



City of Lake Elmo

3800 Laverne Avenue North
Lake Elmo, Minnesota 55042

(651) 777-5510 Fax: (651) 777-9615
www.lakeelmo.org

File

NOTICE OF MEETING

The City of Lake Elmo
Planning Commission will conduct a meeting on
WEDNESDAY, October 11, 2006, at 7:00 p.m.

AGENDA

1. Pledge of Allegiance
2. Agenda Approval
3. Public Hearing: Variances 10941 32nd Street North
4. Zoning Ordinance
5. Adjourn

Cancelled

*Note: Special Day
due to Monday holiday!
Kim*

**City of Lake Elmo
Planning Commission Meeting
Minutes of August 14, 2006**

Chairman Helwig called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m. COMMISSIONERS PRESENT: McGinnis, Van Zandt, Deziel, Ptacek, Fliflet, Armstrong, Lyzenga, Pelletier (7:03 p.m.). STAFF PRESENT: Planner Dillerud, Assistant Planner Matzek, and Recording Secretary Anez.

Agenda

M/S/P Ptacek/Deziel, to accept the Agenda as presented. 8:0.

Minutes

M/S/P Ptacek/Van Zandt, to accept the Minutes of July 10, 2006. 6:0:2, Abstain: McGinnis/Armstrong-Absent

M/S/P Ptacek/Armstrong, to accept the Minutes of July 24, 2006. 5:0:3, Abstain: McGinnis/Fliflet/Van Zandt-Absent.

M/S/P Ptacek/Deziel, to accept the Minutes of July 31, 2006. 7:02, Abstain: McGinnis/Van Zandt-Absent.

PUBLIC HEARING: Septic Variance for 8320 Hidden Bay Trail

The Planner explained the applicant's septic system is failing and when the system was installed in 1981, the drainfield was installed very close to the property line. The system designer suggests utilizing the area adjoining the existing drainfield due to the layout of the lot and the location of the current system. That brings the new system trenches within three feet of the property line and three feet of the garage slab. The neighbor adjacent to the proposed setback encroachment has no objection according to a letter submitted.

Staff recommended approval based on the following Findings:

1. The property can not be put to reasonable use without the granting of the variance requested. The property can not be put to any continued residential use without a properly functioning septic system. As a platted parcel with an existing home, residential use is a reasonable use of the property.
2. The variance requested does result from circumstances unique to this property related to the location of the existing septic system in 1980. There is no alternative location feasible for the system reconstruction and enlargement required to render the system fully functional.
3. Granting of the variance will not change the essential character of the neighborhood since all proposed improvements will be below grade.

The Planner said the previous system was designed for three bedrooms, and the new system is designed for four bedrooms. There are currently four bedrooms in the home.

Diane Swanson, Applicant

In response to questions about alternative sites for the septic system, the applicant said that the lot slope is not easy to see on the drawings. The garage is at the road level. They are downhill

Lake Elmo Planning Commission Meeting of August 14, 2006

from the neighbor so it decreases the likelihood of anything draining onto the neighbor's property. They became concerned about the septic system over time; the home was built in 1950's. The designer was recommended because he is noted for his ability to work on difficult properties. They want to make it environmentally friendly.

Richard Dana, JET Construction, General Contractor

Mr. Dana advised the Commission that the septic designer said that proposed drain field location was the only suitable location on the parcel. He informed the Commission that the grade is very steep from the street side to the lake side of the parcel which eliminates much of the site as a potential drain field site. Variances would be required on the west side of the property if the system was placed there as well, and that adjacent owner's home is even closer to the property line than the one on the east.

Several commissioners noted that the survey map indicates trees and bituminous walkway where trenches are proposed to be dug.

Mrs. Swanson said that the major trees will remain, and observed that the entire parcel was heavily wooded. Some tree removal would be necessary wherever the drain field would be constructed. She also noted that the neighbor's well on the west side is very close to the property line.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 7:38 P.M.

Nobody came forward to speak.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 7:39 p.m.

M/S/P Armstrong/Fliflet, To recommend approval of variances for septic drainfield setbacks at 8320 Hidden Bay Trail based on Findings and recommendations of the City Planner and plans staff dated August 9, 2006, based on the facts that the applicant is bringing the system up to Code, it is away from the lake and somewhat farther from the neighbor than the existing drainfield. 7:2, Nay-Deziel and Ptacek.

PUBLIC HEARING: Conditional Use Permit for Veterinary Clinic at 11051 Stillwater Boulevard

The Planner explained that the site is the former Harty Insurance Building on Highway 5. The applicants own Cedar Pet Clinic on Lake Elmo Avenue and have a 1997 Conditional Use Permit for that site. They now propose to relocate the clinic to this site.

The Planning Staff Report suggests proof of parking and only a portion of the parking be constructed.

Dr. John Baillie, Owner/Operator of Cedar Pet Clinic

Dr. Baillie said his business is growing and they need more space. The new location downtown is what attracts them to the site. They have had no complaints, and they are good neighbors. His clinic is 40 feet from nearest home now. Much of his practice is not dogs. They have been in Lake Elmo since 1997. They are willing to work with the proof of parking, and they find the recommendations of the Planner to be reasonable.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 7:53 P.M.

Harold Arndt, 11079 Stillwater Boulevard

Mr. Arndt said he lives next door to the Harty Building. He and his sister have been there 51 years. He stated that the clinic would devalue their property. He is worried about barking dogs, and kennels mean that animals would be barking day and night.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 7:55 P.M.

The Planner said there will be no outside kennels or runs as a condition of this permit.

The applicant said he would give the neighbor his home telephone number should there ever be a problem, he could phone any time day or night. Indoor kennels would be located toward the restaurant and away from Mr. Arndt's home.

M/S/P Ptacek/Van Zandt, to recommend granting a Conditional Use Permit for Veterinary Services and the Section 520 Site Plan for site modifications to Dr. John Baillie and Gary Harty at 11051 Stillwater Blvd. based on Findings and recommendation of the Planning Staff Report and plans staff dated August 9, 2006 and with six Conditions in the staff report. 9:0.

Zoning Ordinance

Planner Dillerud stated, after speaking with the city attorney, staff will not be allowed to handle any variances administratively, no matter how minor, due to Lake Elmo being a statutory city.

The City Planner advised the Commission that the Lighting Ordinance text provided at this time is largely lifted out of the City's existing ordinance. The Planner thinks there are some internal inconsistencies

Commissioner Pelletier reminded the Commission that the Lighting Ordinance is part of the Planning Commission Work Plan for 2006. That subject could be set aside for now and handled separately or tackled now as part of the new zoning ordinance preparation.

It was the consensus of the Commission to continue to include the exterior lighting standards in the new zoning ordinance but to address the content of those standards as a separate topic from the general review of new zoning ordinance content.

Assistant Planner Matzek said she will be deleting the concept of "Minor Variances" from the draft zoning ordinance based on a recent verbal opinion of the City Attorney that Statutory Cities cannot delegate zoning variances of any degree to administrative staff. She will print all sections addressed so far in clean versions for the commission at the next meeting.

The Assistant Planner described Site Plan Review is one of the 'orphan' regulatory processes that would be moved from the Building Code Chapter of the City Code to the new zoning ordinance. The proposed draft zoning ordinance addresses Site Plans as "Minor" (to be reviewed and approved administratively) and "Major" to be reviewed and approved by Commission/Council. The City Planner stated that his discussions with the City Attorney appear to support the minor/major approach to Site Plans. He also noted that this regulatory strategy provides a measure of efficiency for both the staff and the Commission/Council as well as a more expedient review timeline for the applicants.

The Assistant Planner noted that the proposed text says surrounding property owners 200 feet from the subject property will be notified. She advised the Commission that no such notification is now required for Site Plan reviews by the current City Code. She asked the Commission whether such notification should be added as in the draft; and, if so, should the distance of notification be 200 feet or some other number.

The City Planner observed that Site Plans are only applicable for commercial and multi-family uses and do not require public hearings. He advised that Site Plans often are coupled with variances or other applications that do require a public hearing, for which notice is required in any case. He suggested that notice may not be necessary for simple Site Plans since there is virtually nothing discretionary in the review process anyway.

M/S/P Armstrong/Helwig, to delete notice provisions for Site Plans from the ordinance draft.. 9:0.

The Assistant Planner directed the Commission's attention to the draft ordinance language that requires a majority vote of the Council to approve Site Plans. She asked whether it would be more appropriate for this provision to be a majority vote of Council Members present. She suggested that, otherwise, the voting provision as drafted amounted to a "super majority" requirement when other than a full Council compliment is present – not usual practice with Site Plan approvals.

Councilmember Johnson recommended a majority of councilmembers present is generally sufficient for passage of a Site Plan.

M/S/P Armstrong/Deziel, to strike 154.174.B.9 in its entirety, eliminating the requirement of approval of Site plans by a majority vote of the entire City Council. 9:0.

