



STAFF REPORT

DATE: 5/2/2017
REGULAR
ITEM #: 11
MOTION

TO: City Council
FROM: Emily Becker, City Planner
AGENDA ITEM: V-LDR/VMX Zoning Text Amendment
REVIEWED BY: Stephen Wensman, Planning Director

BACKGROUND:

During the Planning Commission meeting on November 14, 2016, there was discussion regarding the need for a Village Urban Low Density (V-LDR) zoning district for areas guided for Village Urban Low Density on the Comprehensive Plan's Land Use Map, as no zoning districts currently allow the density designated for this Land Use (1.5-2.49 units per acre).

Staff drafted an ordinance which created the V-LDR zoning district, setting forth standards. The zoning district was drafted to be included in Article XIII – Village Mixed Use District of the Zoning Code. Staff and the Planning Commission also took the opportunity to make amendments to standards of the Village Mixed Use (VMX) zoning district.

The Planning Commission reviewed the draft ordinance at its January 23, February 13, February 27, March 27, April 10 (public hearing), 2017 meetings, and made recommendation on the proposed ordinance amendment at its April 24, 2017 meeting.

ISSUE BEFORE COUNCIL:

The Council should review and consider adoption of an ordinance amendment to Article XIII – Village Mixed Use of the Zoning Code, creating a V-LDR zoning district and making amendments to the VMX zoning district.

PROPOSAL DETAILS/ANALYSIS:

The following describes a summary of the V-LDR zoning district as well as amendments to the VMX zoning district standards. Because the ordinance amendment was discussed over a number of meetings, only the latest Planning Commission Staff Report, attachments, and meeting minutes are included in the attachments to this report.

V-LDR Zoning District.

- *Purpose and District Description* is added, defining density as 1.5-2.49 units per acre.
- *Lot Dimensions and Setback Requirements.*
 - The minimum lot size of the V-LDR zoning district is proposed as 9,000 square feet in size, as this is slightly increased from the minimum lot size of the Urban Low Density Residential zoning district (8,000 square feet) due to a slightly lower density. This is also

the minimum lot size in the Golf Course Community zoning district. The minimum lot width (70 feet) is also slightly longer than and maximum impervious surface (35%) is slightly less than the Urban Low Density zoning district (60 feet and 40%, respectively) due to larger lots. Accessory structure setbacks from the Urban Residential zoning districts were added, as well as the provision that garages may not exceed more than 60% of the entire principal façade.

- *Setbacks from County Roads.* 30 foot setbacks are proposed for residential homes within the V-LDR for reasons outlined in the April 24, 2017 Planning Commission Staff Report.
- *Village Open Space Overlay District.* A provision was added to protect lots from encroaching the buffer areas within the Village Open Space Overlay District but also allowing an alternative to this requirement if berming or screening is provided and protected by landscape easement.
- *Sidewalks and/or Trails to Connect Cul-de-Sac Bulbs* to roads or trails.
- *Lake Elmo Theming Study Elements* to be incorporated where applicable.
- *Minimum House Size* is added. This is a requirement that is within all residential zoning districts of the Zoning Code.

VMX Zoning District.

- *Density.* Defines that development shall occur at a density of 6-10 units per acre and adds language from the Comprehensive Plan which allows density to increase to 16 units per acre for senior congregate care facilities with a conditional use permit.
- *Single-family detached and two-family dwellings are conditional uses.*
 - Previous language indicated that *existing* single-family detached and two-family dwellings are permitted within the VMX. Upon rezoning, either a use needs to be permitted, conditional or interim, or it becomes legal non-conforming (and therefore subject to the City's Non-Conforming Uses and Structures Ordinance). Therefore, better language was needed to both recognize existing single-family detached and two-family homes within the VMX district as well as allow for additional single-family homes provided the use is compatible with the existing neighborhood.
 - Staff and the Planning Commission believe the best way to accomplish this is to make them a conditional use within the VMX. A conditional use permit would require that the Planning Commission and City Council make the required findings for a conditional use permit that the proposed single-family detached or two-family dwelling meet the provisions outlined in Section 154.106: Conditional Use Permits, attached to the attached Planning Commission Staff Report dated April 24, 2017.
 - This would result in existing single-family detached and two-family dwellings not needing a conditional use permit unless they were to expand. New single-family detached and two-family dwellings would require a conditional use permit.
- *Other Residential Uses are changed from permitted to conditional uses.*
 - The Commission recommended that all other residential uses, including live-work units and group homes be conditional, rather than permitted uses. The City Attorney was consulted regarding amending group homes to be conditional uses and has stated that group homes as defined by Minn. Statute are required to be permitted in cities.
- *Automobile Parts/Supply are changed from permitted to conditional uses.*
 - The Planning Commission recommended this, as all other Automotive/Vehicular Uses are conditional uses.
- *Setbacks.* Setbacks standards are proposed to meet the prevailing front yard setback of a block or maximum setback of 20 feet, whichever is less. This is to reflect the Lake Elmo Design Standards and Guidelines Manual.
- *Veterinary Services Standards.* The Commission requested that standards be added to veterinary services in order to help prevent large animals from being treated in the Village area.

Planning Commission and Public Hearing. The proposed ordinance includes changes recommended by the Planning Commission. Comments from the public hearing included concern over the density associated with the VMX zoning district. The Planning Commission made the following findings of fact in regards to the proposed ordinance:

1. That certain areas of the Old Village are guided for Urban Low Density Residential in the Land Use Plan of the Comprehensive Plan, which designates a density of 1.5-2.49 units per acre.
2. That there currently does not exist a Village Low Density Residential zoning district which has a density of 1.5-2.49 units per acre within the Zoning Code.
3. That the Village Low Density Residential zoning district is being proposed due to the imminence of the Gonyea West Development, which is expected to be proposed to be located within the Old Village in an area guided for Village Low Density Residential.
4. That the Planning Commission would be interested in exploring increased densities within the Old Village as an amendment to the Comprehensive Plan.

The Planning Commission recommended adoption of Ord. 08-175 with an affirmative vote of 7-0.

FISCAL IMPACT:

None.

OPTIONS:

The Council may:

- Adopt Ord. 08-175 as proposed.
- Amend Ord. 08-175 and adopt as amended.
- Deny adoption of Ord. 08-175.

RECOMMENDATION:

Staff and the Planning Commission recommend that the Council adopt Ord. 08-175, approving an amendment to Article XIII: Village Mixed Use Districts, creating a Village Low Density Residential Zoning District and amending standards for the Village Mixed Use zoning district:

“Move to adopt Ord. 08-175, approving an amendment to Article XIII: Village Mixed Use Districts, creating a Village Low Density Residential Zoning District and amending standards for the Village Mixed Use zoning district.”

