



MAYOR AND COUNCIL COMMUNICATION

DATE: 5/17/16

REGULAR

ITEM #: 26

MOTION

AGENDA ITEM: Discussion: zoning text amendment to the permitted, conditional and interim land uses in the rural zoning districts.

SUBMITTED BY: Stephen Wensman, Planning Director

REVIEWED BY: Kristina Handt, City Administrator
Emily Becker, City Planner

BACKGROUND:

On December 15, 2015, Staff asked City Council to consider an ordinance amendment as it pertains to secondary dwellings, cemeteries, commercial stables, commercial kennels, golf courses, and agricultural sales in the Rural and Agricultural Zoning Districts. The City Council approved a motion to amend the Lake Elmo City Code with the intent to reverse changes made in October of 2013 as it pertains to these listed land uses in the rural districts. The motion read:

“TO APPROVE AN ORDINANCE AMENDMENT, AMENDING ARTICLE IX OF THE ZONING ORDINANCE REMOVING SECONDARY DWELLINGS, CEMETERY, COMMERCIAL KENNEL, COMMERCIAL STABLE, GOLF COURSE AND AGRICULTURAL SALES AS ALLOWABLE USES IN THE RURAL DISTRICTS”.

In effect, the motion removed each of the above mentioned land use categories from Article IX, Section 154.401, Table 9-1.

The ordinance has not been published as Staff is seeking clarification from the Council as to the intent of the ordinance as it relates to the impact.

ISSUE BEFORE COUNCIL:

To review the motion made on December 15, 2016, and the potential unintended consequence. If the Council wishes to revise its motion, staff has prepared an alternate motion.

PROPOSAL DETAILS/ANALYSIS:

On December 15, 2015 the City Council discussed the zoning text amendment related to the above mentioned land uses within the rural zoning districts. The Council’s expressed concern was that these uses were added to the Code in 2013 (Ordinance 08-173) without adequate discussion.

OLD CODE PRIOR TO OCTOBER 2013.

Prior to the approval of Ordinance 08-173, the RT Zoning District did not exist. The land uses Commercial Kennel and Commercial Stable did not exist by definition. Kennels and Stables did not differentiate between private and commercial.

Land Uses Prior to 10/2013

Land Use	Permitted/Conditional/Interim	Zoning District
Secondary Dwellings	Permitted Use	A-Agriculture
Cemeteries	Conditional Use	PF – Public-Semi Public
Golf Courses	Conditional Use	R-3 Manufactured Home Park District
Restricted Recreation (Commercial Recreation)	Conditional Use	A-Agriculture
Agricultural Sales Business	Permitted Use	RR - Rural Residential A -Agriculture

OCTOBER 2013 LAND USE CHANGES.

Ordinance 08-173, updated the Zoning Code by eliminating some zoning districts, created the RT-Rural Development Transitional zoning district, created some new land use categories such as Commercial Kennel and Commercial Stable, and assigned land uses to districts as P-permitted, C-conditional, or I-Interim uses. Agricultural Sales Business became an interim use in several districts.

	RT	A	RR	RS	RE
Residential District Uses					
Secondary dwelling	-	P	-	-	-
Cemetery	-	P	P	-	-
Commercial Kennel	C	C	C	-	-
Commercial Stable	-	C	-	-	-
Golf Course	-	C	-	-	-
Restricted Recreation	-	C	-	-	-
Agricultural Sales Business	I	I	I	-	-

After the City Council's December 15, 2015 motion to amend the zoning in the rural districts, Staff held off preparing the final draft of the amended ordinance and its publication in order to understand the motion approved by Council, its impact, and to inform the Council about what may have been unintended consequences, mainly that Agricultural Sales Businesses will no longer be a land use category in the Rural and Agricultural Zoning Districts. Motion made on December 15, 2015 struck all of the above mentioned land uses from Article IX, Section 154.401, Table 9-1. As a result of the ordinance amendment, existing agricultural sales businesses will be unable to renew their permits when they expire. The affected businesses are:

Name	IUP Expiration Date
Country Sun Farm and Greenhouses	July 2, 2023
Krueger Tree Farm	January 1, 2023

The attached zoning text amendment strikes secondary dwelling, cemetery, commercial kennel, commercial stable, golf courses and agricultural sales business from Article IX, Section 154.401, Table 9-1, consistent with the City Council motion made on December 15, 2015.