Commissioners questioned the applicability of using Plymouth and Oak Park Heights codes as templates in writing the Zoning Code – particularly since Plymouth is a Charter City operating under somewhat different governing rules than Lake Elmo.

Commissioner Armstrong explained that at this point of the ordinance drafting the Commission is mostly dealing with regulatory process and structure in accordance with state statutes applicable to all cities. Therefore there is no need to be concerned with what template is used.

The City Planner added that the primary determinant as to the template ordinances to be used was how contemporary the ordinances were as to drafting date.

M/S/P Armstrong/Deziel, to replace 154.171 (A) "with the exception of nurseries, greenhouses, landscape gardening and tree farms." with the text "with the exception of those uses requiring a conditional use permit." 9:0

As suggested by Commissioner Armstrong it was the consensus of the Commission to amend 154.211.D.1 to replace "No" with "A," replace "shall" with "may," replace "except in conformity with the regulations of this Chapter" with "provided a building permit has been applied for within 180 days of when the property is damaged Restoration shall conform to paragraphs 2 and 3 below." To ensure conformity with very recent amendments to the State zoning enabling statute.

City Council Update

The Planner said the Site Plan and Shoreland Variance for C & C North America removed from the August 2 Council agenda in order to allow the applicant more time for modification and approval by DNR of the landscaping plan to mitigate grading in the OHW setback.

Adjourned at 9:07 p.m.

Respectfully submitted,

Kimberly Anez
Recording Secretary

DRAFT

**City of Lake Elmo
Planning Commission Meeting
Minutes of August 28, 2006**

Chairman Helwig called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m.
COMMISSIONERS PRESENT: Roth, Schneider, Armstrong, Van Zandt, Lyzenga, Pelletier, Ptacek, Fliflet, Deziel (7:02 p.m.), and McGinnis (7:05 p.m.). STAFF PRESENT: Planner Dillerud, Assistant Planner Matzek, and Recording Secretary Anez.

Pledge of Allegiance

Agenda

M/S/P Armstrong/Van Zandt, to accept the Agenda as presented. Vote: 9:0.

Minutes

Minutes for August 14, 2006 were postponed.

PUBLIC HEARING: Variance for 2nd Accessory Building at 11459 60th Street North

The Planner explained that the application is to add an old barn on adjacent lands that used to be part of this homestead years ago. There is an existing house and pole building on the homestead parcel to which the old barn would be added.. Adding the land with the barn cannot be done without the variance to allow a second accessory structure. Granting the variance would eliminate one non-conformity, an accessory structure (the old barn) on a parcel without a primary structure. The Planner recommended that if the Commission recommends approval, that the approval be conditioned upon a lot line adjustment or minor subdivision action to place the old barn on the homestead parcel.

Richard and Eileen Bergmann, Applicants

Mr. Bergmann said the barn is currently used for cattle and hay. Water and electricity serve the barn from the house. The previous owner told him that the barn was placed outside the home parcel in case someone wanted to convert the barn to a home.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 7:15 PM.

Nobody came forward to speak.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 7:16 PM.

Commissioners asked if future Highway 36 upgrades would impact this parcel. The Planner said that there will be an adjustment for the driveway access to the homestead, moving the access to the homestead parcel west to serve this parcel and the adjoining parcel to the west.

M/S/P Deziel/Van Zandt, to recommend approval of the variance for a second accessory building at 11459 60th Street North based on the Findings and recommendations of the City Planner and subject to the condition that there be a lot line adjustment or minor subdivision approved as determined by the City Attorney. Vote: 9:0.

Zoning Ordinance

The Planner said there are several areas of Code not yet addressed and he asked the Commission how they wished to address them.

Home Occupations – The Commission chose to include the Code amendments they have recently recommended to City Council.

Adult Entertainment/Uses – Staff will bring back recent information from the League of MN Cities regarding the need to include zoning ordinance regulations for this use. The use may be simply prohibited under certain conditions prescribed by the 2006 Legislature. Those provisions may still be challenged as unconstitutional.

Outdoor Lighting – The Commission will address it as part of their Annual Work Plan. Include the existing Code language in the new Zoning Ordinance draft.

Signs - The Commission will address it as part of their Annual Work Plan. Include the existing Code language in the new Zoning Ordinance draft.

M/S/P Deziel/Roth, to incorporate Home Occupations as recently recommended to the City Council; to include Signs and Lighting as they exist in the current Code, and await more information on Adult Uses. Vote: 9:0.

Commissioner Armstrong- Page C1 of clean copy, Exceptions under A at the bottom. There was a longer list of uses. Ag Uses, except those uses that require a CUP.

Page C14, Back, Purpose, in the middle of the page, allowing non-conforming uses.

M/S/P Armstrong/Roth to strike the last two sentences beginning, "...it is necessary and consistent on Page C14, and on Page C15 in the middle, C 1A, non-conformity is "discounted" should say "discontinued". Vote: 9:0.

The Commissioners said in D2A, no home should be allowed without a Certificate of Occupancy.

B 1st paragraph, Continuity of Streets, remove "systems" and, leaving "standards employed by the City".

M/S/F Armstrong/Fliflet, to strike Item C under Grading and Drainage because it is superfluous. Vote: 2:7.

M/S/P Armstrong/Deziel, to strike Item D under Grading and Drainage because it is superfluous. Vote: 8:1, Nay-Ptacek.

After further discussion, the Commissioners decided that the drafting approach being taken with the new Zoning Ordinance needs to change. The Planning Commission would like to use the existing Code as a drafting basis, with staff pointing out deficiencies and offering proposals for new language. The standard should be using what is now in the Zoning Ordinance with suggestions for how it may be improved, and should be reformatted. The Commission expressed its desire to maintain current rights, possibly expand them, and seldom restrict them further. .

The Commission also discussed using different model ordinances - something other than Plymouth and Oak Park Heights. Northfield was suggested. It was suggested an ordinance that would reflect a rural contemporary city should be located.

The Planner said that organization is the number one problem with the existing Lake Elmo Zoning Ordinance and the number two problem is outdated standards that were written in response to particular circumstances that are many times long forgotten..

City Council Update

The Planner said that at the August 15 meeting, the City Council approved a variance for a drainfield setback encroachment ; CUP and site plan for a veterinary clinic; and shoreland variance and final plat for C & C North America with the condition that their exterior surfacing comply with the City Code. The Commission also adopted an interpretation regarding the allowable size of Accessory Buildings in non-conforming AG as recommended by the Commission and directed staff to process a text amendment to make that interpretation clear in the ordinance.

Having no further business before them, the Chairman adjourned the meeting at 8:37 p.m.

Respectfully submitted,

Kimberly Anez
Recording Secretary

MEMO

(October 6, 2006 for the Meeting of October 11, 2006)

To: Lake Elmo Planning Commission

From: Kelli Matzek, Assistant Planner

Subject: Martin; Variance; 10941 32nd Street

The Martin Variance application has become increasingly complex the further staff has delved into the application. This memo will briefly cover some of the issues found while reviewing the application.

Very Brief Background

Mr. Martin is currently proposing to tear down the existing home at 10941 32nd Street and build a new home in the same footprint as the existing home with an additional porch on a non-conforming lot in a non-conforming location.

Issues

While writing the staff report it was found that Mr. Martin owned the property at 10941 32nd Street and the adjacent parcel at 10929 32nd Street. Section 300.09 Subd. 2 of the Zoning Ordinance specifies that, where contiguous land parcels are owned by the same party (as is the case here), and one or more of those contiguous parcels is non-conforming as to width or area requirements of the respective zoning district (which both parcels are), the property owner is required to combine those contiguous parcels such that one or more parcels result that do meet the width and area requirements of the zoning district.

However, in speaking with the City Attorney, there is a recent State Statute (that seems to trump that City Code) which would allow Mr. Martin to rebuild the home on 10941 32nd Street if it did not include an expansion.

At the time this packet was mailed, staff is still in discussion with Mr. Martin regarding his choices as outlined below. At this time no action is needed due to the following options:

- Mr. Martin may choose to remove the porch thereby removing the expansion. According to the State Statute, he may then rebuild the home without a variance despite the lot and building non-conformities. The variance application would be retracted and no discussion would be needed.
- Mr. Martin may choose to proceed with the porch (expansion) in which case the Contiguous Parcels section of City Code would apply. He would still need the already publicly noticed variances. However, Mr. Martin would also need a variance from Section 300.09 Subd. 2 (the Contiguous Parcels) section of code, which was not noticed. His application would need to be delayed to a later Planning Commission meeting in order to comply with public notification requirements. No action would be taken at this time.

At this time, please read through the staff report, which is written under the assumption that the variance process would continue. At the Planning Commission meeting we will hopefully have more answers and a decision by the applicant.