If Council adopts the above ordinance amendment, Staff also recommends that the Council adopt Resolution 2017-041 approving summary publication of Ord. 08-175.

“Move to adopt Resolution 2017-041 approving summary publication of Ord. 08-175.”

ATTACHMENTS:

- Ord. 08-175
- Summary Publication Resolution 2017-041
- V-LDR/VMX Item from Planning Commission Meeting Packet dated 4/24/2017
- Planning Commission Meeting Minutes 4/24/2017 pertaining to V-LDR/VMX

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

ORDINANCE NO. 08-176

**AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES BY
AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF LAKE ELMO**

SECTION 1. The City Council of the City of Lake Elmo hereby ordains the following properties to be rezoned from GB - General Business to VMX - Village Mixed Use:

PIDs:

1302921230055	1302921320001	1302921320052	1302921210010	1302921120013
1302921230057	1302921230038	1302921320026	1302921320012	1302921120010
1302921230058	1302921230037	1302921230007	1302921240022	1302921120016
1302921320021	1302921320019	1302921320046	1302921220007	1302921120012
1302921230068	1302921210013	1302921230059	1302921220023	1302921120009
1302921320025	1302921210014	1302921310017	1302921220018	1302921120011
1302921230070	1302921210011	1302921210016	1302921220016	1302921120015
1302921320049	1302921210012	1302921310016	1302921220017	1302921120014
1302921320051	1302921210015	1302921230046	1302921220019	1302921220008
1302921320048	1302921320041	1302921230065	1302921220022	1302921220010
1302921320047	1302921320042	1302921230053	1302921220021	1302921240016
1302921240020	1302921320083	1302921240024	1302921220020	1302921220012
1302921310003	1302921230054	1302921240019	1302921240021	1302921230071
1302921230056	1302921210001	1302921240017	1302921210006	1302921210007
1302921320032	1302921320005	1302921230067	1302921220002	1302921220013
1302921320027	1302921230025	1302921240025	1302921220011	1302921220014
1302921230063	1302921230036	1302921210009	1302921230004	1302921210002
1302921320022	1302921230062	1302921230064	1302921320086	1302921320007
1302921320009	1302921320008	1302921320010	1302921320085	1302921320096
1302921320094	1302921230077	1302921230027	1302921230018	1302921230026
1302921230010				

SECTION 2. The City Council of the City of Lake Elmo also hereby ordains that the Zoning Administrator shall make the applicable changes to the official Zoning Map of the City of Lake Elmo.

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 08-176 was adopted on this 2nd day of May, 2017, by a vote of ____ Ayes and ____ Nays.

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk

This Ordinance 08-176 was published on the ____ day of _____, 2017.

CITY OF LAKE ELMO

RESOLUTION NO. 2017-041

**RESOLUTION AUTHORIZING PUBLICATION OF
ORDINANCE NO. 08-175 BY TITLE AND SUMMARY**

WHEREAS, the City Council of the city of Lake Elmo has adopted Ordinance No. 08-175, an ordinance amending Article XIII: Village Mixed Use Districts, creating a Village Low Density Residential Zoning District and amending standards of the Village Mixed Use Zoning District; and

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 Administrator shall cause the following summary of Ordinance No. 08-175 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. 08-175, which:

- Creates a Village Low Density Residential (V-LDR) Zoning District, which allows a density of 1.5-2.49 units per acre for areas guided for Village Low Density Residential in the Comprehensive Plan.
- Sets forth lot dimension and setback requirements for the V-LDR zoning district.
- Allows single-family detached and two-family dwellings within the Village Mixed Use district as conditional uses (previously permitted only if existing).
- Designates live-work units and automotive/vehicular uses as conditional, rather than permitted, uses.

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 2, 2017.

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.



STAFF REPORT

DATE: APRIL 24, 2017

AGENDA ITEM: 5B – BUSINESS ITEM

CASE #2016-59

TO: Planning Commission
FROM: Emily Becker, Planner
SUBMITTED BY: Zoning Text Amendment – Village Urban Districts
REVIEWED BY: Stephen Wensman, Planning Director

BACKGROUND:

The Planning Commission has reviewed a proposed draft Village Urban Low Density (V-LDR) zoning district as well as minor amendments to the Village Mixed Use (VMX) District at its January 23, 2017, February 13, February 27, 2017, and March 27, 2017 meetings. A public hearing was held at the April 10, 2017 meeting.

ISSUE BEFORE THE COMMISSION:

Staff respectfully requests that the Planning Commission make recommendation on the proposed draft ordinance of the Village Low Density Residential and minor amendments to the Village Mixed Use (VMX) District.

PLANNING/ZONING ANALYSIS:

Summary of Discussed Changes since the last Planning Commission meeting to Proposed Ordinance. Staff has made minor amendments to the draft ordinance that the Planning Commission recommended. Major issues discussed are summarized below:

- **Single Family Homes in VMX.** Currently, standards for the VMX district indicate that an existing single family home shall be considered a permitted, rather than non-conforming use, in the VMX zoning district. This language was derived from the Comprehensive Plan. While the Comprehensive Plan does not specifically outline *new* single-family homes as an allowed use in the VMX zoning district, it does state that existing single family residential homes shall be permitted. As previously discussed, an existing use that is no longer allowed in a zoning district cannot be considered “permitted” upon rezoning; it is then considered legal non-conforming (and consequentially cannot expand).
 - **Again Proposed as a Conditional Use.** Staff has again proposed that single-family detached dwellings be designated as conditional uses. Conditional use means a land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls only upon required findings. These required findings include (among others):
 - That the use or development is compatible with the existing neighborhood; and
 - That the use will be designed, constructed, operated and maintained so as to be compatible in appearance with the existing or intended character of the general vicinity and will not change the essential character of the area.
 - The City Attorney has been consulted regarding this provision and believes that designating single-family detached homes as a conditional use may be appropriate within the VMX district in order to limit the number and expansion

of such homes in this district. She stated that the City would have to place appropriate standards and conditions on such uses in order to properly regulate them.