Staff has prepared an alternate ordinance that would strike the above mentioned land uses from the Rural Districts, but keeping "agricultural sales business" as an interim use.

FISCAL IMPACT:

None

OPTIONS:

The City Council has the following options:

- 1) Reaffirm the motion made on December 15, 2017, and make the following motion in support of summary publication:
"Move to approve Resolution 2016-46 approving the summary publication of Ordinance 08-136 striking secondary dwelling, cemetery, commercial kennel, commercial stable, golf courses and agricultural sales business from Article IX, Section 154.401, Table 9-1".

Or,

- 1) Amend the motion of approval for the zoning text amendment keeping Agricultural Sales Businesses an interim use in the Rural and Agricultural Districts with the following motion:
"Move to approve Ordinance 08-136 Amending Article IX of the Zoning Ordinance, striking the land use categories: secondary dwelling, cemetery, commercial kennel, commercial stable and golf course, from Section 154.401, Table 9-1., and leaving agricultural sales business as an interim use"
- 2) ***"Move to approve Resolution 2016-46 approving the summary publication of the zoning text amendment as it pertains to secondary dwellings, cemeteries, commercial stables, commercial***

kennels, and golf courses, in Rural and Agricultural Districts (leaving agricultural sales business as an interim use)”.

RECOMMENDATION:

Staff recommends the City Council reconsider the motion to amend the City of Lake Elmo as it pertains to secondary dwellings, cemeteries, commercial stables, commercial kennels, golf courses, and agricultural sales in the Rural and Agricultural Zoning Districts with the following actions (Resolutions for summary publications require a 4/5 vote):

- 1) ***“Moved to approve Ordinance 08-136 Amending Article IX of the Zoning Ordinance, striking the land use categories: secondary dwelling, cemetery, commercial kennel, commercial stable and golf course, from Section 154.401, Table 9-1., and leaving agricultural sales business as an interim use”***
- 2) ***“Move to approve Resolution 2016-46 approving the summary publication of the zoning text amendment as it pertains to secondary dwellings, cemeteries, commercial stables, commercial kennels, and golf courses, in Rural and Agricultural Districts (leaving agricultural sales businesses as an interim use)”.***

If the City Council intended to remove Agricultural Sales Business from Section 154.401, Table 9-1, Staff recommends the following motion (Resolutions for summary publications require a 4/5 vote):

- 1) ***“Move to approve Resolution 2016-46 approving the summary publication of Ordinance 08-136 striking secondary dwelling, cemetery, commercial kennel, commercial stable, golf courses and agricultural sales business from Article IX, Section 154.401, Table 9-1”.***

ATTACHMENTS:

- Ordinance 08-136a Amending Article IX of the Zoning Ordinance, striking the land use categories: secondary dwelling, cemetery, commercial kennel, commercial stable and golf course, from Section 154.401, Table 9-1., and leaving agricultural sales business as an interim use
- Ordinance 08-136b Amending Article IX of the Zoning Ordinance, striking the land use categories: secondary dwelling, cemetery, commercial kennel, commercial stable, golf course, and agriculture sales business from Section 154.401, Table 9-1.
- Resolution 2016-46a approving the summary publication of the zoning text amendment as it pertains to secondary dwellings, cemeteries, commercial stables, commercial kennels, and golf courses, in Rural and Agricultural Districts (leaving agricultural sales businesses as an interim use)
- Resolution 2016-46b approving the summary publication of Ordinance 08-136b striking secondary dwelling, cemetery, commercial kennel, commercial stable, golf courses and agricultural sales business from Article IX, Section 154.401, Table 9-1”.