**LAKE ELMO PLANNING COMMISSION
STAFF REPORT**

Date: October 6, 2006 for the Meeting of October 11, 2006

Applicant: Dan Martin

Location: 10941 32nd Street North

Requested Action: Zoning Ordinance Variances for OHW Setback, Side Yard Setback and Home Construction on a Parcel Substandard by Area

Land Use Plan Guiding: NC (Neighborhood Conservation)

Existing Zoning: R-1 (Subject to Shoreland Overlay District)

Site History and Existing Conditions:

Review of City records regarding this parcel of approximately 18,000 square feet reveal a permit for installation of City water service in 1974 and connection to the 32nd Street 201 wastewater system in the late 1980's. The existing 1.5 story house of 1118 square and garage of 300 square feet were constructed in 1940, and apparently neither structure has been improved to the extent that building permits would be required for many years – if ever. There appears to have been a deck on the lake side of the house that has been removed.

It is apparent that this parcel has been reconfigured from the original Lot 14, Lake Elmo Park via land transactions following the original platting in the early 1900's. Not only have those land transactions resulted in a substantially substandard lot area, but also a very narrow parcel (60 feet of width over much of the lot depth).

The site is sloping from 32nd Street North to Lake Elmo with approximately 15 feet of drop.

The City denied a variance application in 2005 to tear down the existing home and build a new, larger home. The 2005 property owners applied for three variances: setback from OHW of Lake Elmo, insufficient lot size, and side yard setback. The proposed new home foundation was to be increased to 1,824 square feet in addition to adding two decks. After applying, the applicant had requested the application be tabled. Because this would not comply with the required 60 day rule and the City had not received a sufficient, formal request for an extension, the Planning Commission and City Council denied the application.

Discussion and Analysis:

The applicant is proposing demolition of the existing house and construction of a new similar sized (footprint and height) house utilizing the existing footprint and adding a porch. In utilizing the existing foundation, the new house would retain the west side yard setback of the existing house at 8 feet, and therefore not comply with the R-1 minimum setback of 10 feet. The house would continue to be located approximately 85 feet from the Lake Elmo OHW of 885.6 where the Shoreland Overlay District standards require 100 feet.

As noted, the existing home is served by the City's 32nd Street 201 wastewater system as a one bedroom user. The City Engineer reported in 2002 that capacity remains in the 32nd Street system. As of that date, and including the bedrooms added to the system responsive to the 2002 inquiry, it

appears that a maximum of 6 bedrooms of capacity remained in the system based on what the City was aware of regarding the homes then connected. The new house plan for the site suggests one bedroom plus an “office”. Although the “office” does not have a closet shown on the floor plan, the size of the room allows a reasonable assumption that this could function as a bedroom – if not by the applicants, some future owner. Since the City has no method to control the future use of the “office” it must be considered a 2nd bedroom for the purposes of wastewater generation.

The proposed new house would add a net 1 bedroom to the 32nd Street 201 system bringing the system to within 5 bedrooms of maximum capacity. It appears that 2 homes on the lake side of 32nd Street North and as many as 6 homes on the north side of the 32nd Street North with potential access to the 201 system are not served by that system at this time.

Of the 6 homes now on the 32nd Street 201 system, two (including the existing house on this parcel) are 1 bedroom, four are 2 bedroom, and one is 3 bedroom according to the City Engineer’s Memo of 2002.

Comments were received on October 4th from the Valley Branch Watershed.

- The existing basement elevation appears to be 2.1 feet below the established 100-year flood level of Lake Elmo. VBWD rules require that the minimum floors (basements) of new structures be at least two feet above the 100-year flood level. Therefore, the basement would need to be raised to no lower than 893.0.
- Temporary erosion controls should be installed prior to any earthwork.
- A permanent buffer strip at least 35-feet wide, measured perpendicular to the OHW level and extending 35 feet inland, should be established.

Comments were received on September 26th from the DNR. Consideration of the DNR comments is required.

- Adjoining lots are setback at about the same distance from the OHWL and the impervious surface coverage appears to be within the 25 percent requirement. “Therefore, the request appears reasonable for a pre-existing lot/home.” (sic)
- The city may want to require additional woody vegetation planted along the lake side of the property to improve screening.
- This would be an opportunity to improve any drainage problems that may be on the site.

While writing the report, a Warranty Deed (June 16, 2006) was found in the street file of 10941 32nd Street identifying Mr. Martin as the owner of that property. The Washington County Property Information website identifies Mr. Martin as owning both that property and the adjacent property at 10929 32nd Street. This issue was not identified previously due to our utilization of Washington County GIS records, which are evidently a few months behind.

Section 300.09 Subd. 2 of the Zoning Ordinance specifies that, where contiguous land parcels are owned by the same party (as is the case here it now appears), and one or more of those contiguous parcels is non-conforming as to width or area requirements of the respective zoning district (which both parcels are), the property owner is required to combine those contiguous parcels such that one or more parcels result that do meet the width and area requirements of the zoning district. As such, the homestead parcel must be combined with the adjacent parcel in such a manner as to make the homestead parcel at least 24,000 square feet in area and 125 feet in lot width.

The City Attorney has informed staff of a recent State Statute (462.357 Subd. 1e) which says that a nonconformity may be rebuilt unless the non-conformity is expanded. This Statute would seemingly override Section 300.09 Subd. 2.

Though the applicant is rebuilding upon the same foundation, he has added a front porch (an expansion), which would then remove the "protection" of the State Statute and the City Code regulation regarding contiguous parcels would once again come into play. Therefore, a variance would be needed from Section 300.09 Subd. 2.

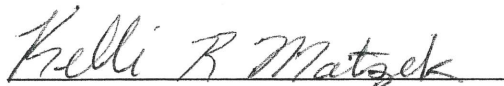
Presumably, Mr. Martin will not be permitted to record with Washington County any conveyance of the homestead parcel to any other party unless the provisions of City Code Section 300.09 Subd. 2 are complied with. Of course, vehicles of sale such as unrecorded contracts for deed can defeat this ordinance.

Findings and Recommendations:

Based on the intention of the applicant to build a porch onto the house and it's interpretation as an expansion, the project would not longer be "protected" under the State Statute. Therefore, an additional variance would be needed. In order to comply with notification requirements, this application must be tabled until the public notification is administered.

Planning Commission Actions Requested:

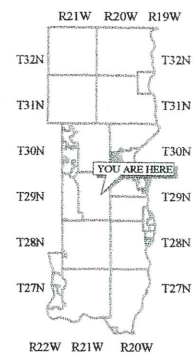
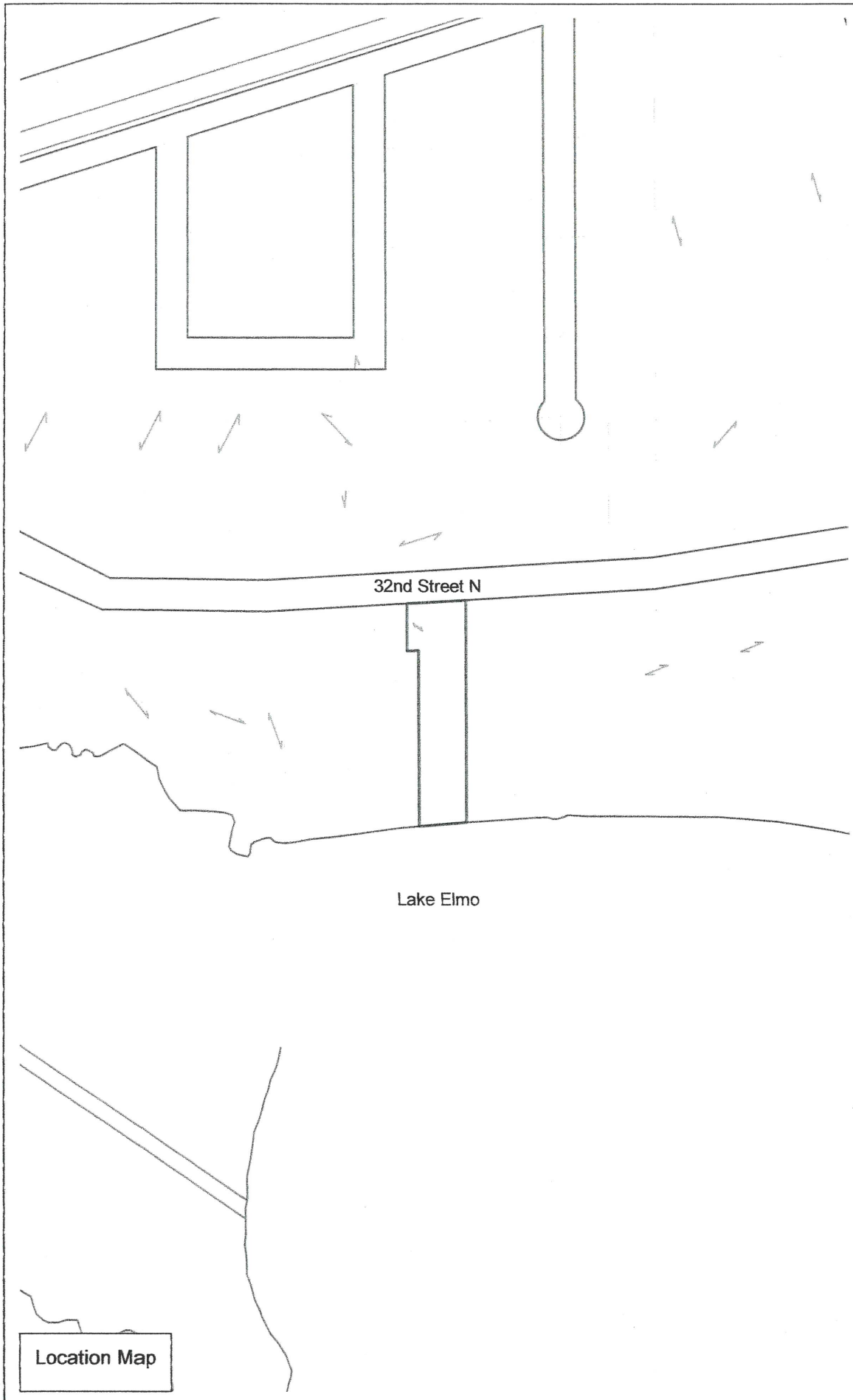
It is requested the Planning Commission open the public hearing and continue the hearing until the October 23rd Planning Commission meeting. It is important to keep in mind the 60-day rule, which would require a recommendation by the Planning Commission at that meeting.