- **Mixed Use Definition.** The City Attorney was asked about a mixed use definition and did not have a definitions because it's a mix of two principal uses already defined in the Zoning Code.
- **Village Open Space Overlay District.** Staff had previously proposed that lots may not encroach on the Village Open Space Overlay/Greenbelt portions as designated by the Comprehensive Plan.
 - *Reasoning.* The reasoning for this was to maintain the open space buffer as designated by the Comprehensive Plan without having to reference different setbacks for lots encroaching on the open space buffer, which could complicate the building permit review process.
 - *Reconsideration.* Staff further considered this provision after discussion with a developer. This may not be practical, as a buffer may be sufficiently provided through landscaping, berms, or other option. Additionally, a small strip of open space may be difficult for an association to maintain. The developer suggested additional way to conserve this buffer may be to record a landscape easement over the buffer portions of residential lots that would prevent structures from being erected and allow the Homeowners' Association to maintain if necessary.
 - *Amended Language.* In response to this, Staff has drafted language that allows berming or screening as an alternative to lots not encroaching on the buffer with Council approval.
- **Limiting Housing Types.** Staff removed the following language from the ordinance: "For redevelopment projects, new housing types should be introduced in limited quantities to increase diversity and housing choice, not to replace whole blocks of existing housing. Therefore, no more than 1/4 of the lineal frontage of a developed block (measured around the entire block perimeter) may be converted to townhouse units, and no further townhouse, two-family or higher-density development is permitted once this threshold is reached."
 - The City Attorney believes that this language causes equal protection issues.
- **Setbacks from County Roads in the V-LDR District.** The County had requested the City to increase setbacks along certain portions of county roads to 30 feet. This includes residential areas on Lake Elmo Avenue (CSAH 17) north of Stillwater Blvd and Stillwater Blvd (CSAH 14). They requested this for the following reasons:
 - Portions of these roads are considered minor highways and right-of-way widening may be necessary in the future.
 - There's a higher volume of traffic.
 - Lake Elmo Avenue provides direct access to Highway 36.
 - Trails may be desired on both sides of four lanes, and additional setbacks could accommodate construction of eventual trails.
 - Additional setbacks leave room for berming and landscaping.

This provision was added to the draft ordinance and only applicable to the V-LDR zoning district.

Findings.

The Planning Commission drafted the following findings at its February 13, 2017 meeting:

1. That certain areas of the Old Village are guided for Urban Low Density Residential in the Land Use Plan of the Comprehensive Plan, which designates a density of 1.5-2.49 units per acre.
2. That there currently does not exist a Village Low Density Residential zoning district which has a density of 1.5-2.49 units per acre within the Zoning Code.

3. That the Village Low Density Residential zoning district is being proposed due to the imminence of the Gonyea West Development, which is expected to be proposed to be located within the Old Village in an area guided for Village Low Density Residential.
4. That the Planning Commission would be interested in exploring increased densities within the Old Village as an amendment to the Comprehensive Plan.

RECOMMENDATION:

Staff recommends that the Planning Commission hold a public hearing and provide feedback on or recommend approval of amendments to Article XIII: Village Mixed Use Districts, which add standards for the V-LDR Village Low Density Residential District and proposes minor changes to the VMX – Village Mixed Use District. If the Commission wishes to make recommendation at this time, the Commission may do so with the following motion:

“Move to recommend adoption of Ord 08- , creating a Village Low Density Residential District and making minor amendments standards of the Village Mixed Use District.”

ATTACHMENTS:

1. Draft Ordinance
2. Required Findings for Conditional Use Permits.

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-__

AN ORDINANCE AMENDING ARTICLE XIII: VILLAGE MIXED USE DISTRICT AND
CREATING STANDARDS FOR A VILLAGE LOW DENSITY RESIDENTIAL ZONING
DISTRICT

SECTION 1. The City Council of the City of Lake Elmo hereby amends the Lake Elmo City Code
Title XV: Land Usage; Chapter 154: Zoning Code; Article XIII: Village Mixed Use District; to read
the following:

ARTICLE XIII: VILLAGE ~~MIXED-USE~~ DISTRICTS

§ 154.500 PURPOSE AND DISTRICT DESCRIPTION

(A) *V-LDR Village Low Density Residential.* The purpose of the V-LDR zoning district is to provide opportunity for lower density residential development within the Old Village and create a transition and connectivity between the heart of the Old Village and surrounding rural areas. Residential development within areas zoned V-LDR will occur at a density of 1.5-2.49 units per acre.

(B) *VMX – Village Mixed Use District.* The purpose of the VMX district is to provide an area for compact, mixed use development made mutually compatible through a combination of careful planning and urban design and coordinated public and private investment. This district is intended to continue the traditional mixed use development that has occurred in the Village area by allowing retail, service, office, civic and public uses as well as residential units. The mixture of land uses within the district is essential to establishing the level of vitality and intensity needed to support retail and service uses. Development within areas zoned VMX will occur at a density of 6-10 units per acre. Senior congregate care facilities may exceed this density maximum with a range not to exceed a total of 16 units per acre, provided the facility can satisfy all zoning and applicable conditional use permit review criteria. The placement of building edges and treatment of building, parking, landscaping, and pedestrian spaces is essential to creating the pedestrian friendly environment envisioned for the VMX district. The standards in this chapter are intended to implement and effectuate the principles and relationships established in the Village Master Plan, which will be carried out through specific standards related to site planning, signage, architecture, building materials, and landscaping. Renovation and infill of traditional storefront-type buildings is encouraged, and parking standards may be waived to recognize the availability of on-street and shared parking facilities.

§ 154.501 PERMITTED AND CONDITIONAL USES

Table 11-1 lists all permitted and conditional uses allowed in the urban residential districts. “P” indicates a permitted use, “C” a conditional 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 listed use.

A. *Combinations of uses, Village Districts*. The following use types may be combined on a single parcel:

1. Principal and accessory uses may be combined on a single parcel.
2. A principal and secondary dwelling unit may be combined according to the standards of Section ~~155.137-154.454~~ (C).

B. *Combination of uses, VMX District*.

1. Single-family attached or multi-family complexes designed for rental or condominium occupancy, since these typically include multiple units and buildings on a single parcel.
2. Other permitted or conditional uses allowed within the district may be combined on a single parcel, provided that a unified and integrated site plan is approved. The entire development must be approved as a conditional use.
3. A mixed-use building that combines permitted or conditionally permitted residential, service, retail and civic uses may be developed meeting the form standards of this Article. Office or studio uses on upper stories are encouraged.

