

City of Lake Elmo

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Lake Elmo, Minnesota 55042

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NOTICE OF MEETING

The City of Lake Elmo
Planning Commission will conduct a meeting on
Monday, August 28, 2006, at 7:00 p.m.

AGENDA

1. Agenda Approval
2. Minutes POSTPONED
3. PUBLIC HEARING
Variance~Second Accessory Building: 11459 60th Street North
4. Zoning Ordinance
5. City Council Update
6. Adjourn

**LAKE ELMO PLANNING COMMISSION
STAFF REPORT**

Date: August 24, 2007 for the Meeting of August 28, 2005

Applicant: Richard & Eileen Bergman

Location: 11459 60th Street North

Requested Action: Variance to Allow a Second Accessory Building

Land Use Plan Guiding: RAD

Existing Zoning: RR

Site History and Existing Conditions:

The history of these sites is both lengthy (filling nearly 4 inches of City file space) and complex – nearly defying description. It appears that the farmstead site, including the home and the barn, were what was referred to as the John Cody Farm prior to 1977. The farm is reported by 1977 City Council Minutes as 48 acres in area. It may have been much larger at some earlier point. During 1977/1978 Rossow (who had purchased the Cody Farm) applied for and received approval of a plat to create 9 five acre lots, with the balance of the Cody Farm apparently street right-of-way for a cul-de-sac that would access directly to Highway 36. There apparently was also some zoning action regarding some or all of the lot – likely rezoning to commercial from AG.

Apparently the developer never followed through with the recording of the plat or the construction of plat improvements, and was advised by the City in 1984 that the plat approval was voided. City files also refer to litigation whereby the Court apparently voided some zoning action involving the property. It therefore appear that, by 1984, the original developers had no approvals valid for the 1978 plat that included this site.

Nothing appears in City files regarding this site until 1991, where it appears a title issue arises with the house on the subject site. It appears that the developer had sold the house on 2 acres by unrecorded Contract for Deed prior to the 1978 plat when this area was zoned for a minimum 5 acres. During the later platting process an additional 3 acres was added to the house site to make it legal. Even with the added 3 acres, however, the barn was still not on the 5 acres conveyed. While we can locate no building permit records, a pole building of approximately 800 square feet area was constructed (likely without a permit) within the 5 acres that had been sold with the house prior to the applicants purchasing the property (appears on the 2000 air photo).

Recently the Bergmans (applicant) acquired the entire Rossow holdings (failed plat) and the house/pole barn on the 5 acres. A portion the remaining Rossow land was subsequently included in the Sanctuary plat as Outlot E – subject to a Conservation Easement or the Minnesota Land Trust.

Discussion and Analysis:

The applicants desire to adjust the lot line between the 5 acre house site and their adjoining land to increase the 5 acre site sufficiently easterly to include the barn structure that was detached by earlier Rossow land sale (that created the 5 acre site). By that land sale back in the late 1970's not only did Rossow create what is now a non-conforming lot (but was not then – at least after the “extra” three acres was added), but also created an adjoining parcel that contained an accessory structure (the old barn) on a parcel that had no principal structure.

No RR zoned parcel may have more than one accessory structure, and that single structure may not exceed 2,500 square feet in area. Any Lot Line Adjustment (administrative) to accomplish the applicants' proposal would result in a second accessory structure on an RR zoned parcel. In addition, the sum area of the two accessory structures that would result from the Lot Line Adjustment to include the barn on the 5 acre parcel would appear to slightly exceed 2,500 square feet.

In considering the variance applied for staff notes that two existing non-conformities would be eliminated or reduced in scale:

1. By adding the land area that includes the barn to the 5 acre parcel, that parcel would become 6.33 acres in area. While the resulting parcel would remain non-conforming in the RR zone (10 acre minimum), it would be less non-conforming. Reducing the parcel on which the barn now is located by 1.33 acres will not make that parcel non-conforming by area.
2. By placing the barn on the same parcel as the house, the non-conformity of an accessory structure on a parcel without a principal structure will be eliminated.

Findings and Recommendations:

1. The property can not be put to reasonable use without the granting of the variance requested.
2. The variance requested relates to divisions of lands undertaken three decades ago, by parties than the applicants responsive to zoning standards that differ from those of 2006. In addition, the 1970's land division actions illegally created a non-conformity (accessory structure on a parcel without a principal structure) that will be mitigated by the proposed variance, and therefore the circumstances are unique to these properties
3. Granting of the variances will not change the essential character of the neighborhood.. The two accessory structures already exist.

Based on the foregoing staff recommends approval of the requested variance subject to approval of a Lot Line Adjustment or Minor Subdivision, or a waiver of platting by the City Council to create the new parcel that would contain the house and the two accessory structures.

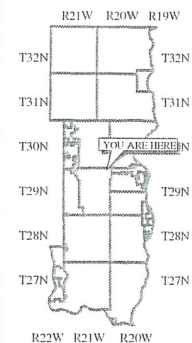
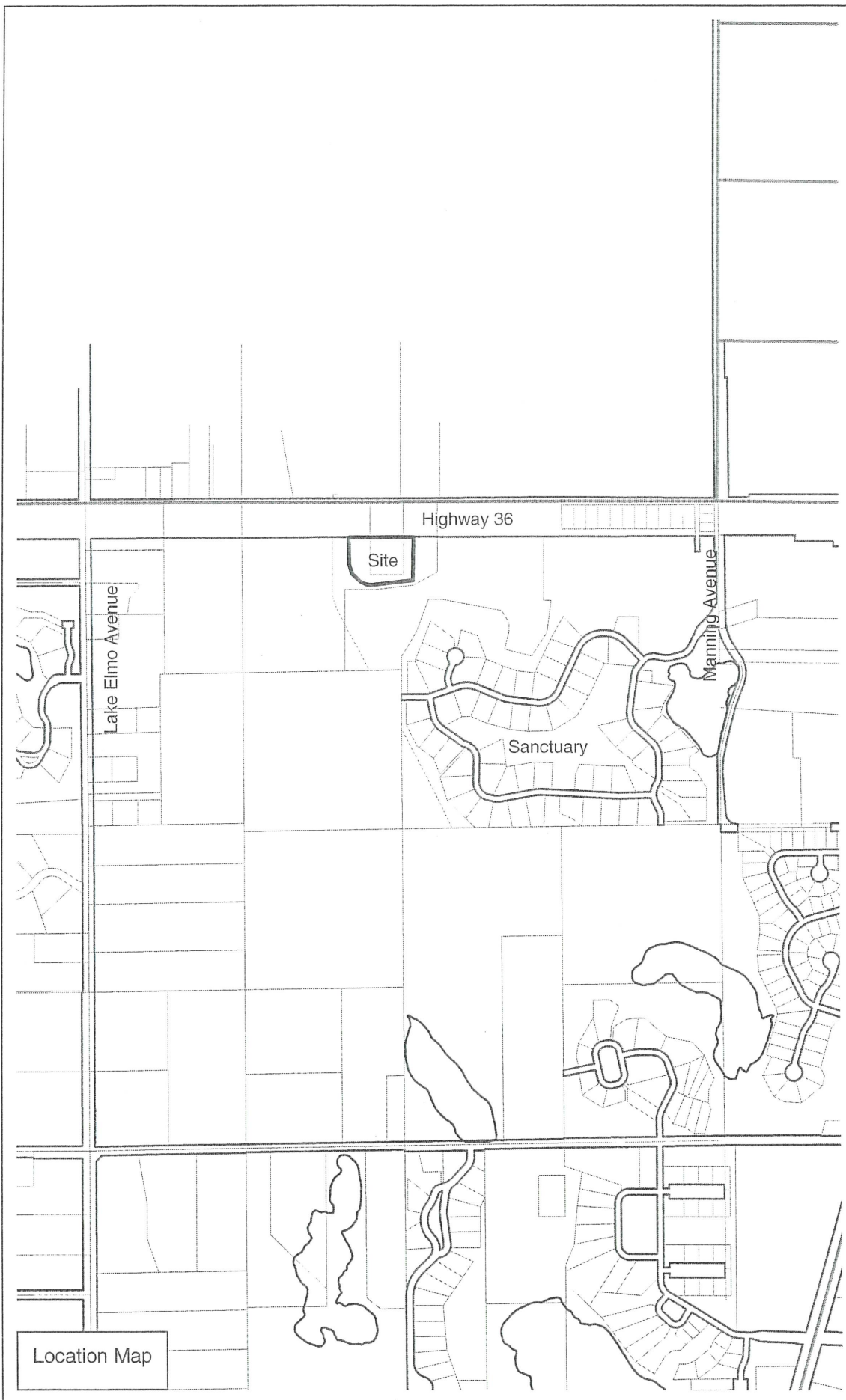
Planning Commission Actions Requested:

Motion to recommend approval of a variance to allow two existing accessory structures on an RR zoned parcel based on the Findings and subject to the condition specified by the August 24, 2006 Planning Staff Report.

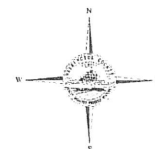

Charles E. Dillerud, City Planner

Attachments:

1. Location Map
2. Applicants' Graphics



Vicinity Map



0 1200
Scale in Feet

Location Map

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.

Source: Washington County Surveyor's Office.
Phone (551) 430-6875

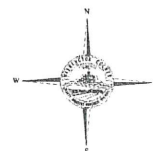
Parcel data based on AS400 information



Location Map



Vicinity Map



0 100
Scale in Feet

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.

Source: Washington County Surveyor's Office.
Phone (651) 430-6875

Parcel data based on AS400 information

N1/4 CORNER
- SEC.1, T29, R21
CAST IRON MONU.

N89°47'30"E 660.16

HWY R/W EASEMENT PER
BOOK 275 DEEDS, PAGES 497-526

RICHARD & EILEEN
BERGMANN PROPERTY

275620.82 SqFt
6.33 Acres

OUTLOT E
ST. CROIX'S
SANCTUARY

NSP CO. EASEMENT
PER BOOK 82 DEEDS PAGE 128
PARTIALLY RELEASED IN BOOK 237,
PAGE 309 FILED MARCH 28, 1961

All that part of the Northeast Quarter of the Northwest Quarter and all that part of the West Half of the Northwest Quarter of the Northeast Quarter of Section 1, Township 29 North, Range 21 West, Washington County, Minnesota, described together as follows:

Beginning at a northwesterly corner of Outlot E, St. Croix's Sanctuary, according to the recorded plat, Washington County, Minnesota, said point being on the southerly right of way line of Minnesota State Highway No. 36; thence South 0 degrees 19 minutes 54 seconds East, along a westerly line of said Outlot E, a distance of 292.32 feet; thence South 61 degrees 31 minutes 55 seconds West, a distance of 142.39 feet; thence South 89 degrees 45 minutes 35 Seconds West, a distance of 78.54 feet; thence South 83 degrees 17 minutes 40 seconds West, a distance of 318.69 feet; thence South 89 degrees 45 minutes 35 seconds West, a distance of 220.67 feet; thence North 0 degrees 00 minutes 32 seconds West a distance of 395.55 feet to the intersection of said southerly right of way line of Minnesota State Highway No. 36; thence North 89 degrees 45 minutes 35 seconds East along said southerly right of way line, a distance of 739.27 feet to the point of beginning, subject to easements of record. Orientation of this bearing system is based on the recorded plat of St. Croix's Sanctuary.

P J Land Surveying, LLC

Paul A. Johnson
Land Surveyor, Minn. Lic. No. 10938

PREPARED BY:
P J LAND SURVEYING, LLC
12510 MCKUSICK ROAD NORTH
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PREPARED FOR:
RICHARD AND EILEEN BERGMANN
5500 LAKE ELMO AVE. NORTH
LAKE ELMO, MN 55042
PHONE 651/439-5999

RECEIVED
AUG 10 2005

MEMO

(August 24, 2006 for the Meeting of August 28, 2006)

To: Lake Elmo Planning Commission

From: Kelli Matzek, Assistant Planner

Subject: Zoning Code Rewrite – Part 5 (continuation of 4)

This week I have 26 pages of code for your review. We will be discussing the following topics:

- General Building and Performance Standards
- General Yard, Lot Area and Building Regulations
- Accessory Buildings, Structures, Uses

The text with a single line through it is the existing Lake Elmo zoning text. As best I could, I placed the existing Lake Elmo code before the comparable proposed text. The rest of the language I have pulled from other city codes (Oak Park Heights and Plymouth primarily).

Major changes from existing Lake Elmo code within the three topics for discussion:

- The proposed text provides administrative approvals by the “Zoning Administrator” where currently the Lake Elmo Code does not.
- The proposed code regarding accessory buildings, structures, and uses would increase restrictions from the existing code.

At the meeting, I will hand out updated proposed zoning text thus far in the process for your three ring binders. We will also need to discuss how the Planning Commission would like to handle more robust topics for the zoning ordinance such as lighting and home occupations.

The next meeting will be held on **Wednesday, September 6th at 6:30 p.m.** At that time we will be discussing the following topics:

- Fencing, Screening, Landscaping
- Off-Street Parking and Loading
- Building Relocation

ZONING CODE (cont.)

General Building and Performance Standards

- 154.220 Purpose
- 154.221 Dwelling Unit Restriction
- 154.222 Platted and Unplatted Property
- 154.223 Grading and Drainage
- 154.224 Traffic Sight Visibility
- 154.225 Outside Storage / Display
- 154.226 Common Open Space and Amenities
- 154.2&& RESERVED - Lighting, Glare Control, and Exterior Lighting Standards

General Yard, Lot Area and Building Regulations

- 154.250 Purpose
- 154.251 Building Height Exceptions
- 154.252 Building Type and Construction
- 154.253 Yard Requirements
- 154.254 Efficiency Apartments
- 154.255 Minimum Lot Area Per Unit
- 154.256 Minimum Floor Area Per Dwelling Unit
- 154.257 Two Family, Townhouse, Manor Home, Multiple Family Uses
- 154.258 Single Family Dwellings

Accessory Buildings, Uses and Equipment

- 154.270 Single Family Detached Uses
- 154.271 Accessory Uses
- 154.272 Garages with Alley Access
- 154.273 Size
- 154.274 Setbacks
- 154.275 Time of Construction
- 154.276 Building Materials
- 154.277 Trash Receptacles
- 154.278 Conditional Use Permits
- 154.279 Drive Through Business

GENERAL BUILDING AND PERFORMANCE STANDARDS

154.220 PURPOSE.

The purpose of this section of the Zoning Ordinance is to establish general development performance standards. These standards are intended and designed to assure compatibility of uses; to prevent urban blight, deterioration and decay; and to enhance the health, safety and general welfare of the residents of the community.

154.221 DWELLING UNIT RESTRICTION.

(A) No model home, cellar, basement, garage, tent, play house, accessory building, recreational camping vehicle or similar structures shall at any time be used as living quarters, temporarily or permanently, except as may be approved in emergency cases by the Zoning Administrator or as an administrative permit.