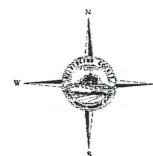
Kelli R. Matzek, Assistant Planner

Attachments:

1. Location Map
2. Section 300.09 Excerpt
3. Minnesota Statutes 462.357 Subd. 1e.



Vicinity Map



0 180
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 (501) 430-6875

Parcel data based on AS400 information

Any one (1) acre lot which was of record before October 16, 1979 may be used for single family detached dwelling purposes regardless of ownership of adjacent parcels, provided the lot meets all other requirements of this section.

Subd. 2 Contiguous Parcels.

If, in a group of two or more contiguous lots or parcels of land owned or controlled by the same person, any individual lot or parcel does not meet the full width or area requirements of this section, the individual lot or parcel cannot be considered as a separate parcel of land for purposes of sale or development, but must be combined with adjacent lots or parcels under the same ownership so that the combination will equal one or more parcels of land each meeting the full lot width and area requirements of this section.

Subd. 3 Subdivision of Lots.

Any lot or parcel of land subdivided by any means after the effective date of this section for purposes of erecting a structure, must be approved as required by the subdivision ordinance.

Subd. 4 Lake and Stream Frontage Lots.

All lots having frontage on a lake or stream shall be subject to the provisions of the Shoreland Management Ordinance as well as the regulations provided by this chapter. All lots on unclassified bodies of water in the shoreland management ordinance shall meet the minimum setback requirements for a General Development Lake, except as provided in the Shoreland Management Section.

Subd. 5 Lots in the Flood Plain.

All lots in a designated flood plain shall be subject to the Flood Plain Ordinance as well as the regulations provided by this chapter.

Subd. 6 Reduction of Required Yard or Lot Size Prohibited.

No yard or lot shall be reduced in area or dimension so as to make it less than the minimum required by this section, and if the existing yard or lot is less than the minimum required, it shall not be further reduced. No required yard or lot currently used for a building or dwelling group shall be used to satisfy minimum lot area requirements for any other building.

Subd. 7 Sloping On Erodible Building Sites.

On sites with slopes of greater than twenty-five percent (25%) or on easily erodible soils as defined on the community soils maps and compiled by the County Soils Conservation Agent, no structure shall be constructed.

Subd. 8 Minimum Area Requirements for Lots Without Public Sanitary Sewer.

In areas without public sanitary sewer, but where public sanitary sewer is proposed in the City's capital improvement program, single and two family homes shall demonstrate suitable soil conditions for adequate on-site sewage treatment area.

In areas without public sanitary sewer where public sanitary sewer is not proposed in the City Capital Improvement Program or Comprehensive Plan, single and two family homes shall demonstrate suitable soil conditions for a minimum on-site sewage treatment area of one (1) acre per dwelling unit.

Subd. 1e. **Nonconformities.** (a) Any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:

(1) the nonconformity or occupancy is discontinued for a period of more than one year; or

(2) any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its market value, and no building permit has been applied for within 180 days of when the property is damaged. In this case, a municipality may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property.

(b) Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. A municipality may, by ordinance, permit an expansion or impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety. This subdivision does not prohibit a municipality from enforcing an ordinance that applies to adults-only bookstores, adults-only theaters, or similar adults-only businesses, as defined by ordinance.

(c) Notwithstanding paragraph (a), a municipality shall regulate the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in floodplain areas to the extent necessary to maintain eligibility in the National Flood Insurance Program and not increase flood damage potential or increase the degree of obstruction to flood flows in the floodway.

MEMO

(October 6, 2006 for the Meeting of October 11, 2006)

To: Lake Elmo Planning Commission

From: Kelli Matzek, Assistant Planner

Subject: Zoning Code Rewrite

We will be discussing the following topics:

- Fencing, Screening, Landscaping (again)
- Off-Street Parking and Loading (again)
- Driveways

I will bring the proposed code for the following items to the meeting:

- Building Relocation
- Day Care Nursery Facilities
- Essential Services
- Model Homes/Temporary Real Estate Offices
- Animals

Tree Preservation Ordinance

I have attached the Oak Park Heights tree preservation code for your review. The City Forester has worked with the City of Oak Park Heights in developing Tree Preservation Ordinances and the City has used their code often.

City Forester comments: "Enforcement, particularly re: keeping protective fencing in place during construction, is key to having these work. I think it is definitely needed in Lake Elmo but the ordinance needs to be planned out and worded carefully with realistic penalties/replacements for taking out trees. What we most want to do is to encourage good PLANNING of developments, taking into account topography and high quality woodlands, because it is at the early stages of development that a community can be most effective in saving trees and other natural features."

I have utilized the legislative formatting suggested by the Planning Commission at a previous meeting. The regular text is the existing Lake Elmo Code. The bold text identifies from where the existing Lake Elmo code was pulled. The underlined text is proposed and the stricken text is removed. The proposed language I have pulled from other city codes (Oak Park Heights and Plymouth primarily).

Changes were made to correct generic spelling mistakes and the format was changed.

The next meeting will be held on **Wednesday, October 18th at 6:30 p.m.** At that time we will be discussing the following topics:

- Antennas
- Public Property/Right-of-Way

- Land Filling and Exc/Grading Operations
- Specialized Housing

Fencing, Screening, Landscaping

- 154.290 Fence Permits Required
- 154.291 Fence Height
- 154.292 Fence Materials
- 154.293 Fences in the Shoreland Overlay District
- 154.294 Temporary Fences
- 154.295 Agricultural Exemption
- 154.296 Fences as Screening and Security as Required by This Code.
- 154.297 Fences as Non-conforming/Hazardous Structures
- 154.298 Other Provisions of Code
- 154.299 General Landscaping and Maintenance
- 154.300 Required Fencing and Screening
- 154.301 Required Landscaping
- 154.302 Tree Preservation
- 154.303 Screening of Mechanical Equipment

Off-Street Parking and Loading

- 154.310 Purpose, Scope of Regulations
- 154.311 General Provisions
- 154.312 Off-Site Parking
- 154.313 Screening and Landscaping
- 154.314 Off-Street Parking Restrictions
- 154.315 Parking Area Design
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- 154.318 Maintenance
- 154.319 Number of Off-Street Parking Spaces Required
- 154.320 Space Reductions
- 154.321 Joint Facilities
- 154.322 Off-Street Loading Space, Design, and Maintenance
- 154.323 Off-Street Bicycle and Motorcycle Parking

Driveways

- 154.340 Purpose
- 154.341 Permit Requirements
- 154.342 Permit Fees
- 154.343 Application
- 154.344 Permit Revocation
- 154.345 General Requirements
- 154.346 Standards
- 154.347 Parking Areas

FENCING, SCREENING, LANDSCAPING (Taken from 1360 and 302 Fences)

154.290 FENCE PERMITS REQUIRED.

Except as noted herein, installation of all fences require a fence permit issued by the City of Lake Elmo.

(A) Said permit shall be applied for on such forms, include such documentation, and include such fees to the City for processing as may be prescribed from time-to-time by the City Council.

(B) Fences exempt from requiring an installation permit are limited to the following:

(1) Fences of any type installed for the sole purpose of the keeping of Domestic Farm Animals, as defined by Section 150 of the City Code, and regulated by Section 300.13, Subdivision 15E of the City Code. All such fences shall be removed by the property owner within 6 months of the termination of the keeping of Domestic Farm animals, unless an extension is specifically authorized by City Council action.