Table 11-1: Permitted and Conditional Uses, ~~VMX~~ Village Districts

	V-LDR	VMX	Standard
Residential Uses			
Household Living			
Single-family detached dwelling	P	P C*	155.504.A-154.505 (A) (1), (2), *(4)
Two-family dwelling	=	P *	155.504.A-154.505 (A) (1), (4)
Single-family attached dwelling	=	C	154.505 (A) (1), (5)
Multifamily dwelling	=	C	154.505 (A) (1), (6)
Secondary dwelling	C	C	154.505.D-154.454 (C) & 154.505 (A) (1), (3)
Live-work unit	=	P	155.505.J-154.505 (B) (6)
Group Living			
Group Home	P	P	155.102.C-154.301 (A)
Group Residential Facility	=	C	155.102.D-154.301 (B)
Congregate Housing	=	C	155.102.E-154.301 (C)
Semi-Transient Accommodations	=	C	155.102.F-154.301 (C)
Public and Civic Uses			
Community Services	=	P	155.103.C
Day Care Center	=	P	155.103.D
Public Assembly	=	C	155.505.M
Religious Institutions	=	C	155.505.N-154.303 (N)
Schools, Public and Private	=	C	155.505.O-154.303 (A)
Services			
Business Services	=	P	
Business Center	=	P	
Offices	=	P	
Communications Services	=	P	
Education Services	=	P	154.303 (A)
Financial Institution	=	P	155.505.P
Funeral Home	=	C	
Lodging	=	C	155.505.Q-154.302 (D)
Medical Facility	=	C	155.505.R-154.303 (B)
Membership Organization	=	C	155.505.N
Nursing and Personal Care	=	C	155.104.C-154.303 (C)
Personal Services	=	P	
Repair and Maintenance Shop	=	C	155.505.E-154.505 (B) (1)
Trade Shop	=	C	155.505.F-154.505 (B) (2)
Veterinary Services	=	C	154.505.G-154.505 (B) (3)

Food Services			
Standard Restaurant	-	P	
Restaurant with Drive-through	-	C	155.505.S 154.304 (A)
Drinking and Entertainment	-	P	155.505.S 154.304 (B)
Sales of Merchandise			
Retail Trade ¹	-	P	155.505.T
Farmer's Market	-	C	155.505.AA
Garden Center	-	C	155.505.U 154.505 (B)
Neighborhood Convenience Store	-	P	155.505.V
Shopping Center	-	C	155.505.W
Wayside Stand	P	P	154.454 (D)
Automotive/Vehicular Uses			
Automobile Maintenance Service	-	C	155.505.X 154.505 (B)
Automobile Parts/Supply	-	P	155.505.X 154.505 (B)
Gasoline Station	-	C	155.505.X 154.305 (B)
Parking Facility	-	C	155.505.X 154.505 (B)
Sales and Storage Lots	-	C	155.505.X 154.305 (C)
Outdoor Recreation			
Outdoor Recreation Facility	-	C	155.505.Y 154.306 (C)
Parks and Open Areas	P	P	
Indoor Recreation/Entertainment			
Indoor Athletic Facility	-	C	155.505.Z 154.307
Indoor Recreation	-	C	155.505.Z 154.307
Transportation and Communications			
Broadcasting or Communications Facility	-	C	155.110.B
Mixed Uses			
<u>Combination of Principal Uses on a single parcel</u>	-	C/P	154.501 (B)
<u>Combination of Principal and Accessory Uses on a single parcel</u>	P	P	154.501 (A)
Accessory Uses			
Home Occupation	P	P	155.111.A,B 154.012 (12) (e)
Bed and Breakfast	-	C	155.111.C 154.310 (A)
Family Day Care	P	P	155.111.G 154.012 (12)
Group Family Day Care	-	C	155.111.G
Temporary Sales	P	P	155.107.B 154.509 (G)
Parking Facility	-	P	154.505 (H) (7)
Solar Equipment	P	P	155.111.I 154.310 (C)
Swimming Pools, Hot Tubs, Etc.	P	P	155.111.J
Other Structures Typically Incidental and Clearly Subordinate to Permitted Uses	P	P	

Note: Standards listed in Table 11-1 are listed by Article, Section and Subsection.

¹Retail Trade in the VMX District includes all uses and activities defined as Retail Trade in ~~§155.507.B.5 154.012 (5) (c)~~ with the exception of building supplies sales and warehouse club sales.

§ 154.502 LOT DIMENSIONS AND BUILDING BULK REQUIREMENTS

Lot area and setback requirements shall be as specified in Table 11-2, Lot Dimension and Setback Requirements.

Table 11-2: Lot Dimension and Setback Requirements, ~~VMX Villages Districts~~

	V-LDR	VMX
Minimum Lot Area (sq. ft.)^a		
Non-Residential Use	-	None
Single Family Detached Dwelling	<u>9,000</u>	5,000-9000
Two-Family Dwelling (per unit) ^b	=	3,000
Single-Family Attached (per unit) ^c	=	2,500
Multi-Family Dwelling (per unit)	=	1,800
Secondary Dwelling	-	See 154.454 (C)
Live-Work Unit	=	3,000
Congregate Housing	=	155.402.E 154.301 (C)
Other Structures	=	3,500
Maximum Lot Area (acres)		
Residential Structures	<u>N/A</u>	N/A
Other Structures	<u>N/A</u>	5
Minimum Lot Width (feet)		
Single Family Detached Dwelling	<u>70</u>	50-70
Two-Family Dwelling (per unit) ^b	=	30
Single-Family Attached (per unit) ^c	=	25
Multi-Family Dwelling (per building)	=	75
Live-Work Unit	=	25
Maximum Height (feet/stories)	<u>35</u>	35/3 ^d
Maximum Impervious Coverage		
Residential Structures	<u>35%</u>	75%
Other Structures	=	No Limit
Minimum Building Setbacks (feet)^e		

Front Yard	<u>25</u>	Single-Family Detached, Two- Family, and Single- Family Attached: See LDR standards of 154.452 Multi-Family Dwellings: 154.505 (A) (6) (b) All Other Residential Uses: 154.505 (A) (7) Non-Residential Uses: 154.505 (B) (1)
Interior Side Yard	<u>10</u>	10 ^e
Corner Side Yard	<u>15</u>	0 ^f
Rear Yard	<u>20</u>	10 ^g
Garages	<u>25</u>	<u>25</u>

Notes to ~~VMX~~ Village Districts Table

- a. No development may exceed the residential density range as specified in the Comprehensive Plan for the ~~Village Mixed-Use~~ corresponding land use category.
- b. Two-family units may be side-by-side with a party wall between them (“twin”) or located on separate floors in a building on a single lot (“duplex”). The per-unit measurements in this table apply to “twin” units, whether on a single lot or separate lots. The standards for single-family detached dwelling shall apply to a “duplex” containing two vertically-separated units on a single lot.
- c. In the case of single-family attached dwellings that are not situated on individual lots, minimum lot size shall be applied to each unit as a measure of density; i.e. 1 unit per 2,500 square feet. This standard is also used for multifamily dwellings.
- d. Buildings up to 45 feet in height may be permitted as part of a PUD in the VMX District.
- ~~e. The front yard setback for single family homes shall be 25 feet.~~
- e. Side yard setbacks in the VMX District apply only along lot lines abutting residentially zoned parcels or those parcels with residential uses as the sole use.
- f. Corner properties: the side yard façade of a corner building adjoining a public street shall maintain the front setback of the adjacent property fronting upon the same public street, or the required front

Commented [EB1]: This is already indicated in 154.505 (A) (3) (b)

yard setback, whichever is less. If no structure exists on the adjacent property, and provided required setbacks are not otherwise stated herein, the setback shall be shown in the table.

f.g. Properties zoned V-LDR abutting Stillwater Boulevard (CSAH 14) and Lake Elmo Avenue 17) north of Stillwater Blvd (CSAH 14) shall have a minimum structure setback of 30 feet.