(B) Tents, play houses or similar structures may be used for play or recreational purposes.

(C) Basements and cellars may be used as living quarters or rooms as a portion of the principal residential dwelling.

(D) Energy conservation designs in housing, including earth sheltered residential dwellings, are not prohibited by this provision of the Ordinance, provided that a conditional use permit is approved by the City Council and the structure complies with standards imposed by the State and the Minnesota State Building Code.

~~325.08 Subdivision/Platting Provisions:~~

~~Subd. 1 Land Suitability:~~

~~Each lot created through subdivision must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near shore aquatic conditions unsuitable for water based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety or welfare of future residents of the proposed subdivision or of the City.~~

~~Subd. 2 Platting:~~

~~All subdivisions shall be in accordance with the City's platting regulations and requirements.~~

~~Subd. 3 Consistency with Other Controls:~~

~~Subdivisions must conform to all regulations for the City. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with Sections 325.06, Subd. 4 and 9 can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of Section 325.06, Subd. 2 and 3, including at least a minimum contiguous vegetative area, that is free of limiting factors sufficient for the construction of two standard sewage treatment systems. Lots that would require use of holding tanks must not be approved.~~

~~Subd. 4 Information Requirements:~~

~~—Sufficient information must be submitted by the applicant for the City to make a determination of land suitability. The information may include the following at the discretion of the City Planner or City Engineer:~~

~~—A. Topographic contours at 2 foot intervals or less;~~

~~—B. The surface water features required in Minnesota Statutes, Section 505.02, Subdivision 1, to be shown on plats obtained from United State Geological Survey quadrangle topographic maps or more accurate sources;~~

~~—C. Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests or other methods.~~

~~—D. Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near shore aquatic conditions, including depths, types of bottom sediments and aquatic vegetation; and proposed methods for controlling storm water runoff and erosion, both during and after construction activities;~~

~~—E. Location of 100 year flood plain areas and flood way districts from existing adopted maps or data; and~~

~~—F. A line or contour representing the ordinary high water level, the “toe” and “top” of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.~~

~~—Subd. 5 Dedications:~~

~~—When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of storm water and significant wetlands.~~

~~—Subd. 6 Controlled Access or Recreational Lots~~

~~—Lots intended as controlled accesses to public waters or for recreational use areas for use by non-riparian lots within a subdivision must meet or exceed the sizing criteria in Section 325.06, Subd. 2 and 3.~~

154.222 PLATTED AND UNPLATTED PROPERTY.

(A) Any person desiring to improve property shall submit to the Building Official a registered survey and site plan of said premises and information on the location and dimension of existing and proposed buildings, location of easements within the property, encroachments, and any other information which may be necessary to evaluate conformance with City ordinances.

(B) All buildings shall be so placed so that they will not obstruct future streets which may be constructed by the City and be in conformity with existing streets, adopted plans, and according to the system and standards employed by the City.

(C) Substandard lots of record shall be governed by Section ## of this Ordinance.

(D) On a through lot, both street lines shall be front lot lines for applying the yard and parking setback regulations of this Ordinance. In addition, no home on a through lot or corner lot in any residential zone shall maintain direct access to any arterial street designated as such by the Comprehensive Plan.

(E) When a development is proposed which is to be located on two (2) or more lots, and such lots are required to meet the minimum district area and frontage requirement and/or are required to accommodate the use, the lots shall be combined in accordance with the City's Subdivision Ordinance, prior to the issuing of a building permit.

(F) Except as may be allowed pursuant to Section ##, when two (2) or more lots are located in the same zoning district, one (1) or more of which lack adequate area or dimensions to qualify for use under the current ordinance requirements and are contiguous and held in one ownership, they shall be combined for use in order to meet the lot requirements by subdividing the property in accordance with the Subdivision Ordinance.

(G) In the case of properties which abut street easements, applicable setbacks shall be determined by the Zoning Administrator and related to roadway classification as identified in the Lake Elmo Comprehensive Plan.

(H) Outlots are deemed unbuildable and no building permit shall be issued for such properties, except that permits for fences may be issued.

(I) Except as otherwise allowed by property subdivision, each lot shall have frontage and access directly onto an abutting, improved and City-accepted public street. An existing lot of record (vacant or for redevelopment) that does not have frontage and access directly onto an abutting, improved and City accepted public street shall require approval of a conditional use permit prior to issuance of any building permits.

(J) No division of a parcel shall be made which leaves remaining any lot with frontage or area below the requirements stated in this Ordinance.

154.223 GRADING AND DRAINAGE.

(A) No land shall be developed and no use shall be permitted that results in water runoff causing flooding, erosion, or deposit of minerals on adjacent properties which is inconsistent with the grading and erosion control plan provisions of Section ## of the City Code. Such runoff shall be properly channeled into a storm drain, water course,

ponding area, or other public facilities subject to the review and approval of the City Engineer.

(B) In the case of all residential subdivisions, multiple family, public, institutional, and business developments, the grading and drainage plans shall be submitted to the City Engineer for review and the final drainage plan shall be subject to the City Engineer's written approval. In the case of such uses, no modification in grade and drainage flow through fill, erection of retaining walls or other such actions shall be allowed until such plans have been reviewed and received written approval from the City Engineer.

(C) Except for written authorization of the City Engineer, the top of the foundation and garage floor of all structures shall be a minimum of eighteen (18) inches above the top of the curb of the abutting street upon which the property fronts and the driveway shall have a slope of not more than ten (10) percent.

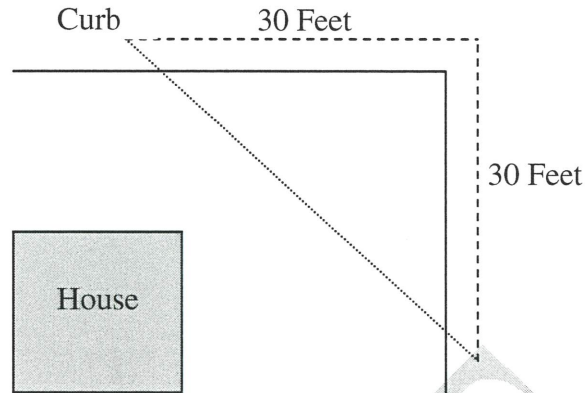
(D) Modifications which serve to alter the average and typical natural grade of an individual lot more than two (2) feet shall require the approval of the City Council.

~~96.03 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.~~

~~(19) Obstruction of view of traffic. All trees, hedges, billboards, or other obstructions which prevent persons from having a clear view of traffic approaching an intersection from cross streets in sufficient time to bring a motor vehicle driven at a reasonable speed to a full stop before the intersection is reached;~~

154.224 TRAFFIC SIGHT VISIBILITY.

Except for a governmental agency for the purpose of screening, no wall, fence, structure, tree, shrub, vegetation or other obstruction shall be placed on or extend into any yard or right-of-way area so as to pose a danger to traffic by obscuring the view of approaching vehicular traffic or pedestrians from any street or driveway. Visibility from any street or driveway shall be unobstructed between the height of three (3) feet and six (6) feet, measured from where both street, driveway, or railway center lines intersect within the triangle describes as beginning at the intersection of the projected curb line of two (2) intersecting streets or drives, thence thirty (30) feet along one curb line, thence diagonally to a point thirty (30) feet from the point of beginning along the other curb line (see attached drawing). The exception to this requirement shall be where there is a tree, planting or landscape arrangement within such area that will not create a total obstruction wider than three (3) feet. These requirements shall not apply to conditions that legally exist prior to the effective date of this Ordinance unless the Zoning Administrator determines that such conditions are determined to constitute a safety hazard.