(2) Fences of any type installed by Municipal, County or State governments and Public Utilities for facility security or the delineation and/or protection of Public Rights-of-Way.

(D) Failure to obtain a City Fence Permit prior to the installation of any fence subject to this regulation shall result in an automatic double permit fee, in addition to any corrective measures to bring said fence into compliance with the standards for fences prescribed by the Lake Elmo Zoning Ordinance.

154.291 FENCE HEIGHT.

(A) Fence Height in Street Setbacks. No fence shall be constructed exceeding 42 inches in height measured from grade within any front, side, or rear street setback. Fences constructed within the prescribed street set back areas shall be at least 50% open to air and light. (See Figure 302.1)

(B) Fence Height in Interior Yards. No fence shall be constructed exceeding 72 inches in height measured from grade in interior yards; and, any portion of such fence above 42 inches measured from grade shall be open to light and air over 75% of the surface area. (See Figure 302.1).

(C) Fences on Double Front Lots. Lots with fronting improved public streets at both the rear yard and the front yard may apply the standards of Section 302.01 Subd. 2 for fences paralleling the rear yard upon the approval of a Conditional Use Permit. The terms of Section 305 Subd 4. shall apply to Conditional Use Permit applications.

(D) Grade Defined. The grade from which fence height measurements are calculated shall only be from either natural grade or grade modified responsive to a grading plan approved by the City; and, shall not include the height of berms or introduced increases in ground elevation that would raise the effective fence height over that which would be otherwise permitted by this Section, except that a combination of raised grade and fence that would exceed in sum the fence height permitted by this section may be specifically approved by the City Council as an element of a subdivision plat or commercial site plan approval establishing specific property grading and topography.

154.292 FENCE MATERIALS.

(A) Permitted Fence Materials. Permitted fence materials shall be limited to brick, stone, wood planks, split rail, wrought iron, and as regulated by Section 302.04. Vinyl or composite material fences shall also be permitted.

(B) Finished Face of Fence. That side of the fence considered to be the face (finished side as opposed to structural supports and frame) shall face abutting property and Public Streets.

(C) Chain Link or Cyclone Fences. Chain Link, and wire mesh fences are permitted to a maximum height of 72 inches measured from grade. No chain link, cyclone or wire mesh fence shall be permitted in any front, side, or rear setback. (See Figure 302.2)

154.293 FENCES IN THE SHORELAND OVERLAY DISTRICT.

~~No fence shall be permitted in the OHW setback of any parcel located in Shoreland, as defined by Section 150 of the City Code except where the principal structure is at least partially located within said OHW setback. Where the principal structure is at least partially located within the OHW setback, fences complying with the standards of Section 302.01, Subd 2 may be constructed within the side yard area of said principal structure, but not extending beyond the front and rear exterior walls of the principal structure. Decks, porches and landings of any type shall not be considered a part of the principal structure for the purpose of determining allowable fence.~~

A wall or fence or hedge not to exceed four (4) feet in height may occupy part of the lakeshore yard provided the wall or fence or hedge shall not extend closer than ten (10) feet to the ordinary high water line.

154.294 TEMPORARY FENCES.

(A) Defined. For the purposes of this ordinance Temporary Fences are those that are installed and removed on a seasonal basis, such as snow fences and garden fences. Temporary Fences shall be open to light and air over not less than 40% of the fence surface area.

(B) Duration and Limitation. No snow fence shall or posts therefore shall be installed prior to November 1, and must be removed prior to April 15.

(C) Height and Location. Temporary Fences shall comply with the fence and fence location standards of Section 302.01, except that snow fences shall be set back at least 50 feet from any south or east property line, or such additional distance as may be required to prevent the accumulation of snow on public streets or adjoining property, as determined by the Building Official.

154.295 AGRICULTURAL EXEMPTION.

Fences constructed on parcels in excess of 5 acres for the keeping of horses; and fences constructed on parcels in excess of 10 acres for the keeping of other livestock, as defined by Section 150 the City Code, are specifically exempted from the provisions of this section. Any such agricultural fencing shall be at least 75% open to air and light.

154.296 FENCES AS SCREENING AND SECURITY AS REQUIRED BY THIS CODE.

The Lake Elmo City Code and Zoning Ordinance include prescribed physical circumstances of a site where screening of uses, equipment, and outside storage is required. In those prescribed circumstances, fences not to exceed 72 inches in height measured from grade may be installed, subject to the following standards:

(A) Required fences for screening and security purposes in Agricultural and Residential zoning districts shall be set back from all property lines equal to the required structure set back of the zoning district in which they are located, except where residential zoned lots share a common property line with commercial uses or commercial zoning districts and only on the common property line between the residential and commercial parcels.

(B) The provisions of Section 302.01, Subd. 3 of this Chapter regarding fence height measurement from grade shall apply. No combination of earthen berm and fence may exceed the 72 inch maximum height for screening.

(C) Materials used for screening shall be limited to those specified by Section 302.02.

(D) No such screening shall be roofed or covered in any manner.

(E) The total area of any parcel enclosed by solid fencing shall not exceed the maximum allowable area for an accessory structure in the zoning district in which the parcel is located, less the sum of the area of any accessory structures located on the same tax parcel. The area enclosed by screen fencing shall maintain a ratio of width to length of no greater than 2:1. (See Section 300.13 Subd. 4).

(F) Outdoor Living Area Extensions. Solid fencing to a maximum height of 72 inches may be used to enclose outdoor extended living areas of a principal structure, subject to the following standards:

(1) The area enclosed by outdoor extended living area fencing shall not exceed an enclosed area of 500 square feet.

(2) Fence utilized to enclose an outdoor extended living area shall be extended to a point not more than 6 inches from the principal structure at one fence termination point.

(3) Fence utilized to enclose an outdoor extended living area shall not extend into side yard of a lot beyond the existing building line of the existing principal structure, nor shall such fences be located in any side or front street yard. (See Figure 302.3)

154.297 FENCES AS NON-CONFORMING/HAZARDOUS STRUCTURES.

Fences shall be considered to be structures for the purposes of applying the terms of the Non-conforming structure provisions of the Zoning Ordinance, and the Hazardous Structures provisions of City Code and State Statute.

154.298 OTHER PROVISIONS OF CODE.

To the extent that provisions of this Section may conflict with other provisions of the City Code regarding the regulation of fences and screening, the provisions of this Section only shall apply.

154.299 GENERAL LANDSCAPING AND MAINTENANCE (Taken from Sec. 1365 Landscaping)

(A) The landscaping required on an improved lot shall consist of a finish grade and a soil retention cover such as sod, seed and mulch, plantings, or as may be reasonably necessary to protect the soil and aesthetic values on the lot and adjacent property. ~~In all districts, all developed land shall have landscaping from the curb and gutter to the road right-of-way lines. Landscaping shall be provided and maintained on all required front and side yards in all developed districts except where pavement or crushed stone is used for walkways, driveways, or parking areas. All exposed ground areas, including street boulevards, and areas not devoted to off-street parking, drives, sidewalks, patios or other such improvements shall be landscaped within one (1) year following the date of building occupancy.~~ It shall be the responsibility of the owner to see that the landscaping is maintained in an attractive and well kept condition.

(B) ~~This landscaped yard~~ All landscaped areas shall be kept clear of all structures, exterior storage, and off-street parking unless otherwise authorized by this Chapter.

(C) Where landscaping is required as part of City approvals, any plant material which is diseased or dies shall be replaced with like kind of the original size if within two growing seasons of planting.

(D) Fences and/or plantings placed upon utility easements are subject to removal by the City or utility company if required for maintenance or improvement of the utility. In such case, costs for removal and replacement shall be the responsibility of the property owner. Trees on utility easements containing overhead wires shall not exceed fifteen (15) feet in height, and such trees shall be the property owner's responsibility to maintain.

(E) All open areas or any site, lot, tract, or parcel not otherwise improved shall be graded to provide adequate drainage and shall be landscaped.

(F) All lots, tracts, or parcels shall be properly maintained in accordance with their natural or existing character.

154.300 REQUIRED FENCING AND SCREENING (Taken from 1345 – Screening)

~~1345.02 Screening Defined.~~

~~Screening shall be defined as fences at least 5 feet high or earthen berms at least three feet high with compact evergreen or deciduous hedges which extend at least three feet beyond the object to be screened, or vegetative or landscaping materials sufficient to provide a complete screen to the same height, to block direct visual access. MOVE TO DEFINITIONS AND REWORD~~

(A) Residential Uses. Subd. 1 Screening.

(1) Screening shall be required in residential districts for any off-street parking area which contains more than four (4) parking spaces and is within thirty (30) feet of an adjoining residential lot.