Properties abutting CSAH 17 and CSAH 14 shall have a minimum setback standard of 30 feet.

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§ 154.503 DIMENSIONAL REQUIREMENTS AND PRESERVATION OF OPEN SPACE

- A. *Averaging of Lot Area.* When lots are clustered within a development to provide common open space, the open space may be used to calculate an average density per lot to determine compliance with the individual lot area requirements.
- B. *Lot Dimension Reductions.* Other reductions in dimensional standards may be considered as part of a Planned Unit Development if these reductions provide for common open space within a development.
- C. *Village Open Space Overlay District.* Development of areas within the Village Open Space Overlay District, as designated by the Comprehensive Plan, is not allowed. Residential lots shall not encroach on the areas designated as open space per this overlay district, unless buffering or screening is provided as an alternative approved by Council.

§ 154.504 GENERAL SITE DESIGN CONSIDERATIONS – ~~LMX~~ VILLAGE DISTRICTS

Development of land within the ~~VMX~~ Village Districts shall follow established standards for traffic circulation, landscape design, and other considerations as specified in Article 5, 6 and 7.

- A. *Circulation.* New access points to ~~State Highway 5~~ County State Aid Highway 14 may be refused or restricted to right-in right-out movement if alternatives exist. Internal connections shall be provided between parking areas on adjacent properties wherever feasible.
 - 1. The number and width of curb-cuts shall be minimized. To promote pedestrian circulation, existing continuous curb-cuts shall be reduced to widths necessary for vehicular traffic, and unnecessary or abandoned curb cuts shall be removed as parcels are developed.
- B. *Fencing and Screening.* Fencing and screening walls visible from the public right-of-way shall be constructed of materials compatible with the principle structure.
- C. *Lighting design.* Lighting shall be integrated into the exterior design of new or renovated structures to create a greater sense of activity, security, and interest to the pedestrian, and shall comply with §150.035-150.038 *Lighting, Glare Control, and Exterior Lighting Standards.*

- D. *Exterior Storage.* Exterior materials storage must be screened from view from adjacent public streets and adjacent residential properties, by a wing of the principal structure or a screen wall constructed of the same materials as the principal structure. Height of the structure or screen wall must be sufficient to completely conceal the stored materials from view at eye level (measured at six feet above ground level) on the adjacent street or property.
- E. *Screening of Existing Residential Structures.* When a new development is proposed adjacent to an existing single family residential structure, screening shall be provided in accordance with §154.258.F. The City may require buffering or screening above and beyond this section in cases where the required screening will not provide an adequate separation between incompatible uses.
- F. *Sidewalks and/or Trails.* Where cul-de-sacs are permitted by the City, sidewalks or trails are required to connect the bulb of the cul-de-sac with the nearest through-road or trail.
- G. *Lake Elmo Theming Study.* Elements of the Lake Elmo Theming Study not herein described must be incorporated in to development within Village Districts where applicable.

§ 154.505 DEVELOPMENT STANDARDS FOR SPECIFIC USES

Development of land within the ~~VMX Village &~~ Districts shall follow established standards for traffic circulation, landscape design, parking, signs and other considerations as specified in Articles 5, 6 and 7. The following standards apply to specific uses; other standards related to design and building type may be found at §154.506.

A. *Residential Units, Village Districts.*

1. *All Residential Units, Village Districts.*

- a. Residential housing units shall be designed to reflect the general scale and character of the Village, including front yard depth, height and roof pitch, primary materials, facade detailing and size and placement of window and door openings.

2. *Single-Family Detached Dwellings, Village Districts.*

- a. No parking shall be located in the front yard or between the front façade and the street except on a permitted driveway.
- b. Primary entrances are required to be along the front façade.
- c. Dwelling units shall be at least twenty-four (24) feet in width, at least nine hundred sixty (960) square feet in area, and be placed on a permanent foundation.

3. *Secondary Dwellings, Village District.* Restricted to lots occupied by single-family dwellings, and must meet the standards for secondary dwellings in residential districts, §154.13454 (C) and be located within the primary structure.

4. *Single-Family Detached and Two-Family Dwellings, VMX District.*

- a. ~~Single-Family Detached Dwellings are limited to those existing at the time of adoption of this Ordinance. Expansion of existing and new single family detached dwellings shall be allowed through the conditional use process, considered permitted uses, rather than nonconforming uses.~~

- b. Unless otherwise specified in this Article, Single and Two-Family Dwellings in the VMX district shall adhere to the ~~MDR~~ LDR district setbacks as specified in §154.452.

5. *Single-Family Attached, VMX District.*

- ~~a. A maximum of eight (8) units shall be permitted within a single building.~~

- a. The primary entrance to each unit shall be located on the façade fronting a public street; an additional entrance may be provided on the rear or side façade.

- ~~b. For redevelopment projects, new housing types should be introduced in limited quantities to increase diversity and housing choice, not to replace whole blocks of existing housing. Therefore, no more than 1/4 of the lineal frontage of a developed block (measured around the entire block perimeter) may be converted to townhouse units, and no further townhouse, two-family or higher density development is permitted once this threshold is reached.~~

- ~~d.b.~~ Common open space for use by all residents or private open space adjacent to each unit shall be provided. Such open space shall comprise a minimum of three hundred (300) square feet per unit.

- ~~e.c.~~ No parking shall be located in the front yard or between the front façade and the street except on a permitted driveway.

- ~~f.d.~~ Unless otherwise specified in this Article, Single-Family Attached dwellings in the VMX district shall adhere to the MDR district setbacks as specified in §154.452.

6. *Multi-Family Dwelling Units, VMX District.*

- a. Dwelling units (both condominium and rental) within a mixed use development are restricted to the upper floors or rear or side ground floors of a mixed use building.
- b. Setback standards for multi-family dwellings not within a mixed use development shall be determined through the conditional use process.

7. All Other Residential Uses, VMX District. Setbacks for all other residential uses within the Village districts not specifically outlined in this Section shall be determined by either 154.506 or through the conditional use process.