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

ORDINANCE NO. 08-136a

**AN ORDINANCE AMENDING SECTION 154.401 OF THE LAKE ELMO CITY CODE TO AMEND
PERMITTED, CONDITIONAL AND INTERIM USES IN THE RURAL ZONING DISTRICTS**

The City Council of the City of Lake Elmo hereby ordains that Section 154.401, Table 9-1 is hereby amended to read as follows:

§ 154.401 PERMITTED ,CONDITIONAL AND INTERIM USES.

Table 9-1 lists all permitted and conditional uses allowed in the rural districts. “P” indicates a permitted use, “C” a conditional use, and “I” an interim use. Uses not so indicated shall be considered prohibited.

Cross-references listed in the table under “Standards” indicate the location within this Ordinance of specific development standards that apply to the limited use.

A. *Combinations of uses.* Principal and accessory uses may be combined on a single parcel.

Table 9.1: Permitted, Conditional and Interim Uses, Rural Districts

	RT	A	RR	RS	RE	Standard
Residential Uses						
Household Living						
Single-family detached dwelling	P	P	P	P	P	154.404,
Services						
Self Service Storage Facility	I ^a	I ^a	-	-	-	154.404.G
Outdoor Recreation						
Outdoor Recreation Facility	-	C	-	-	-	154.306.B
Parks and Open Areas	P	P	P	P	P	
Agricultural and Related Uses						
Agricultural Entertainment Business	I	I	I	-	-	154.306.B,154.914
Agricultural Production	P	P	P	-	-	
Agricultural Sales Business	I	I	I	-	-	154.110
Agricultural Services	C	C	-	-	-	154.404.J
Forestry Operations	-	P	-	-	-	

Table 9-1: Permitted Conditional and Interim Uses, Rural Districts

	RT	A	RR	RS	RE	Standard
Greenhouses, Non Retail	C	C	C	-	-	
Wayside Stand	P	P	P	-	-	154.454.D
Industrial and Extractive Uses						
Motor Freight and Warehousing	a	-	-	-	-	154.404.G
Accessory Uses						
Bed and Breakfast	C	C	C	-	-	154.310
Domestic Pets	P	P	P	P	P	
Family Day Care	P	P	P	P	P	
Home Occupation	P	P	P	P	P	
Kennel, Private	C	C	C	-	-	154.404.I
Solar Equipment	P	P	P	P	P	154.310.C
Stable, Private	C	C	C	-	-	
Swimming Pools, Hot Tubs, Etc.	P	P	P	P	P	
Temporary Sales	P	P	P	P	P	
Water-Oriented Accessory Structures	P	P	P	P	P	
Other Structures Typically Incidental and Clearly Subordinate to Permitted Uses	P	P	P	P	P	
Commercial Wedding Ceremony Venue	I	I	I			
Open Space Preservation Development						
OP Development	-	C	C	-	-	154.650
OP-Alt Development	-	C	C	-	-	154.700

Notes to Rural Districts Table 9-1

- a. Non-Agricultural Low Impact Use (see 154.404.G)

Note: Standards listed in Table 9-1 are listed by Article, Section and Subsection.

(Ord. 08-073, passed 3-19-2013)

(Ord. 08-107, passed 5-6-2014)

Effective Date

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

Adoption Date

This Ordinance No. 08-____ was adopted on this 15 day of December, 2015, by a vote of 3 Ayes and 2 Nays.

Mayor Mike Pearson

ATTEST:

Julie Johnson
City Clerk

This Ordinance No. 08-136 was published on the ____ day of ____, 2016.

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

RESOLUTION NO. 2016-46a

**RESOLUTION AUTHORIZING PUBLICATION OF ORDINANCE 08-136 BY TITLE
AND SUMMARY**

WHEREAS, the City Council of the City of Lake Elmo has adopted Ordinance No. 08-136, an ordinance to amend the Permitted, Conditional and Interim Uses in the Rural Districts, Chapter 154, Article VIII, Section 154.401.