(B) Multiple Family Uses

(1) Where any townhouse, manor home, manufactured home park or apartment dwelling structure abuts property zoned for less dense residential use, the higher density residential use shall provide screening along all off-street parking or formal outdoor recreational activity areas to mitigate possible adverse impacts. Housing of similar types and densities shall not be subject to special screening requirements for formal outdoor recreational activity areas.

(2) Along boundaries where parking or formal outdoor recreational activity areas exist, all the fencing and screening specifically required by this Chapter shall be subject to Section 21105.05 and shall consist of either a fence or a green belt planting strip as provided for below.

(a) A green belt planting strip shall consist of evergreen trees and/or deciduous trees and plants and shall be of sufficient width and density to provide an effective visual buffer. This planting strip shall be designed to provide complete visual screening to a minimum height of six (6) feet. Alternatively, earth mounding or berms may be used to achieve all or a portion of the required buffer. The screening plan including type of plantings and berming shall require the approval of the City, as part of the site plan review pursuant to Section 21045 of this Chapter.

(b) A required screening fence shall be constructed of material identified in Section 154.292 of this Code. Such fence shall provide a solid screening consistent with fencing height regulations. effect of six (6) feet in height. The design and materials used in constructing a required screening fence shall be subject to the approval of the City as part of the site plan review pursuant to Section 21045 of this Chapter. The City Council may also require plantings of shrubs or trees in association with required fencing.

(C) Non-Residential Uses. Subd. 2 Business, Industrial Screening

(1) Where any business or industrial non-residential use (structure, parking or storage) is adjacent to property zoned or developed for residential use, that business or industry non-residential use shall be screened provide screening along its the boundary of with the residential property. Screening shall also be provided where a business, parking lot, or industry non-residential use is across the street from a residential zone, but not on the side of a business or industry non-residential use considered to be the front (as determined by the Zoning Administrator). All the fencing and screening specifically required by this Chapter shall be subject to Section 21105.05 (Traffic Sight Visibility) and shall consist of either a fence or a green belt strip as provided for in Section 154.292, B.2a and B.2b.

1345.01, Subd. 5 Loading Docks.

(2) Loading docks shall be screened from all streets and adjacent property unless they are at the rear of the building which abuts another commercial use. The property owner may provide a 30 foot landscaped area between the dock and the property line where screening is not possible.

1345.01, Subd. 3 Exterior Storage

(D) All exterior storage shall be screened as required by Section 1340.02 of this Code except as provided by in Sec. # (Exterior Storage).

154.301 REQUIRED LANDSCAPING (Taken from 520 – Plan Review)

~~Except as hereinafter provided, every person, before commencing construction or alteration of a structure, shall submit to the Zoning Administrator the following documents and information:~~

~~(3) — Landscaping and screening plan.~~

(a) Complete landscaping, screening, and erosion control plans shall be prepared and signed by a professional landscape architect or professional site planner with educational training or work experience in land analysis and site plan preparation. These plans shall include:

1. Detailed natural land analysis, including vegetation, soil types, and slopes;
2. Man-made features (berms, fences, and the like);
3. Details of all proposed vegetative landscaping materials including: placement, Latin name/common name, caliper/height, and quantity;
4. Details of proposed non-vegetative landscaping materials; and
5. Planning and construction schedule for completion of landscaping and screening plans.

(b) The final landscaping and screening plan must be approved by the Council/engineer at the time of the site plan review.

(c) The plan for landscaping shall include ground cover, bushes, shrubbery, trees, sculpture, fountains, decorative walks, or other similar site design features or materials in a quantity having a minimum value in conformance with the following table:

<i>Project Value (Including building construction, site preparation, and site improvements)</i>	<i>Percentage of Total Project Value to Be Allocated to Landscaping</i>
Below \$1,000,000	2%
\$1,000,001 to \$2,000,000	1 and 3/4%
\$2,000,001 to \$3,000,000	1 and 1/2%
\$3,000,001 to \$4,000,000	1 and 1/4%
Over \$4,000,000	1%

(d) All landscaping must be guaranteed for 2 growing seasons, with a bond or security deposit.

(Taken from 400.08 Preliminary Plat. Subd. 6 Supplementary Information H.)

(A) Landscaping – Single Family Residential Uses. Prior to approval of a plat application, all above referenced uses shall be subject to mandatory landscape plan and specification requirements. Said landscape plan shall be developed and submitted when deemed necessary by the Planning Commission. All landscaping incorporated in said plan shall conform to the following standards and criteria:

(1) A vegetation preservation and protection plat that shows those trees proposed to be removed, those to remain, the types and locations of trees and other vegetation that are to be planted;

(a) Developer shall provide a landscape plan which shows how a subdivision will assume a rural character through the placement of ponding, berms, trees, and tree seedlings, shrubs, and shrub seedlings and native grasses;

(b) Developer shall plant a minimum of 6 trees, 1 inch caliper deciduous, or coniferous trees; 3 feet in height per acre unless a lot within the subdivision is determined by the Zoning Administrator to be naturally wooded which would, at a minimum, consist of the caliper and height of trees required by this chapter; and

(c) Developer shall provide spaced or clustered plantings of 1 and 1/2 inch caliper deciduous trees at a rate of 2 per 100 lineal feet on both sides of the street, between 0 feet and 5 feet to the inside of the right-of-way for rural sections and between 5 feet and 10 feet to the inside of right-of-way for urban sections. Four foot conifers may be substituted.

(B) Landscaping - Public, Semi-Public, Institutional, Multiple Family, Manufactured Home Park, Commercial, and Industrial Uses. Prior to approval of a building permit, all above referenced uses shall be subject to mandatory landscape plan and specification requirements. Said landscape plan shall be developed with an emphasis upon the boundary or perimeter of the proposed site at points adjoining other property and the immediate perimeter of the structure. All landscaping incorporated in said plan shall conform to the following standards and criteria:

(1) Landscape Design Elements. Elements of landscape design may include:

(a) Existing topographical and vegetative features.

(b) Berming.

(c) Plantings, including the required minimum number of overstory trees, understory trees, shrubs, flowers, and ground cover materials.

(2) Types and Species of New Trees.

(a) All tree species shall be indigenous to the appropriate hardiness zone and physical characteristics of the site, as specified by the City Forester.

(b) To the extent possible, native drought-resistant trees shall be utilized.

(c) All types and species of overstory and understory deciduous and coniferous trees and their cultivars shall be consistent with the City of Lake Elmo's Landscape Tree List, as provided by the City Forester.

(d) The complement of trees fulfilling the requirements of this section shall be not less than twenty-five (25) percent deciduous and not less than twenty-five (25) percent coniferous.

(3) Number of Trees. The minimum number of new overstory trees on any given site shall be as follows:

(a) Multiple Family Uses. Townhouse, manor home, manufactured home park and apartment dwelling structures shall require as a minimum: one (1) new tree per dwelling unit.

(b) Non-Residential Uses -- New Development. New non-residential developments or uses shall require at a minimum the greater of:

1. One (1) new tree per one thousand (1,000) square feet of gross building floor area; or

2. One (1) new tree per fifty (50) lineal feet of site perimeter.

(c) Non-Residential Uses -- Expansion to Existing Development. Expansion of existing non-residential developments or uses shall require at a minimum one (1) new tree per one thousand (1,000) square feet of expanded gross floor area.

(d) Overstory Trees. An equivalent of up to fifty (50) percent of the required number of overstory trees may be substituted with the use of overstory trees in combination with understory trees. In such case, not less than three (3) understory trees shall be provided for each one (1) required overstory tree substituted.

(4) Planting Size.

(a) Required trees shall be of the following minimum planting size:

1. Deciduous Trees. Two and one-half (2.5) inches in diameter as measured from six (6) inches above the ground.

2. Coniferous Trees. Six (6) feet in height.

(b) A minimum of fifteen (15) percent of the required minimum number of trees for multi-residential developments shall be long-lived deciduous trees, three and one-half (3.5) inches in diameter as measured six (6) inches off the ground.

(c) Evergreen shrubs used for screening purposes including those used in conjunction with berming shall be a minimum of thirty-six (36) inches in height.

(5) Spacing.

(a) Plant material centers shall not be located closer than three (3) feet from the fence line or property line and shall not be planted to conflict with public plantings or public right-of-way based on the judgment of the Zoning Administrator.

(b) Where plant materials are planted in two (2) or more rows, plantings shall be staggered in rows unless otherwise approved by the Zoning Administrator.

(c) The spacing of trees shall be appropriate to the type of tree species provided. Where massing of plants or screening is intended, large deciduous shrubs shall not be planted more than four (4) feet on center, and/or evergreen shrubs shall not be planted more than three (3) feet on center, unless otherwise approved by the City Forester.

(6) Sodding and Ground Cover. All areas not otherwise improved in accordance with approved site plans shall be sodded. Exceptions to this criteria may be recommended by the Planning Commission and approved by the City Council as follows:

(a) Seeding may be provided in lieu of sod in any of the following cases:

1. Where the seed is applied to future expansion areas as shown on approved plans.

2. Where the seed is applied adjacent to natural areas or wetlands.

3. Where the seed is applied to low maintenance areas along side principal arterials which are defined by the Comprehensive Plan.