B. Non-Residential Uses, VMX District.

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1. Setbacks, Generally. The front yard setback of a new non-residential building within the VMX district shall maintain the prevailing front yard setback of that block, or a maximum setback of 20 feet, whichever is less.
2. *Repair and Maintenance Shop.* No outdoor storage is permitted unless fully screened from public view.
3. *Trade Shop.* Exterior materials storage must be totally screened from view from adjacent public streets and adjacent residential properties by a wall of the principal structure or a screen wall constructed of the same materials as the principal structure.
4. *Veterinary Services.*
 - a. All activities must be conducted within an enclosed building.
 - b. Specific veterinary practices shall be limited to veterinary medicine, surgery, dentistry, and related service for small domestic household pets.
5. *Garden Center.*
 - a. The storage or display of any materials or products shall meet all setback requirements of a structure, and shall be maintained in an orderly manner. Screening along the boundaries of adjacent residential properties may be required, meeting the standards of Article 6, Section 155.89.F.
 - b. All loading and parking shall be provided off-street.
 - c. The storage of any soil, fertilizer or other loose, unpackaged materials shall be contained so as to prevent any effects on adjacent uses.
6. *Automobile Maintenance Service and Automobile Parts/Supply*
 - a. All vehicle repairs shall be conducted in a completely enclosed building
 - b. The storage or display of inoperable or unlicensed vehicles or other equipment shall meet all setback requirements of a structure, and shall be totally screened from view from adjacent public streets and adjacent residential properties.
7. *Live-Work Unit.* The purpose of a live-work unit is to provide a transitional use type between a home occupation and a larger commercial enterprise, and to provide neighborhood-oriented commercial services, while maintaining a generally residential character in which the work space is subordinate to the residential use.
 - a. The work space component shall be located on the first floor or basement of the building.

- b. The dwelling unit component shall maintain a separate entrance located on the front or side façade and accessible from the primary abutting public street.
 - c. The work space component of the unit shall not exceed thirty (30) percent of the total gross floor area of the unit.
 - d. A total of two (2) off-street parking spaces shall be provided for a live-work unit, located to the rear of the unit, or underground/enclosed.
 - e. The size and nature of the work space shall be limited so that the building type may be governed by residential building codes. An increase in size or intensity beyond the specified limit on floor area would require the building to be classified as a mixed-use building.
 - f. The business component of the building may include offices, small service establishments, home crafts which are typically considered accessory to a dwelling unit, or limited retailing (by appointment only) associated with fine arts, crafts, or personal services. It may not include a wholesale business, a commercial food service requiring a license, a limousine business or auto service or repair for any vehicles other than those registered to residents of the property.
 - g. The business of the live-work unit must be conducted by a person who resides on the same lot. The business shall not employ more than two (2) workers on-site at any one time who live outside of the live-work unit.
8. *Parking Facility.* Structured parking is permitted as a ground floor use within a mixed-use building, provided that ~~the entrance~~ is located on side or rear facades, not facing the primary abutting street. The primary street-facing façade shall be designed for retail, office or residential use. ~~The primary street façade may include an entrance into the parking facility.~~
9. *Outdoor Dining Accessory to Food Services.* Outdoor dining is allowed as an accessory use in the commercial districts, provided that tables do not block the sidewalk. A minimum of five (5) feet of sidewalk must remain open.

§ 154.506 VMX DISTRICT DESIGN AND DEMOLITION REVIEW

- A. *Review of Design.* For certain development activity as specified in the *Lake Elmo Design Standards Manual*, design review is required as part of the approval process for a building permit, conditional use permit, or certificate of zoning compliance under this Ordinance. All projects subject to design review shall be reviewed for conformance with the *Lake Elmo Design Standards Manual*. A separate process for design review is not established.
1. *Review Authority and Process.* Design review shall be the responsibility of the individual or body authorizing the permit or certificate and shall be incorporated in the established review of the applicable building permit, conditional use permit, or certificate of zoning compliance. For those applications under this Ordinance that require review by the Planning Commission (i.e. conditional use permits), the Planning Commission shall consider the standards in the *Lake Elmo Design Standards Manual* as part of its recommendation to the City Council.

2. *Review by Professional.* The authorizing body may request review by a design professional of the proposed design or demolition. The cost of review by such design professional shall be charged by the applicant, and shall not exceed \$1,000 unless otherwise agreed to by the applicant.
3. *Development Activity Defined.* Development Activity consists of new construction and redevelopment activities, including remodeling that expands the footprint of a structure, altering, or repairing a structure in a manner that will change the exterior appearance of said structure. Development activity also includes the construction of a new parking lots and installation of signage.
 - a. *Exempt Activities.* The following activities shall be exempt from under review of this Section:
 - i. Ordinary repairs and maintenance that will not change the exterior appearance of a structure;
 - ii. Removal of existing signage without replacement unless said signs are an integral part of the building;
 - iii. Emergency repairs ordered by the Director of Planning in order to protect public health and safety;
 - iv. Exterior alteration, addition, or repair of a structure used as a single-family residence, duplex, or two-family residence.
 - v. Temporary signage, installed in accordance with §154.212 of this Ordinance, or during which time an application for permanent signage is pending under this Ordinance;
 - vi. Maintenance of existing signage advertising an on-site business;
 - vii. Alterations only to the interior of a structure.

§ 154.507 ACCESSORY USES AND STRUCTURES

Accessory uses are listed in ~~the VMX District Use~~ Table 11-1 as permitted or conditional accessory uses. Accessory uses and structures in the ~~VMX Village~~ Districts shall comply with the following standards and all other applicable regulations of this ordinance:

- A. *Phasing.* No accessory use or structure shall be constructed or established on any lot prior to the time of construction of the principal use to which it is accessory.
- B. *Incidental to Principal Use.* The accessory use or structure shall be incidental to and customarily associated with the principal use or structure served.
- C. *Subordinate to Principal Use.* The accessory use or structure shall be subordinate in the area, extent, and purpose to the principal use or structure served.
- D. *Function.* The accessory use or structure shall contribute to the comfort, convenience, or necessity of the occupants of the principal use or structure served.

E. *Location.* The accessory use or structure shall be located on the same zoning lot as the principal use or structure.

F. *Residential Accessory Structures*

~~§ 154.5087~~ **RESIDENTIAL ACCESSORY STRUCTURES**

~~A.~~ 1. *Design Compatibility.* On parcels used for residential structures within the ~~VMX~~ Village Districts, the design and construction of any garage, carport, or storage building shall be similar to or compatible with the design and construction of the main building. The exterior building materials, roof style, and colors shall be similar to or compatible with the main building or shall be commonly associated with residential construction.

- ~~B.~~ 2. *Attached structures.* An accessory structure shall be considered attached, and an integral part of, the principal structure when it is connected by an enclosed passageway. All attached accessory structures shall be subject to the following requirements:
- a. The structure shall meet the required yard setbacks for a principal structure, as established for the zoning district in which it is located.
 - b. The structure shall not exceed the height of the principal building to which it is attached.

