



## CITY COUNCIL

DATE: 07/05/2016

**CONSENT**

ITEM #: 6

**AGENDA ITEM:** Amending Section 10.99 of the City Code regarding Penalties

**SUBMITTED BY:** Emily Becker, Planner

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

Sarah Sonsalla, City Attorney

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### **BACKGROUND:**

Paragraphs C-K, Administrative citations and civil penalties of Section 10.99 (Penalties) of the Lake Elmo City Code of Ordinances was created as an alternative method to criminal citations for enforcement of the City Code. The rationales for such penalties were that there is inherent delay in the criminal citation system that does not ensure prompt resolution; that citizens resent being labeled as criminals for violations of administrative regulations; and that the higher burden of proof and the potential of incarceration do not appear appropriate for most administrative violations.

City Attorney Sonsalla, upon review of these provisions, recommended that the City consider repealing them. She stated that in recent years, the Legislature has proclaimed that statutory cities such as Lake Elmo are not authorized by state law to have these types of penalties with the exception of such penalties for certain types of traffic citations that have a specific process set forth in state law.

### **ISSUE BEFORE COUNCIL:**

The City Council is respectfully requested to adopt Ordinance No. 08-141, An Ordinance Amending the Lake Elmo City Code of Ordinances Pertaining to Administrative Citations and Civil Penalties.

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

The penalties section of the City Code (Section 10.99) currently outlines prohibited acts and penalties for violations. The enforcement options the Section provides include:

- Charge the violator with a misdemeanor and criminally prosecute (up to \$1000 fine or up to 90 days in jail).
- Deny pending City applications if applicable.
- Bring a civil action to stop the violations from occurring.
- Administrative citations/civil penalties.

A flow chart is attached to outline the administrative citation process along with Section as further explanation of the process.

**FISCAL IMPACT:**

According to research performed by Staff, recorded by former Staff, since June of 2013, there have been 31 citations issued totaling an amount of \$3900.00, \$500 of which was eventually waived.

**OPTIONS:**

1. Adopt Ordinance No. 08-141 and repeal the administrative penalties provisions of the City Code;
2. Not Adopt Ordinance No. 08-141. The administrative citations and civil penalties provisions will remain in the City Code; or
3. Suggest changes to Ordinance No. 08-141.

**RECOMMENDATION:**

Staff respectfully requests that the City Council adopt Ordinance No. 08-141 by consent on the Consent Agenda. If the item is removed from the Consent Agenda, then by making the following motion:

***“Move to adopt Ordinance No. 08-141, An Ordinance Amending the Lake Elmo City Code of Ordinances Pertaining to Administrative Citations and Civil Penalties.”***

**ATTACHMENTS:**

- Section 10.99: Penalties.
- Flow chart outlining paragraphs C-K of Section 10.99 of the City Code.
- Ordinance 08-141