(b) Undisturbed areas containing existing viable natural vegetation which can be maintained free of foreign and noxious plant materials.

(c) Areas designated as open space or future expansion areas properly planted and maintained with prairie grass.

(d) Use of mulch materials such as bark and wood chips in support of shrubs and foundation plantings.

(e) For single family residential properties, portions of rear yards which lie beyond twenty-five (25) feet of the lot's principal building may be seeded, except in cases where the rear yard abuts a public street. Where a rear yard abuts a public street, that portion of the rear yard within 25 feet of the lot line shall be sodded. Proper erosion control measures shall be implemented and maintained until vegetation is established.

(7) Slopes and Berms.

(a) Final slope grades steeper than the ratio of three to one (3:1) shall not be permitted without special approval treatment such as ground cover, terracing or retaining walls.

(b) Berming used to provide required effective screening of parking lots and other open areas shall have a maximum slope ratio of three to one (3:1).

(8) Planting Method. All trees shall be planted in a method, and pursuant to specifications, as prescribed by the City Forester. Complete landscaping, screening, and erosion control plans shall be prepared and signed by a professional landscape architect or ~~professional site planner~~ certified landscape designer with educational training or work experience in land analysis and site plan preparation.

(9) Landscape Guarantee. All landscaping must be guaranteed for two (2) growing seasons, with a bond or security deposit. All plants shall be alive and in satisfactory growth at the end of the guarantee period or be replaced.

(C) Landscaping - Open Space Preservation District.

(1) Boulevard Landscaping. Boulevard landscaping is required along all streets to consist of at least one (1) tree per every thirty (30) feet or placed in clusters at the same ratio. A landscape plan for the entire site is required and shall consist of at least ten (10) trees, 1.5 inch in caliper per building site. Flexibility may be given if the landscape plan compliments the placement of the buildings on the site. (Taken from 300.07 Subd. 7F)

(2) All permanently protected outlots will developed or restored with ecologically sustainable vegetation including trees, shrubs, and grasses. A plan for improvements will be designed and certified by a registered Landscape Architect, acceptable to the City. The developer shall implement a permanent maintenance program for all privately held open space.

(3) All new and existing roads within and immediately adjacent to OP developments will be sheltered with boulevard trees having a gross spacing one tree per 50 feet on each side. Trees may be clustered, but must maintain a minimum spacing of 75 feet. Boulevard trees must be maintained and replaced if diseased or dead, by developer, until all lots are sold."

(4) At least half the trees must meet current size requirements. If the current standard is 2 1/2", then the other half could be either 1 1/2" or 2" -- something for consideration.)

154.302 TREE PRESERVATION – See attached example.

A tree preservation plan shall be submitted in conjunction with any proposal that includes a subdivision application, in accordance with Chapter 5 of the City Code.

154.303 SCREENING OF MECHANICAL EQUIPMENT

All rooftop and ground mounted mechanical equipment of non-residential buildings shall comply with the following standards:

(A) All rooftop and ground mounted mechanical equipment shall be buffered so as to mitigate noise in compliance with Section 21105.10 of this Chapter.

~~1345.01, Subd. 4 Mechanical Apparatus on Roofs.~~

(B) All mechanical apparatus on roofs shall be screened. Screening shall be constructed of durable materials which are aesthetically compatible with the structure and which may be an integral part of the structure. Applicable requirements for access to the equipment shall be observed in the design and construction of the screening.

(C) Rooftop mechanical equipment less than three (3) feet in height shall be exempt from the screening requirements of Section 21130.05, Subd. 2. of this Chapter.

OFF-STREET PARKING AND LOADING

~~300.10 Permitted Encroachments on Required Yards – Off Street Parking Subd. 4~~

~~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.~~

154.310 PURPOSE, SCOPE OF REGULATIONS.

(Taken from 300.13, Subd. 8 Traffic Control – Taken from “Where To Put This” File)

~~A. The traffic generated by any use shall be controlled so as to prevent:~~

- ~~1. Congestion of the public streets,~~
- ~~2. Traffic hazards, and~~
- ~~3. Excessive traffic through residential areas, particularly truck traffic~~

~~— Internal traffic shall be so regulated as to ensure its safe and orderly flow. Traffic into and out of business and industrial areas shall in all cases be forward moving with no backing into street.~~

(A) The regulation of off-street parking spaces in these zoning regulations is intended to alleviate or prevent congestion of the public right-of-way and to promote the safety and general welfare of the public, by establishing minimum requirements for off-

street parking of motor vehicles in accordance with the intensity of utilization of the various parcels of land or structures.

~~300.13 Design and Performance Standards; Subd. 6 Off-Street Parking.~~

(B) Scope of Regulations. The off-street parking requirements of this Chapter shall apply within all zoning districts for uses and structures, except as hereinafter provided.

154.311 GENERAL PROVISIONS.

(A) Application.

(1) For the purposes of this Chapter, the off-street parking provisions of this section shall apply to all motorized vehicles including, but not limited to, passenger automobiles, trucks, vans, and motorcycles, unless otherwise specified herein.

(2) For the purpose of determining off-street parking and loading requirements, Business Districts include the GB General Business, LB Limited Business, and BP Business Park. Except where otherwise allowed by this Chapter, requirements for the PF Public and Quasi-Public District shall be the same as for Business Districts.

(B) Site Plans. All site plans submitted for a structure requiring parking spaces and/or loading facilities shall show or designate the parking and/or loading area(s), number of parking spaces, and type of surfacing, screening, drainage, curbing, sidewalks, and other improvements which may be required to be installed. Said plan shall be a part of the building permit for any such structure, and except for one and two family dwellings, no final certificate of occupancy shall be issued until all items shown on the plan for parking and loading facilities have been completed, unless an agreement supported by a financial security is provided for the completion of said plan. For lots of record established after # month, year, all site plans for single family homes must provide for location of a one (1) stall attached garage, whether or not construction is intended.

(C) Change in Land Use. When the site intensity or use of a building and/or property is increased with consequential effect upon the parking requirements as prescribed in this section, the parking requirements as prescribed herein shall be used to provide for such increase in the site intensity and/or use.

(D) Reduction of Existing Off-Street Parking Spaces or Lot Area. Existing Off-street parking spaces and loading spaces or lot area devoted to parking or loading space existing on the date of the adoption of this Code shall not be reduced in number or size unless the number or size exceeds the requirements set forth in this section for a similar new use.

(E) Handicap Parking. Handicapped parking spaces shall be provided as applicable pursuant to Minnesota Statutes 168.021, as may be amended.

(F) Fire access lanes shall be provided as required by the building or fire code.

154.312 OFF-SITE PARKING

~~300.13 Subd. 6A.6 Control of Off-Street Parking Facilities.~~ When required accessory off-street parking facilities are provided elsewhere than on the lot in which the principal use served is located, they shall be in the same ownership or control, either by deed or long-term lease, as the property occupied by the principal use, and the owner of the principal use shall file a recordable document with the County requiring the owner and owner's heirs and assigns to maintain the required number of off-street parking spaces during the existence of the principal use.

When parking is provided on a site other than the lot or tract upon which a principal use is located, said parking area shall be in the ownership of and remain in the possession of the owner of the principal use for which it is designated. Off-site parking facilities may only be allowed by conditional use permit and shall be subject to the following conditions:

(A) Ordinance Compliance. Off-site parking shall be developed and maintained in compliance with all requirements and standards of this Chapter.

(B) Access. Reasonable access from off-street parking facilities to the use being serviced shall be provided as determined by the Zoning Administrator.

(C) Proximity to Multiple Family Dwelling. The furthest space of an off-site parking lot for multiple family dwellings shall not be located more than three hundred (300) feet (excluding public rights-of-way) from any normally used entrance of the principal use serviced.

(B) Spaces accessory to uses located in a business or industrial district shall be within eight hundred (800) feet of a main entrance to the principal building served.

(D) Proximity for Non-Residential Uses. The furthest space of an off-site parking lot for non-residential uses shall not be located more than three hundred (300) feet (excluding public rights-of-way) from the main entrance of the principal use being served.

154.313 SCREENING AND LANDSCAPING

~~300.13. Subd. 5, B.5. Curbing and Landscaping.~~ All open off-street parking area designed to have head-in parking along the property line shall provide a bumper curb not less than five (5) feet from the side property line.

~~300.13. Subd. 5, B.7. Screening.~~ See Section 1345 of this Code.