Chapter 13—Municipal Regulations

Section 1335—Public Nuisances

Subd. 11. Junk.

~~The accumulation, storing, or keeping of old machinery, wrecked or inoperable vehicles or household appliances and unlicensed vehicles and other junk or debris. For purposes of this section, any personal property stored in violation of the provision of Subsection 1340 regulating exterior storage, shall be deemed junk.~~

Chapter 13—Municipal Regulations

Section 1340—Exterior Storage

1340.01 Exterior Storage Defined.

~~Exterior storage as used in this section, means the storage of goods, materials, equipment, manufactured products and similar items not fully enclosed in a building.~~

1340.01 Prohibited Without Screening.

Subd. 1 Storing of Personal Property

~~All personal property shall be stored within a building or fully screened so as not to be visible from adjoining properties and public streets, except for the following:~~

- ~~1. Laundry, drying;~~
- ~~2. Recreational equipment commonly used in residential yards;~~
- ~~3. Construction and landscaping materials, and equipment currently (within a period of six (6) months) being used on the premises;~~
- ~~4. Off street parking of licensed operable passenger automobiles and pick up trucks;~~
- ~~5. Boats and trailers less than twenty five (25) feet in length, if stored in the rear yard more than ten (10) feet distant from any property line.~~
- ~~6. Merchandise being displayed for sale in accordance with the provisions of the Zoning Ordinance.~~
- ~~7. Farm implements in the AG Zoning District.~~
- ~~8. Firewood storage for personal use.~~

Subd. 2 Existing Uses

~~Existing uses shall comply with the provisions of this section within a reasonable time, not to exceed six (6) months following the enactment of this Code.~~

~~1340.03 Non residential Districts~~

~~In non residential districts, exterior storage of personal property may be permitted by conditional use permit provided any such property is so stored for purposes relating to a use of the property permitted by the Zoning Ordinance and will not be contrary to the intent and purpose of the Zoning Ordinance.~~

~~1340.04 All Districts.~~

~~In all districts, all refuse, rubbish or garbage (as defined in subsection 1335.04) shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping the land free of refuse, rubbish or garbage.~~

~~1340.05 Unlicense Passenger Vehicles and Trucks~~

~~Unlicensed passenger vehicles and trucks shall not be parked in residential districts for a period exceeding seven (7) days.~~

~~1340.06 Defining "Junk"~~

~~All exterior storage not permitted by Subsection 1340.02 or included as a permitted accessory use, a permitted use, or included as part of a conditional use permit, or otherwise permitted by the provisions of this Code, is defined as "junk" within the meaning of Subsection 1335.02, Subd. 11 ("Junk") of this Code.~~

154.225 OUTSIDE STORAGE/DISPLAY.

(A) General.

(1) Passenger automobiles and trucks not currently licensed by the State, or which are incapable of movement under their own power due to mechanical deficiency, which are parked or stored outside for a period in excess of ninety-six (96) hours, and all materials stored outside in violation of the City Ordinances are considered refuse or junk and shall be disposed of pursuant to City regulations.

(2) Any accumulation of refuse not stored in containers which comply with City Code, or any accumulation of refuse including car parts which has remained on a property for more than one (1) week is hereby declared to be a nuisance and may be abated by order of the Zoning Administrator, as provided by Minnesota Statutes and Section ## of the City Code. The cost of abatement shall be recovered in accordance with the applicable provisions of Section ## of the City Code.

(3) In all zoning districts, outside storage, including but not limited to equipment storage and the parking of vehicles, shall be prohibited as a principal use of property.

(B) Residential Zoning Districts.

(1) Exceptions. All personal property shall be stored within a building or fully screened so as not to be visible from adjoining properties and public streets, except for the following:

(a) Basketball hoop, provided it is set back at least six (6) feet from any lot line.

(b) Stacked firewood for the burning supply of the property resident may be located in a side, rear, or equivalent yard.

(c) Construction and landscaping materials or equipment, if these are used or intended for use on the premises within a period of three (3) months, unless there is an active building permit issued for improvements on the property.

(d) Agricultural equipment and materials, if these are used or intended for use on the premises within a period of twelve (12) months.

(e) Off-street parking of licensed passenger automobiles and personal or commercial vehicles of less than twelve thousand (12,000) pounds gross vehicle weight rating (GVWR) in a designated driveway or parking area that is surfaced in compliance with Section ## of this Ordinance.

(f) Recreational equipment.

~~300.13 Design and Performance Standards—Restrictions on Nuisance and Hazardous Activities~~

~~Subd. 18 Recreation Vehicles~~

~~B. A recreational vehicle may not be parked on any land outside of an approved camping area or an approved sales lot, except that the parking of one (1) unoccupied vehicle in an accessory private garage, building, or in the rear yard of a residential district is permitted provided that no living quarters shall be maintained or any business practiced in the trailer while it is so parked or stored.~~

~~C. A recreational vehicle owned by a non resident, guest or visitor may be parked or occupied by the guest or visitor on property on which a permanent dwelling unit is located for a period not to exceed thirty (30) days while visiting the resident of the property. The recreation vehicle shall have self contained sanitary facilities or standard on-site facilities as required by the community building official/sanitarian.~~

(g) Recreational vehicles and recreational camping vehicles, provided they are located in a side or rear yard, or in a designated driveway or parking area that is surfaced in compliance with Section ## of this Ordinance.

(h) One non-vehicular ice-fishing house may be located in a rear or equivalent rear yard, provided it is set back at least six (6) feet from any lot line.

(C) Commercial, Public/Institutional and Industrial Zoning Districts.

(1) Outside Storage/Display. Exterior storage and display shall be governed by the respective zoning district in which such use is located.

(2) Additional Standards. All exterior storage shall be located in the rear or side yard, shall be screened with materials of 90 percent or more opacity, and shall screen views from adjoining properties and public streets except for the following:

(a) Merchandise being displayed for sale in accordance with zoning district requirements.

(b) Materials and equipment currently being used for construction on the premises.

(3) Parking of Commercial Vehicles. Up to three (3) commercial vehicles such as delivery and service trucks up to twelve thousand (12,000) pounds gross vehicle weight rating (GVWR) may be parked without screening if such vehicles relate to the principal use. Construction equipment, trailers, and vehicles over twelve thousand (12,000) pounds gross vehicle weight rating (GVWR) shall require screening in compliance with Section ## of this Ordinance.

(D) All Zoning Districts.

(1) Except for temporary construction trailers and mobile services operated by public service agencies (i.e., bookmobile, bloodmobiles, etc.) as allowed by the City, and trailers parked in a designated and improved loading area, no vehicle may be used for office, business, industrial manufacturing, testing, or storage of items used with or in a business, commercial or industrial enterprise.

(2) The City Council may order the owner of any property to cease or modify open storage uses including existing uses, provided it is found that such use constitutes a threat to the public health, safety, convenience, or general welfare.

154.226 COMMON OPEN SPACE AND AMENITIES.

(A) Common private open spaces or amenities may be allowed as part of a PUD or property subdivision, or by conditional use permit subject to the provisions of this Ordinance.