WHEREAS, the ordinance is lengthy; and

WHEREAS, Minnesota Statutes, section 412.191, subd. 4, allows publication by title and summary in the case of lengthy ordinances or those containing charts or maps; and

WHEREAS, the City Council believes that the following summary would clearly inform the public of the intent and effect of the ordinance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lake Elmo, that the City Clerk shall cause the following summary of Ordinance No. 08-___ to be published in the official newspaper in lieu of the entire ordinance:

Public Notice

The City Council of the City of Lake Elmo has adopted Ordinance No. 08-136, which amends Chapter 154, Article VIII, Section 154.401. The revised ordinance amends Table 9-1, Permitted and Conditional Uses with the following changes:

- Strikes striking secondary dwelling, cemetery, commercial kennel, commercial stable, and golf courses from Article IX, Section 154.401, Table 9-1

The full text of Ordinance No. 08-136 is available for inspection at Lake Elmo city hall during regular business hours.

BE IT FURTHER RESOLVED by the City Council of the City of Lake Elmo that the City Administrator keep a copy of the ordinance at City Hall for public inspection and that a full copy of the ordinance be placed in a public location within the City.

Dated: May 17, 2016

Mayor Mike Pearson

ATTEST:

Julie Johnson, City Clerk

(SEAL)

The motion for the adoption of the foregoing resolution was duly seconded by member

_____ and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against same:

Whereupon said resolution was declared duly passed and adopted.

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

ORDINANCE NO. 08-136b

**AN ORDINANCE AMENDING SECTION 154.401 OF THE LAKE ELMO CITY CODE TO AMEND
PERMITTED, CONDITIONAL AND INTERIM USES IN THE RURAL ZONING DISTRICTS**

The City Council of the City of Lake Elmo hereby ordains that Section 154.401, Table 9-1 is hereby amended to read as follows:

§ 154.401 PERMITTED ,CONDITIONAL AND INTERIM USES.

Table 9-1 lists all permitted and conditional uses allowed in the rural districts. “P” indicates a permitted use, “C” a conditional use, and “I” an interim use. Uses not so indicated shall be considered prohibited.

Cross-references listed in the table under “Standards” indicate the location within this Ordinance of specific development standards that apply to the limited use.

A. *Combinations of uses.* Principal and accessory uses may be combined on a single parcel.

Table 9.1: Permitted, Conditional and Interim Uses, Rural Districts

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Self Service Storage Facility	I ^a	I ^a	-	-	-	154.404.G
Outdoor Recreation						
Outdoor Recreation Facility	-	C	-	-	-	154.306.B
Parks and Open Areas	P	P	P	P	P	
Agricultural and Related Uses						
Agricultural Entertainment Business	I	I	I	-	-	154.306.B,154.914
Agricultural Production	P	P	P	-	-	
Agricultural Services	C	C	-	-	-	154.404.J
Forestry Operations	-	P	-	-	-	

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	RT	A	RR	RS	RE	Standard
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Wayside Stand	P	P	P	-	-	154.454.D
Industrial and Extractive Uses						
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Domestic Pets	P	P	P	P	P	
Family Day Care	P	P	P	P	P	
Home Occupation	P	P	P	P	P	
Kennel, Private	C	C	C	-	-	154.404.I
Solar Equipment	P	P	P	P	P	154.310.C
Stable, Private	C	C	C	-	-	
Swimming Pools, Hot Tubs, Etc.	P	P	P	P	P	
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OP Development	-	C	C	-	-	154.650
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(Ord. 08-073, passed 3-19-2013)

(Ord. 08-107, passed 5-6-2014)

Effective Date

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

Adoption Date

This Ordinance No. 08-136 was adopted on this 15 day of December, 2015, by a vote of 3 Ayes and 2 Nays.

Mayor Mike Pearson

ATTEST:

Julie Johnson
City Clerk

This Ordinance No. 08-136 was published on the ____ day of _____, 2016.

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

RESOLUTION NO. 2016-46b

**RESOLUTION AUTHORIZING PUBLICATION OF ORDINANCE 08-136 BY TITLE
AND SUMMARY**

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Dated: May 17, 2016

Mayor Mike Pearson

ATTEST:

Julie Johnson, City Clerk

(SEAL)

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_____ and upon vote being taken thereon, the following voted in favor thereof:

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