~~B.~~ 3. *Attached Garages.*

~~3.~~ a. Attached garages are encouraged to be side or rear loaded. If facing the primary street, garages shall be designed using one of the following techniques, unless specific physical conditions on the lot in question require a different approach:

- ~~i. The front of the garage is recessed at least four (4) feet behind the plane of the primary façade; or~~
- ~~ii. The front of the garage is recessed at least four (4) feet behind a porch if the garage is even with the primary façade; or~~
- i. The front façade of the garage shall be offset by the principal structure by a minimum of two (2) feet from the plane of the public right-of-way.
- ii. The width of the attached garage shall not exceed 40% of the width of the entire principal building façade (including garage) fronting the primary street.

~~4.~~ b. Attached garages shall not exceed one thousand (1,000) square feet in area at the ground floor level except by conditional use permit.

~~5.~~ c. Garage doors or openings shall not exceed fourteen (14) feet in height.

~~C.~~ 4. Detached structures. Detached accessory structures for permitted residential structures in the ~~Village Districts~~ must be in accordance with the following requirements:

- a. Detached accessory structures shall be located to the side or rear of the principal building, and are not permitted within the required front yard or within a side yard abutting a street.
- b. Detached garages shall not exceed one thousand (1,000) square feet at ground floor level and shall not exceed a height of twenty-two (22) feet or the height of the principal structure, whichever is higher. The maximum size and height may be increased upon approval of a conditional use permit, provided that lot coverage requirements are satisfied.
- c. Pole barns, as defined herein, shall be prohibited.
- d. No more than thirty (30) percent of the rear yard area may be covered by accessory structures.
- e. Garage doors or openings shall not exceed fourteen (14) feet in height.

~~§ 154.509 ACCESSORY USES~~

~~A.~~ G. Exterior Storage on Residential Parcels. All materials and equipment shall be stored within a building or be fully screened so as not to be visible from adjoining properties, except for the following:

- a. Laundry drying,
- b. Construction and landscaping materials and equipment currently being used on the premises. Materials kept on the premises for a period exceeding six (6) months shall be screened or stored out of view of the primary street on which the house fronts.
- c. Agricultural equipment and materials, if these are used or intended for use on the premises.
- d. Off-street parking and storage of vehicles and accessory equipment, as regulated in Article 5, Section ~~155.67-154.210.~~
- e. Storage of firewood shall be kept at least ten (10) feet from any habitable structure and screened from view of adjacent properties.
- f. Outdoor parking.

~~B.~~ H. Temporary Sales. Temporary sales, also known as yard or garage sales, are permitted in all residential districts, limited to two (2) per calendar year per residence, not to exceed four (4) days in length for each event.

~~C.~~ I. Accessory Uses and Structures Not Listed

~~§ 154.510 ACCESSORY USES AND STRUCTURES NOT LISTED~~

Standards for accessory uses and structures that are permitted in all districts, or in all residential buildings in any district, are listed in Article 7, Specific Development Standards. These include uses such as family and group family day care, bed and breakfast facilities, and home occupations, and structures such as swimming pools and solar equipment.

SECTION 2. The City Council of the City of Lake Elmo hereby amends the Lake Elmo City Code Title XV: Land Usage; Chapter 154: Zoning Code; Article X: Division Into Districts; Section 154.350 to read the following:

<i>Zoning District</i>		<i>Reference</i>
R-2	One and Two Family Residential	154.033
GB	General Business	154.034
A	Agriculture	Article XI
RR	Rural Residential	Article XI
RT	Rural Development Transitional	Article XI
RS	Rural Single Family	Article XI
RE	Residential Estate	Article XI
LDR	Urban Low Density Residential	Article XII
MDR	Urban Medium Density Residential	Article XII
HDR	Urban High Density Residential	Article XII
V-LDR	Village Low Density Residential	Article XIII
VMX	Village Center - Mixed Use	Article XIII
C	Commercial	Article XIV
CC	Convenience Commercial	Article XIV
LC	Neighborhood Office/Limited Commercial	Article XIV
BP	Business Park/Light Manufacturing	Article XIV
PF	Public Facilities	Article XV

SECTION 3. The City Council of the City of Lake Elmo hereby amends the Lake Elmo City Code Title XV: Land Usage; Chapter 154: Zoning Code; Article VII: General Regulations; Section 154.212: Sign Regulations; Table 5-3 to read the following:

Table 5-3 Ground Signs				
Zoning District		A ^a , LDR, OP, RE, RS, RR ^a , RT ^a	MDR, HDR, V-LDR	BP, C, CC, GB, LC, VMX
No. of	Speed	Max Height/	Max Height/ Area	Max Height/ Area
Total	Limit			
Traffic				
Lanes	(MPH)	Area (Sq. Ft.)	(Sq. Ft.)	(Sq. Ft.)

1-3	0-34	-	6'/32	10'/32
	35-44	-	6'/32	10'/50
	45+	-	6'/32	10'/72
4-5	0-34	-	6'/32	10'/40
	35-44	-	6'/32	10'/64
	45+	-	6'/32	12'/80

SECTION 4. The City Council of the City of Lake Elmo hereby amends the Lake Elmo City Code Title XV: Land Usage; Chapter 153: Subdivision Regulations; Section 153.14: Park Land Dedication Requirements; Subd. A to read the following:

<i>Zoning Districts</i>	<i>Minimum Required Land Dedication</i>
R1, R2, R3, and R4	10%
RS, V-LDR , LDR, MDR, HDR	10%
RE	7%
RR and AG	4%

SECTION 5. Effective Date. This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 6. Adoption Date. This Ordinance 08-____ was adopted on this ____ day of _____, 2017, by a vote of ____ Ayes and ____ Nays.

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk

This Ordinance 08-__ was published on the ____ day of _____, 2017.

3. Approximate location of all curb cuts, driveways, access roads, parking areas, off-street loading areas, and sidewalks.
 4. Conceptual landscape plan indicating general planting areas for trees, shrubs, and lawns.
 5. Conceptual grading, erosion control, and storm water management plan.
 6. Conceptual sewer and water utility plan for the development.
 7. Narrative indicating the types of uses or businesses that are contemplated for the development, number of employees, parking and traffic impacts, and other pertinent information about the proposed development.
 8. The Director of Planning may require the applicant to supply proof of ownership of the property for which the amendment is requested that illustrates legal or equitable interest in the property.
- E. *Hearing Requirements.* The Planning Commission shall hold a public hearing on each complete application for a Zoning Amendment as provided in §154.102 of this Article. After the close of such hearing, the Planning Commission shall consider findings and shall submit the same together with its recommendation to the City Council.
- F. *Effect of Denial of Application.* No application of a property owner for an amendment to the text of this chapter or the zoning map shall be considered by the Planning Commission within the one year period following a denial of such request, except the Planning Commission may permit a new application, if in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it.
- G. *Relationship to Comprehensive Plan.* Any rezoning shall be consistent with the current City of Lake Elmo Comprehensive Land Use Plan. If the rezoning is not consistent with the current Comprehensive Plan, an amendment to the Comprehensive Plan must be requested and approved prior to or concurrent with the rezoning request.
- H. *Coordination with Adjoining Communities.* Any zoning district change on land adjacent to or across a public right-of-way from an adjoining community shall be referred to the Planning Commission and the adjacent community or county for review and comment prior to action by the City Council granting or denying the zoning district classification change. A period of at least ten (10) days shall be provided for receipt of comments. Such comments shall be considered as advisory only.