(B) Operating and Maintenance Requirements for Common Open Space and Amenities: Whenever common public open space or amenities are provided, provisions shall be made to assure the continued operation and maintenance of such open space or amenities to a predetermined reasonable standard. Common private open space and

amenities may be placed under the ownership of one or more of the following, as approved by the City Council:

- (1) Landlord control, where only use by tenants is anticipated.
- (2) Property owners association, provided all of the following conditions are met:
 - (a) Prior to the use, occupancy, sale or the execution of contracts for sale of individual buildings, units, lots, parcels, tracts or common areas, a declaration of covenants, conditions and restrictions or an equivalent document or a document such as specified by Minnesota Statutes 515, Article 2 and a set of floor plans such as specified by Minnesota Statutes 515, Article 2-110 shall be filed with the City of Lake Elmo. Said filing with the City is to be made prior to the filings of said declaration or document or floor plans with the recording officers of the County.
 - (b) The declaration of covenants, conditions and restrictions or equivalent document shall specify that deeds, leases or documents of conveyance affecting buildings, units, lots, parcels, or tracts shall subject said properties to the terms of said declaration.
 - (c) The declaration of covenants, conditions and restrictions shall provide that an owner's association or corporation shall be formed and that all owners shall be members of said association or corporation which shall maintain all properties and common areas in good repair and which shall assess individual property owners proportionate shares of joint or common costs. This declaration shall be subject to the review and approval of the City Attorney. The intent of this requirement is to protect the property values of the individual owner through establishing adequate private control.
 - (d) The declaration shall additionally, amongst other things, provide that in the event the association or corporation fails to maintain properties in accordance with the applicable rules and regulations of the City of Lake Elmo or fails to pay taxes or assessments on properties as they become due and in the event the said City of Lake Elmo incurs any expenses in enforcing its rules and regulations, which said expenses are not immediately reimbursed by the association or corporation, then the City of Lake Elmo shall have the right to assess each property its prorata share of said expenses. Such assessments, together with interest thereon and costs of collection, shall be a lien on each property against which each such assessment is made.
 - (e) Membership must be mandatory for each owner, and any successive buyer.
 - (f) The open space restrictions must be permanent and not for a limited period of years, unless specifically approved by the City.

GENERAL YARD, LOT AREA AND BUILDING REGULATIONS

154.250 PURPOSE.

This section identifies yard, lot area, building size, and building type and height requirements in each zoning district.

~~300.12 Height.~~

~~Subd. 1 Maximum Height.~~

- ~~A. Antennas shall not be located on structures in excess of sixty five (65) feet in height unless the structures are existing water towers and the antennas are only an accessory use on the water towers.~~
- ~~B. No other structure shall exceed thirty five (35) feet in height including church spires, belfries, cupolas and domes, monuments, chimneys, and smokestacks, flag poles, public facilities, except barns, silos, and other farm structures, utility transmission services, and transmission towers of commercial broadcasting stations.~~

~~Subd. 2 Parapet Walls.~~

- ~~—Parapet walls shall not exceed more than four (4) feet above the height permitted of the building.~~

154.251 BUILDING HEIGHT EXCEPTIONS.

(A) The building height limits established for each zoning district shall not apply to the following list of items, except that no such structural element may exceed forty-five (45) feet in total height or exceed the maximum height of the building by more than five (5) feet, whichever is greater, except by conditional use permit.

- (1) Belfries.
- (2) Chimneys or flues.
- (3) Church spires.
- (4) Cooling towers.
- (5) Cupolas and domes which do not contain useable space.
- (6) Elevator penthouses.
- (7) Flag poles.
- (8) Monuments.

(9) Parapet walls extending not more than three (3) feet above the limiting height of the building.

(10) Water towers.

(11) Poles, towers and other structures for essential services.

(12) Necessary mechanical and electrical appurtenances.

(B) Height limitations for antenna support structures as set forth in Section ## of this Ordinance may be increased by conditional use permit.

(C) Modifications to the topography of a lot may not be undertaken as a means of achieving increased building height, unless approved by the Zoning Administrator.

(D) In the case of any proposal to construct or alter a structure which will exceed a height of two hundred (200) feet above ground level of the site, or any proposal to construct or alter a structure to a height of greater than an imaginary surface extending upward and outward at a slope of one hundred to one (100:1) from the nearest point of the nearest runway of a public airport, the applicant shall notify the Commissioner of the Minnesota Department of Transportation in writing of the plans at least thirty (30) days in advance of making applicable permit requests to the City. The applicant shall provide the Zoning Administrator with any comments received from the Commissioner of the Minnesota Department of Transportation as part of the required applicable permit request. This local reporting is in addition to any federal permitting and review processing which may be simultaneously required.

154.252 BUILDING TYPE AND CONSTRUCTION.

(A) General Provisions.

(1) Except in association with farming activities or as allowed by this section, no galvanized or unfinished steel or unfinished aluminum buildings (walls or roofs), except those specifically intended to have a corrosive designed finish such as corten steel shall be permitted in any zoning district.

(2) Buildings in all zoning districts shall maintain a high standard of architectural and aesthetic compatibility with surrounding properties to ensure that they will not adversely impact the property values of the adjacent properties or adversely impact the community's public health, safety and general welfare.

(3) Exterior Building Finishes.

(a) The exterior building facade finishes shall consist of materials comparable in grade and quality to the following:

1. Brick.
2. Natural stone.
3. Decorative concrete block.
4. Cast in place concrete or pre-cast concrete panels.
5. Wood, provided the surfaces are finished for exterior use and wood of proven exterior durability is used, such as cedar, redwood, or cypress.
6. Curtain wall panels of steel, fiberglass and aluminum (non-structural, non-load bearing), provided such panels are factory fabricated and finished with a durable non-fade surface and their fasteners are of a corrosion resistant design.
7. Glass curtain wall panels.
8. Stucco.
9. Vinyl.
10. Other materials determined as acceptable by the Zoning Administrator but not including galvanized or unfinished metal.

(4) Pole Buildings. Except for farming operations, pole buildings shall not be allowed as a principal building or structure, except in highly unique or special cases as may be allowed by a conditional use permit.

(B) Residential Districts.

(1) Except in the FRD Zoning District, all accessory buildings in excess of one hundred twenty (120) square feet that are accessory to residential dwelling units shall be constructed with a design and materials consistent with the general character of the principal structure on the lot, except that glass solariums and greenhouses (attached or detached) shall be exempt from this provision.

(2) Non-residential uses allowed in the residential districts may be allowed to have an all metal or fiberglass accessory building in excess of the one hundred twenty (120) square feet by conditional use permit, provided the building is located in the rear yard and is screened and landscaped from adjacent residentially zoned or used property and public rights-of-way in accordance with Section ## of this Ordinance.

(C) Commercial and Public/Institutional Districts.

(1) In business and P-I districts, any exposed metal or fiberglass finish shall be limited to fifty (50) percent of the surface of any building wall. Any metal finish utilized in the building shall be a minimum of twenty-six (26) gauge steel. All sides of the principal and accessory structures are to have essentially the same or coordinated, harmonious exterior finish materials and treatment. The roof slope shall be limited to a maximum or minimum of one to twelve (1:12) slope.

(D) Exceptions. Exceptions to the provisions of this section may be granted as a conditional use permit by the City Council, provided that:

(1) The proposed building maintains the quality and value intended by this Ordinance.

(2) The proposed building is compatible and in harmony with other structures within the district and immediate geographic area.

(3) The provisions of Section ## of this Ordinance are considered and the request is found to comply with these criteria.

