and air, except under one of the following circumstances:

- a. When a residential property abuts a district or use of a higher classification, and specifically, when an A, RR, RS, RE, or LDR district abuts any other district or a single family residential use abuts a multi-family residential use or a non-residential use.
 - b. When a property is a through lot and abuts a street that is a higher functional classification than the street abutting the front yard of the property.
 - c. For screening of outdoor living space subject to the following criteria:
 - i. The area enclosed by outdoor extended living area fencing shall not exceed an enclosed area of 500 square feet.
 - ii. A fence utilized to enclose an outdoor extended living area shall be extended to a point not more than 6 inches from the principal structure at 1 fence termination point.
 - iii. A fence utilized to enclose an outdoor extended living area shall not extend into side yard of a lot beyond the existing building line of the existing principal structure, nor shall such fences be located in any side or front street yard.
 - d. For screening or privacy purposes when the lineal measurement of the fence does not exceed one-fourth ($\frac{1}{4}$) of the linear distance of the perimeter of a lot. Such fences may only be installed with the written consent of the adjacent property owner.
 - e. Under other circumstances when a solid fence is warranted due to safety, health, animal containment, or similar purposes, subject to review and approval by the City Council and with the written consent of the adjacent property owner.
4. *Commercial and Industrial Districts.* No fence or wall shall exceed eight feet (8') in height. Fences that exceed eight feet (8') in height require a conditional use permit.

F. Temporary Fences

- 1. *Height and Performance.* Temporary fences shall comply with the fence height standards of subsection (E). Temporary fences shall be at least 40% open to air and light. If unable to be at least 40% open to air and light, temporary fences shall not exceed forty-two inches (42") in height.
- 2. *Duration and Limitation*
 - a. No snow fence or posts shall be installed prior to October 1, and must be removed prior to April 15.
 - b. Seasonal recreational fencing intended for winter sports, such as hockey or broomball shall not be installed prior to October 1, and must be removed prior to April 15.
- 3. *Location.* Snow fences shall be set back at least 50 feet from any south or east property line, or such additional distance as may be required to prevent the accumulation of snow on public streets or adjoining property, as determined by the Public Works Director.

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

SECTION 3. Effective Date. This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 4. Adoption Date. This Ordinance 08-086B was adopted on this 16th day of July 2013, by a vote of ____ Ayes and ____ Nays.

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

ATTEST:

Adam Bell, City Clerk

This Ordinance 08-086B was published on the ____ day of _____, 2013.