(Ord. 08-085, passed 7-2-2013)

§ 154.106 CONDITIONAL USE PERMITS.

- A. *Required Findings.* Conditional use means a land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls only upon a finding that all of the following provisions are met:
1. The proposed use will not be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or the city.

2. The use or development conforms to the City of Lake Elmo Comprehensive Plan.
 3. The use or development is compatible with the existing neighborhood.
 4. The proposed use meets all specific development standards for such use listed in Article 9 of this Chapter. (Ord. 08-152)
 5. If the proposed use is in a flood plain management or shoreland area, the proposed use meets all the specific standards for such use listed in Chapter 150, §150.250 through 150.257 (Shoreland Regulations) and Chapter 152 (Flood Plain Management).
 6. The proposed use will be designed, constructed, operated and maintained so as to be compatible in appearance with the existing or intended character of the general vicinity and will not change the essential character of that area.
 7. The proposed use will not be hazardous or create a nuisance as defined under this Chapter to existing or future neighboring structures.
 8. The proposed use will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, water and sewer systems and schools or will be served adequately by such facilities and services provided by the persons or agencies responsible for the establishment of the proposed use.
 9. The proposed use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
 10. The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare or odors.
 11. Vehicular approaches to the property, where present, will not create traffic congestion or interfere with traffic on surrounding public thoroughfares.
 12. The proposed use will not result in the destruction, loss or damage of a natural or scenic feature of major importance.
- B. *Application Requirements.* Conditional Use Permit applications shall be submitted to the Director of Planning on such form and accompanied by such information as required by §154.101.A of this Article and with the submission materials listed in §154.101.B of this Article.
- C. *Public Hearing Required.* The Planning Commission shall hold a public hearing on each complete application for a conditional use permit as provided in §154.102 of this Article. After the close of the hearing on a proposed conditional use permit, the City Planning Commission shall consider findings and shall submit the same together with its recommendation to the City Council.
- D. *Final Decision by City Council.* The City Council shall make the final decision on a conditional use permit after a public hearing by the Planning Commission. The City Council may approve, approve with conditions, or deny the application.

- E. *Conditions.* In reviewing applications for conditional use permits, the Planning Commission and Council may attach whatever reasonable conditions they deem necessary to mitigate anticipated adverse impacts associated with these uses, to protect the value of property within the district and to achieve the goals and objectives of the Comprehensive Plan. In determining such conditions, special consideration shall be given to protecting immediately adjacent properties from objectionable views, noise, traffic and other negative characteristics associated with such uses.
1. The conditions shall include all specific development standards for such use listed in Article 9 of this Chapter. (Ord. 08-152)
 2. If the proposed use is in a flood plain management or shoreland area, the conditions shall include specific standards for such use listed in Chapter 151 (Floodplain Management) and Chapter 152 (Shoreland Management).
 3. In addition, conditions may include, but are not limited to, the following:
 - a. Controlling the number, area, bulk, height and location of such uses;
 - b. Regulating ingress and egress to the property and the proposed structures thereon with particular references to vehicle and pedestrian safety and convenience, traffic flow, and control and access in case of fire or other catastrophe;
 - c. Regulating off-street parking and loading areas where required;
 - d. Controlling the location, availability and compatibility of utilities;
 - e. Requiring berming, fencing, screening, landscaping or other means to protect nearby property; and
 - f. Requiring other conditions to create compatibility of appearance with surrounding uses.
- F. *Findings for Denial.* If the Planning Commission recommends denial of a conditional use permit or the Council orders such denial, it shall include in its recommendation or determination findings as to the specific ways in which the proposed use does not comply with one or more specific findings required by this chapter.
- G. *Permittee.* A conditional use permit shall be issued for a particular use and not for a particular person, except in the case of a permit granted for the uses of land reclamation, mining or soil or mineral processing. In such cases, a permit shall be issued to the particular person making application for such permit and such permit shall not be transferred or assigned for use by another without the written consent of the City. However, such consent by the City shall not be unreasonably withheld.
- H. *Periodic Review.* A periodic review of the use may be attached as a condition of approval of a conditional use permit.
- I. *Term of Permit.* Unless otherwise stipulated, the term shall be the life of the use.
- J. *Revocation.* Failure to comply with any condition set forth in a conditional use permit, or any other violation of this chapter, shall be a misdemeanor and shall also constitute

sufficient cause for the termination of the conditional use permit by the City Council following a public hearing conducted in accordance with §155.102 of this Article.

- K. *Expiration.* If substantial construction has not taken place within 12 months of the date on which the conditional use permit was granted, the permit is void except that, on application, the Council, after receiving recommendation from the Planning Commission, may extend the permit for such additional period as it deems appropriate. If the conditional use is discontinued for six months, the conditional use permit shall become void. This provision shall apply to conditional use permits issued prior to the effective date of this chapter, but the six-month period shall not be deemed to commence until the effective date of this chapter.

(Ord. 08-085, passed 7-2-2013)

§ 154.107 INTERIM USE PERMITS.

- A. *Purpose and Intent.* The purpose and intent of allowing interim uses are:

1. To allow a use for a limited period of time that reasonably utilizes the property where such use is not consistent with the future land map in the Comprehensive Plan; and
2. To allow a use that is presently acceptable, but that with anticipated development or redevelopment or other significant change, will not be acceptable in the future or will be replaced by a permitted or conditional use allowed within the respective district.

- B. *Required Findings.* An interim use permit may be granted only if the City Council finds as follows:

1. The use is allowed as an interim use in the respective zoning district and conforms to standard zoning regulations.
2. The use will not adversely impact nearby properties through nuisance, noise, traffic, dust, or unsightliness and will not otherwise adversely impact the health, safety, and welfare of the community.
3. The use will not adversely impact implementation of the Comprehensive Plan.
4. The user agrees to all conditions that the City Council deems appropriate to establish the interim use. This may include the requirement of appropriate financial surety such as a letter of credit or other security acceptable to the City to cover the cost of removing the interim use and any interim structures not currently existing on the site, upon the expiration of the interim use permit.
5. There are no delinquent property taxes, special assessments, interest, or city utility fees due upon the subject parcel.
6. The date or event terminating the interim use shall be set by the City Council at the time of approval.

- C. *Application Requirements.* Interim Use Permit applications shall be submitted to the Director of Planning on such form and accompanied by such information as required by