~~300.10 Permitted Encroachments on Required Yards.~~

~~—The following shall be permitted encroachments into setback and height requirements, except as restricted by other sections of this chapter.~~

~~Subd. 1 In Any Yards.~~

~~—Posts, off street open parking, flutes, leaders, sills, pilasters, lintels, cornices, eaves (up to three (3) feet), gutters, awnings, open terraces, steps, chimneys, flag poles, open fire escapes, sidewalks, fences, essential services exposed ramps (wheelchair), uncovered porches, stoops, or similar features provided they do not extend above the height of the ground floor level of the principal structure or to a distance less than five (5) feet from any lot line nor less than one (1) foot from any existing or proposed driveway; yard lights and nameplate signs; trees, shrubs, plants, floodlights or other sources of light illuminating authorized illuminated signs, or light standards for illuminating parking areas, loading areas, or yards for safety and security reasons, provided the direct source of light is not visible from the public right of way or adjacent residential property.~~

~~Subd. 2 Side and Rear Yards.~~

~~—Fences thirty percent (30%) open; walls and hedges six (6) feet in height or less; bays not to exceed a depth of three (3) feet or containing an area of more than thirty (30) square feet; fire escapes not to exceed a width of three (3) feet.~~

~~Subd. 3 Corner Lots.~~

~~—Nothing shall be placed or allowed to grow in such a manner as materially to impede vision between a height of two and one half (2 1/2) and ten (10) feet above the center line grades of the intersecting streets within one hundred (100) feet of the intersection.~~

~~Subd. 4 Off Street Parking.~~

~~—In no event shall off street parking space, structures of any type, buildings, or other improvements cover more than seventy five percent (75%) of the lot area. In no event shall the landscaped portion of the lot be less than twenty five percent (25%) of the entire lot as a result of permitted encroachments. In Shoreland areas, no more than one third (1/3) of lot areas be covered with improvements.~~

154.253 YARD REQUIREMENTS.

No lot, yard or other open space shall be reduced in area or dimension so as to make such lot, yard or open space less than the minimum required by this Ordinance, and if the existing yard or other open space as existing is less than the minimum required, it shall not be further reduced. No required open space provided about any building or structure shall be included as part of any open space required for another structure.

(A) The following shall not be considered as encroachments on yard setback requirements:

(1) Cantilevers up to ten (10) feet in width, chimneys up to six (6) feet in width, flues, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, and the like, provided they do not project more than two (2) feet into a required yard. Window wells and their related covers shall not encroach in existing or required drainage or utility easements, unless approved by the City Engineer.

(2) Uncovered terraces, steps, decks, patios, uncovered porches, stoops or similar features provided they do not extend above the height of the ground floor level of the principal structure and to a distance less than five (5) feet from a side or rear lot line, or more than five (5) feet into a required front yard. No encroachment shall be permitted in existing or required drainage and utility easements unless approved by the City Engineer.

(3) In rear yards, recreational and laundry drying equipment, private dog kennels, arbors and trellises, detached outdoor living rooms or gazebos not exceeding five hundred (500) square feet, and air conditioning or heating equipment not exceeding established state noise levels, provided they are set back five (5) feet from side lot lines, eight (8) feet from the rear lot line, and not located within a utility and/or drainage easement, or as permitted in Section ## of the shoreland regulations. No encroachment shall be permitted in existing or required drainage and utility easements unless approved by the City Engineer.

(4) A one story, covered entrance for a detached single family, duplex or townhouse dwelling may extend into the front yard setback not exceeding four (4) feet subject to the approval of a conditional use permit.

(5) A required yard on a lot may be reduced by a conditional use permit if the following conditions are met:

(a) The reduction of setback requirements is based upon a specific need or circumstance which is unique to the property in question and which, if approved, will not set a precedent which is contrary to the intent of this Ordinance.

(b) Property line drainage and utility easements as required by the City's Subdivision Ordinance are provided and no building will occur upon this reserved space.

(c) The reduction will work toward the preservation of trees or unique physical features of the lot or area.

(d) If affecting a north lot line, the reduction will not restrict sun access from the abutting lots.

(e) The reduction will not obstruct traffic visibility, cause a public safety problem and complies with Section ## (Traffic Sight Triangle) of this Ordinance.

(f) The conditions of Section 401.03.A.8 of this Ordinance are considered and satisfactorily met.

(B) Required Front Yard Setback Exceptions for New or Expanded Homes. In the case of single-family residential lots platted prior to the date of this Ordinance, the required front yard setback as established by the respective zoning districts may be reduced, upon the approval of the Zoning Administrator, to a distance equaling the average front yard setback of existing principal dwellings within the block in which the lot is located, provided that in no case shall this distance be less than fifteen (15) feet.

(C) Corner Lots. Front yard requirements shall be observed on each street frontage of a corner lot.

(D) Required Side or Rear Yard Reduction. A required yard on a lot may be reduced by a conditional use permit if the following conditions are met:

(a) The reduction of setback requirements is based upon a specific need or circumstance which is unique to the property in question and which, if approved, will not set a precedent which is contrary to the intent of this Ordinance.

(b) Property line drainage and utility easements as required by the City's Subdivision Ordinance are provided and no building will occur upon this reserved space.

(c) The reduction will work toward the preservation of trees or unique physical features of the lot or area.

(d) The reduction will not restrict sun access to the abutting lots.

(e) The reduction will not obstruct traffic visibility, cause a public safety problem and complies with Section 21105.05 of this Ordinance.

154.254 EFFICIENCY APARTMENTS.

Except for elderly (senior citizen) housing, the number of efficiency apartments in a multiple family dwelling shall not exceed ten (10) percent of the total number of apartments. In the case of elderly (senior citizen) housing, efficiency apartments shall not exceed thirty (30) percent of the total number of apartments.

154.255 MINIMUM LOT AREA PER UNIT.

The lot area per unit requirements for two family, townhouses, manor and multiple family developments shall be in accordance with applicable zoning district standards in which such uses are located. Lot area per unit requirements for planned unit developments shall be same as those imposed in the corresponding zoning district in which the use is customarily permitted.

154.256 MINIMUM FLOOR AREA PER DWELLING UNIT.

(A) Single Family Dwelling Units in R-1 Zoning Districts. Living units classified as single family dwellings shall contain at a minimum, nine hundred sixty (960) square feet of floor area.

(B) Other Dwelling Units. Except for elderly housing, all other dwellings shall have the following minimum floor areas per unit:

Efficiency and One Bedroom Units	600 square feet
Two Bedroom Units	720 square feet
More than Two Bedroom Units	An additional 100 square feet for each additional bedroom.

(C) Elderly (Senior Citizen) Housing. Living units classified as elderly (senior citizen) housing units shall have the following minimum floor area per unit:

Efficiency Units	440 square feet
One Bedroom	520 square feet

154.257 TWO FAMILY, TOWNHOUSE, MANOR HOME, MULTIPLE FAMILY USES.

(A) No single townhouse or manor home structure shall contain more than fourteen (14) dwelling units.

(B) Subdivision of Two Family or Townhouse Lots. The subdivision of base lots containing two family dwellings, or townhouses, to permit individual private ownership of a single dwelling unit within such a structure may be allowed upon the approval by the City. Approval of a subdivision request is contingent on the following requirements:

(1) Prior to a two family dwelling or townhouse subdivision, the base lot must meet all the requirements of the zoning district.

(2) The lot area calculation for individually platted unit lots shall include the proportionate share of the surrounding base lot.

(3) Permitted accessory uses as defined by the zoning districts are acceptable, provided they meet all the zoning requirements.

(4) A property maintenance agreement must be arranged by the applicant and submitted to the City Attorney for review and comment. The agreement shall ensure the maintenance and upkeep of the structure and lots to meet minimum City standards. The agreement is to be filed with the Washington County Recorder's Office as a deed restriction against the title of each unit lot.

(5) Separate public utility service shall be provided to each subdivided unit and shall be subject to the review and approval of the Zoning Administrator.

(6) The subdivision is to be platted and recorded in conformance to the requirements of the Subdivision Ordinance of the City.

(7) Minimum unit lot width for townhouses shall be not less than twenty (20) feet.

(8) Requirements of the Minnesota State Building Code at the time of subdivision shall be complied with.

(C) Subdivision of apartment dwelling structures, manor homes and other such units:

(1) The subdivision is to be platted and recorded in conformance with the requirements of the Subdivision Ordinance of the City, as applicable.

(2) The subdivision shall comply with applicable cooperative or condominium laws of the State of Minnesota.

154.258 SINGLE FAMILY DWELLINGS.

All single-family detached homes shall comply with the following:

(A) Foundation. Dwellings shall be constructed upon a continuous perimeter foundation, except that the following appurtenant structures may be placed upon pier footings:

(1) Open decks.

(2) Covered porches, provided that the floor height is three (3) feet or less above ground level.

(3) Covered porches with a floor height exceeding three (3) feet above ground level, provided that such porch does not exceed three hundred (300) square feet in area.

(4) Room additions to living area, not exceeding 300 square feet in area.

(5) Additionally, the perimeter foundation need not be continuous in the area of an elevated breezeway or similar architectural feature that connects the home to a garage or similar structure.

(B) Minimum Size. Dwellings shall not be less than thirty (30) feet in length and not less than twenty-two (22) feet in width over that entire minimum length. Width measurements shall not take account of overhang and other projections beyond the principal walls. Dwelling shall also meet the minimum floor area requirements as set out in this Ordinance.

(C) Roof Material. Dwellings shall have an earth covered, composition, wood shingled (include shakes), concrete, clay or ceramic-tiled roof. In addition, metal tile and standing seam metal roof coverings may be allowed by approval of the Zoning Administrator, provided they meet the requirements of ASTM A570 and A611 for roof coverings, and ASTM A219 and A239 for corrosion-resistant roofing materials.

(D) Building Permit. Prior to commencement of construction, dwellings shall receive a building permit. The application for a building permit in addition to other information required shall indicate the height, size, design and the appearance of all elevations of the proposed building and a description of the construction materials proposed to be used.

(E) Design. The exterior architectural design of a proposed dwelling may not be so at variance with, nor so similar to, the exterior architectural design of any structure or structures already constructed or in the course of construction in the immediate neighborhood, nor so at variance with the character of the surrounding neighborhood as to cause a significant depreciation in the property values of the neighborhood or adversely affect the public health, safety or general welfare.

(F) Code Compliance. Dwellings shall meet the requirements of the Minnesota State Building Code or the applicable manufactured housing code.

~~300.13 Design and Performance Standards—Restrictions on Nuisance and Hazardous Activities~~

~~Subd. 3 Accessory Buildings and Structures~~

~~A. Types of Accessory Buildings—storage or tool sheds; detached residential garage; detached rural storage building; detached domesticated farm animal buildings; agricultural farm buildings. The accessory buildings are defined as follows:~~

~~1. Storage or Tool Shed. A one story accessory building of less than one hundred sixty (160) square feet gross area with a maximum roof height of twelve (12) feet and exterior colors or materials matching the principal structure or utilizing earthen tones. No door or other access opening in the storage or tool shed shall exceed twenty eight (28) square feet in area.~~

~~2. Detached Residential Garage. A one story accessory building used or intended for the storage of motor driven passenger vehicles regulated in Section 300.13, Subd. 4, with a maximum roof height of twenty (20) feet. No door or other access opening shall exceed fourteen (14) feet in height. The exterior color, design, and materials shall be similar to the principal structure.~~

~~3. Detached Rural Storage Building. A one story accessory building used or intended for the storage of hobby tools, garden equipment, workshop equipment, etc. Exterior materials shall match the principal structure in exterior color or be of an earthen tone.~~

~~4. Detached Domesticated Farm Animal Building. A one story accessory building used or intended for the shelter of domestic farm animals and/or related feed or other farm animal supportive materials. The building shall require a Minnesota Pollution Control Agency feedlot permit and site and building plan approval.~~

~~5. Agricultural Farm Building. An accessory building used or intended for use on an active commercial food producing farm operation of more than twenty (20) acres. A Minnesota Pollution Control Agency permit may be required.~~

~~B. A tool shed as defined in this section may be placed on any lot in addition to the permitted number of accessory buildings.~~

~~C. No accessory building shall be constructed nor accessory use located on a lot until a building permit has been issued for the principal building to which it is accessory.~~

~~D. No accessory building used or intended for the storage of passenger automobiles shall exceed one thousand (1,000) square feet of gross area nor shall any access door or other opening exceed the height of ten (10) feet, nor shall any structure exceed one story in height except when the garages are located in Business, Industrial or Planned Unit Developments. On parcels of twenty thousand (20,000) square feet in area or less, no detached accessory building or garage shall exceed the size of the principal building in gross floor area.~~

~~E. An accessory building shall be considered as an integral part of the principal building if it is located six (6) feet or less from the principal building. The exterior design and color shall be the same as that of the principal building or be of an earthen tone; the height shall not exceed the height of the principal structure unless more restrictive portions of this section prevail.~~

~~F. No accessory building in a commercial or industrial district shall exceed the height of the principal building.~~

~~G. No accessory buildings in apartment developments shall exceed the height of the principal building.~~

~~H. Accessory buildings in the commercial and industrial districts may be located to the rear of the principal building, subject to the Building Code and fire zone regulations.~~

~~I. No detached garages or other accessory buildings in residential districts shall be located nearer the front lot line than the principal building on that lot, except in AG, RR, and R-1 districts where detached garages may be permitted nearer the front lot line than the principal building by resolution and written approval by adjacent property owners to be submitted to the Zoning Administrator, and except in planned unit developments or cluster developments.~~

~~J. Accessory structures located on lake or stream frontage lots may be located between the public road and the principal structure provided that the physical conditions of the lot require such a location and a resolution is issued. In no event shall the structure be located closer than twenty (20) feet to the public right of way.~~

~~K. All accessory buildings over thirty five (35) square feet in area shall have a foundation, concrete slab or wind anchor. Buildings larger than one hundred (100) square feet shall require a building permit regardless of improvement value. Roof loads and wind loads shall conform to requirements as contained in the Building Code.~~

~~L. The required rear yard setbacks for detached residential garages, and storage, boat, and tool sheds shall be a distance equal to the required side yard setback for each zoning district, except on through lots when the required rear yard setback in each zoning district shall apply.~~

~~M. Performance standards for detached agricultural buildings and domesticated farm animal buildings on parcels of less than twenty (20) acres, shall include the following:~~

~~——— 1. Setbacks. All animal buildings, feedlots, and manure storage sites shall be set back as follows:~~

~~——— 2. Slopes. The building, feedlot, or manure storage shall not be placed on slopes which exceed thirteen percent (13%).~~

~~——— 3. Evidence of the seasonally high ground water level or mottled soil (as established by eight and one half [8 1/2] foot borings) shall not be closer than six and one half (6 1/2) feet to the natural surface ground grade in any area within one hundred (100) feet of the proposed building and/or feedlot.~~

~~——— 4. No marsh or wetland (as established by the predominant wetland vegetation and/or soils) shall be utilized for placement of the proposed structure, feedlot, or grazing area.~~

~~Subd. 4 The Number of Accessory Buildings.~~

The number and size of accessory buildings permitted in each zoning district shall be as follows. No accessory building shall be constructed unless there is adequate room for the required secondary drainfield site.

Number of Accessory Buildings	
Agricultural	There shall be no limit on the size or number of accessory buildings so long as the parcel is a nominal forty (40) acres or more and buildings are agricultural buildings as defined in 300.13 Subd 3 (A) (5)
Agricultural (Non-conforming)	
— Up to ten (10) acres	Two buildings with a total area not to exceed one thousand (1,000) square feet
— Over 10, but less than a nominal 40 acres	Two buildings with a total area not to exceed two thousand (2,000) square feet
Rural Residential	
— Up to 10 Acres (Nominal)	One 2,000 square feet detached building in addition to an attached garage.
— 10 Acres to 15 Acres	One 2,500 square feet detached building in addition to an attached garage.
— 15 Acres to 20 Acres	One 3,000 square feet detached building in addition to an attached garage.
Residential - R1, RED and OP	
— 5,000 square feet to 1 Acre	A combined 1,200 square feet total for both attached and detached accessory structures or residential garage; the size of the footprint of the detached structure shall not exceed the size of the footprint of the primary structure.
— Over 1 Acres to 2 Acres	One 1,200 square feet detached residential garage or building in addition to an attached garage.
— 2 Acres or More	1,300 square feet detached residential garage or building in addition to an attached garage.

ACCESSORY BUILDINGS, USES AND EQUIPMENT

154.270 SINGLE FAMILY DETACHED USES.

(A) No accessory building, structure, or use shall be allowed within a front yard, except that an accessory use, building or structure may be allowed within a front yard which qualifies as an equivalent rear or side yard as defined by this Ordinance, provided it meets the minimum front yard setback specified for the principal building on the lot.

(B) Within the FRD and RSF Zoning Districts, an attached private garage not exceeding one thousand (1,000) square feet in gross floor area shall be considered an integral part of the principal building and such garages are exempt from the provisions of this section. Attached private garages in excess of 1,000 square feet of gross floor area are not permitted, except by conditional use permit.

(C) Except in the FRD Zoning District, a conditional use permit is required for construction of more than one (1) detached accessory building in excess of 120 square feet in gross floor area.

(D) In addition to other accessory buildings, one (1) building not to exceed one hundred twenty (120) square feet in gross floor area shall be permitted.

(E) No building permit shall be required for buildings containing one hundred twenty (120) square feet in gross floor area or less, however, such buildings shall comply with all applicable regulations set forth in this Ordinance.

154.271 ACCESSORY USES.

No accessory uses or equipment such as air conditioning cooling structures or condensers, swimming pools, and the like which generate noise may be located in a side yard except for side yards abutting streets where equipment is fully screened from view.

154.272 GARAGES WITH ALLEY ACCESS.

Private garages having direct access onto an alley shall be set back twenty (20) feet from the alley lot line. In cases where reasonable difficulty is encountered in meeting this requirement, the Zoning Administrator may approve deviations to the setback standard.

154.273 SIZE.

(A) In FRD and R-1 Zoning Districts, no accessory building, including a detached private garage for a single family dwelling, shall equal more than thirty (30) percent of the area of the rear yard or one thousand (1,000) square feet in gross floor area, whichever is less, except that in the FRD district, an accessory building may exceed one thousand (1,000) square feet in gross floor area upon issuance of a conditional use permit. Furthermore, the gross floor area of an accessory building shall not exceed the gross floor area of the principal building, except by conditional use permit.

(B) In R-2 Zoning Districts, the total gross floor area of a private garage for a single family detached dwelling shall not exceed one thousand (1,000) square feet in gross floor area or the gross floor area of the dwelling, whichever is less, except by conditional use permit.

(C) Except in the case of single family detached dwellings, accessory buildings for all other uses shall not exceed thirty (30) percent of the gross floor area of the principal buildings. In those cases where the standards are exceeded, a conditional use permit shall be required.

(D) The maximum height of accessory buildings and structures shall be prescribed in the applicable district, provided that the height of an accessory building or

structure shall not exceed the height of the principal structure, except as otherwise provided in this Ordinance.

154.274 SETBACKS.

Accessory buildings in the residential districts shall be set back from adjoining lots as prescribed in the applicable district. Accessory buildings in the non-residential districts shall be set back from adjoining lots as prescribed for the principal building on the lot.

154.275 TIME OF CONSTRUCTION.

No accessory building or structure shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory.

154.276 BUILDING MATERIALS.

(A) Except in the FRD Zoning District, all accessory buildings in excess of one hundred twenty (120) square feet shall be constructed with a design consistent with the general character of the principal structure on the lot.

(B) Accessory buildings constructed primarily of canvas, plastic fabric, or other similar non-permanent building materials shall be prohibited.

154.277 TRASH RECEPTACLES.

Except as otherwise provided, all buildings having exterior trash receptacles shall provide an enclosed area in conformance with the following:

(A) Exterior wall treatment shall be similar and/or complement the principal building.

(B) The enclosed trash receptacle area shall comply with the setback requirements of Section 21120.05 of this Ordinance.

(C) The trash enclosure shall be in an accessible location for servicing vehicles and shall not conflict with site circulation.

(D) The enclosed trash receptacle area shall be located in the rear or side yard.

(E) The trash receptacles shall be fully screened from view of adjacent properties and the public right-of-way.

(F) The design and construction of the trash enclosure shall be subject to the approval of the Zoning Administrator.

(G) Recycling space shall be provided as required by the Minnesota State Building Code.

(H) Noise emanating from trash collection activities shall be minimized so as not to constitute a nuisance as defined and regulated by Section 2010 of the City Code.

154.278 **CONDITIONAL USE PERMITS.**

Application for a conditional use permit under this section shall be regulated by Section 21015 of this Ordinance. Such a conditional use permit for an accessory structure may be granted provided that:

(A) There is a demonstrated need and potential for continued use for the structure for the purpose stated.

(B) In the case of residential uses, no commercial or home occupation activities are conducted on the property.

(C) The building has an evident reuse or function related to the principal use.

(D) The accessory building shall be maintained in a manner that is compatible with the adjacent residential uses and does not present a hazard to public health, safety and general welfare.

154.279 **DRIVE THROUGH BUSINESS**

Where allowed, drive through businesses shall comply with the following:

(A) The facility shall be located only on a site having direct access to a minor arterial street, collector or service road.

(B) All portions of the business with drive through facilities established after *****DATE*****, including but not limited to, the building in which they are located, service windows and stacking spaces, shall be located across an arterial or collector street from residentially zoned or guided property, or shall be set back at least three hundred (300) feet from residentially zoned or guided property.

(C) The facility's public address system shall not be audible from any adjacent residentially zoned or guided property and comply with Section 21105.10 of this Ordinance.

(D) Required Stacking Space.

(1) All Uses Except Pharmacy Uses. Businesses with one (1) drive through lane shall provide stacking space for at least ten (10) vehicles, and businesses with two (2) or more drive through lanes shall provide stacking space for at least six (6)

vehicles per lane, as measured from and including the last pick up station, window, or the like. Stacking spaces shall not interfere with parking spaces or traffic circulation.

(2) Pharmacy Uses. Pharmacies with one (1) drive through lane shall provide stacking space for at least five (5) vehicles, and pharmacies with two (2) or more drive through lanes shall provide stacking space for at least three (3) vehicles per lane, as measured from and including the last pick up station, window, or the like. Stacking spaces shall not interfere with parking spaces or traffic circulation.

(E) The applicant shall demonstrate that such use will not significantly lower the existing level of service on streets and intersections.

(F) Alcoholic beverages shall not be sold or served.

(G) All elements of the drive through service area, including but not limited to menu boards, order stations, teller windows, and vehicle lights from the stacking lanes, shall be screened from adjacent residentially zoned or guided property pursuant to Section 21130.03 of this Ordinance.