300.13. Subd. 6. Planting Requirements with Parking and Vehicular Use Areas.

For surface parking areas of more than fifteen (15) vehicles, all parking areas and all zoning districts shall include the following minimum requirements in order to provide interior landscaping within vehicular parking areas, to break up the large expanses of pavement, to provide relief from reflected glare and heat, and to guide vehicular and pedestrian traffic.

a. Not less than ten percent (10%) of the interior of a parking lot shall be landscaped. The interior of a parking lot shall be calculated by multiplying the number of parking spaces up to three hundred ten (310) square feet. Plantings required along the perimeter of a parking lot shall not be considered as part of the interior parking requirement.

b. Landscaping and planting areas shall be reasonably dispersed throughout the parking lot.

c. The interior dimensions of any planting area or planting median shall be sufficient to protect the landscaping materials planted therein and to ensure proper growth. In no event shall any such area be less than five (5) feet in width. Vertical curbs or other such structures shall protect each area.

d. The primary landscaping materials used in parking lots shall be trees that provide shade or are capable of providing shade at maturity. Shrubbery, hedges and other planting materials shall be used to complement the tree landscaping, but shall not be the sole means of landscaping. Effective use of earth berms and existing topography is also encouraged as a component of the landscape plan.

e. In the instances where plant materials exist on a parking lot site prior to its development, such materials may be used if approved as meeting the requirements.

f. No landscaping, shrub, fence, wall or similar item shall be placed in entrance areas or in the intersections of a public right-of-way, which would obstruct the visibility of traffic.

300.13. Subd 7. G. Screening. See Section 1345 of this Code.

(Taken from 1345 – Screening) – already struck (A) *Screening.* Screening shall be required in residential districts for any off-street parking area which contains more than 4 parking spaces and is within 30 feet of an adjoining residential lot.

— (B) *Business, industrial screening.* Where any business or industrial use (structure, parking, or storage) is adjacent to property zoned or developed for residential use, that business or industry shall be screened along the boundary of the residential property. Screening shall also be provided where a business, parking lot, or industry is across the street from a residential zone, but not on the side of a business or industry considered to be the front.

(A) Off-Street Parking Areas.

(1) All exposed parking areas of five (5) or more required spaces shall be landscaped on all sides in compliance with Section 21130 of this Chapter.

(2) No landscaping or screening shall interfere with driver or pedestrian visibility for vehicles entering or exiting the premises.

(3) Such parking areas shall devote not less than three hundred (300) square feet of land to internal landscape islands (in addition to required traffic safety islands) for each three thousand (3,000) square feet of parking space after the first three thousand (3,000) square feet. Such islands shall be bounded by concrete curbing.

(4) Trees may be installed in approved traffic safety islands to delineate parking spaces from drive aisles and other areas.

(5) The land area devoted to internal landscape islands may be decreased in cases where the land area devoted to traffic islands meets or exceeds the above requirement.

(B) Off-Street Loading Areas.

(1) Loading areas established after # month, year shall be prohibited within three hundred (300) feet of residentially zoned or guided property unless completely screened by an intervening building. Loading areas not screened by an intervening building shall be screened from adjacent residentially zoned or guided property by the use of berms, fences, or walls to provide one hundred (100) percent opacity to a height of at least ten (10) feet. The height of the screening shall be measured from the grade of the loading areas. Landscaping and screening must also be in conformance with Section ### (154.322 C) of this Chapter.

154.314 OFF-STREET PARKING RESTRICTIONS

(Taken from Design and Maintenance of Off-Street Parking Area C. Truck Parking in Residential Areas.)

(A) No motor vehicle over one (1) ton capacity bearing a commercial license and no commercially licensed trailer shall be parked or stored in a residential district except when loading, unloading, or rendering a service.

(Taken from 300.13. Subd. 6.4. Use of Parking Facilities.)

(B) Off-street parking facilities accessory to residential use shall be utilized solely for the parking of passenger automobiles and/or one (1) truck not to exceed nine thousand (9,000) pounds gross capacity for each dwelling unit. Under no circumstances shall required parking facilities accessory to residential structures be used for the storage of commercial vehicles or for the parking of automobiles belonging to employees, owners, tenants, or customers of nearby business or manufacturing establishments. Trucks with a gross vehicle weight rating (GVWR) or greater than thirty (30) feet in length as well as contracting or excavating equipment, storage trailers, and mobile storage compartments shall not be parked, stored or otherwise located on any property within the City unless being used in conjunction with a temporary service including, but not limited to, an allowed construction or remodeling project benefiting the premises.

~~7. **Use of Parking Area.** Required off-street parking space in any district shall not be utilized for open storage of goods or for the storage of vehicles which are inoperable, for sale, or for rent.~~

8. (C) In residential districts, no more than twenty-five percent (25%) of the required yard area shall be surfaced or utilized for driveway or vehicle storage space.

(Taken from Design and Maintenance of Off-Street Parking Area D. Parking in Residential Areas.)

(D) Off-street and on-street parking shall be limited to the use of the residents and their guests, except for short-term parking (six hours or less).

154.315 PARKING AREA DESIGN.

(A) Construction.

(1) In the AG, RR, and FSD Districts parking areas and driveways located within front yards shall be surfaced with asphalt, concrete, class 5 gravel, or other surfacing material.

(2) In the districts not specified in A.1. above, all exposed parking areas and driveways shall be surfaced with asphalt, concrete, or an equivalent surfacing material (including porous pavement options).

(3) Except as may be required or exempted by the City Engineer, drive aisles and parking stalls shall be constructed in accordance with the following minimum tonnage standards:

(a) Drive aisles - seven (7) ton.

(b) Parking stalls - five (5) ton.

(B) Striping and Curbing. All parking areas where four (4) or more spaces are required shall be marked by durable painted stripes designating the parking spaces. A continuous curb and gutter shall be provided around the periphery of the paved parking area of the lot, including drives. Exceptions to the above requirement may be approved by the Zoning Administrator.

(C) Setbacks.

(1) Front, side and rear setback requirements for off-street parking areas shall be consistent with the applicable provisions of Section 21135.07, Subd. 5.e.

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

11. (3) No parking space shall be closer than five (5) feet to any building.

(D) Calculating Space.

(1) Floor Area. The term "floor area" for the purpose of calculating the number of off-street parking spaces required shall be determined on the basis of the exterior floor area dimensions of the buildings, structure or use times the number of floors, minus ten (10) percent except as may be hereinafter modified, and where a gross floor area calculation is specified.

2. Calculating Space. When the calculation of the number of all off-street parking spaces required results in a fraction, the fraction shall require a full space.

(2) Computation. When determining the number of off-street parking spaces, any fraction of a number shall constitute an additional space.

(3) Benches in Places of Public Assembly. In stadiums, sport arenas, churches, and other places of public assembly, in which patrons or spectators occupy benches, pews or other similar seating facilities, each ~~twenty-two (22)~~ eighteen (18) inches of seating facilities shall be counted as one (1) seat for the purpose of determining requirements for off-street parking facilities under this section.

(4) Snow Storage in Parking Stalls. Provision shall be made in the parking area for adequate snow storage or removal in order to ensure that the required number of spaces are available at all times during the year.

(E) Design.

(1) Circulation. Traffic circulation systems shall be designed to accommodate anticipated traffic demands. Vehicular traffic generated by a use shall be channeled and controlled in a manner which will avoid congestion or interference with other vehicular transportation systems and pedestrians and which will avoid creating traffic hazards or excessive traffic. The adequacy of any proposed traffic circulation system to accomplish these objectives shall be determined by the City Engineer, which may require such additional measures for traffic control as it may deem necessary, including but not limited to the following: directional signage, channelization, standby turn lanes, sidewalks, illumination and other facilities within the site to prevent a backup of vehicles on public streets.

(2) Parking Space Size. All required off-street parking spaces shall comply with the minimum dimension requirements of Section 21135.07, Subd. 5.e of this Chapter.

(3) Pedestrian Provision. All off-street parking areas shall be designed with due regard to pedestrian circulation. Off-street parking areas shall be designed such

that vehicle and pedestrian circulation is accommodated in a safe, complementary, and orderly fashion.

(4) Compact Car Spaces. Up to twenty (20) percent of the parking spaces in a parking lot may be permanently marked for compact cars only, provided that:

(a) The parking lot contains forty (40) or more off-street parking spaces.

(b) All compact car spaces are a minimum of eight (8) feet in width and sixteen (16) feet in length.

(c) Signs and markings, as approved by the City, are placed and maintained for compact car spaces.

(d) All required off-street parking aisle widths are maintained.

(e) The compact car stalls not displace preferred handicap parking stall locations.

(f) The design, layout, and location of designated compact car spaces shall not encourage utilization by oversized vehicles and shall be subject to approval by the Zoning Administrator.

~~3. **Parking Spaces.** Each parking space shall not be less than ten (10) feet wide and twenty (20) feet in length exclusive of an adequately designed system of access drives. Parking lots that separate vehicles based on size may be designed with parking spaces less than or greater than ten (10) feet wide and twenty (20) feet in length depending upon the size of the vehicle as long as adequate space is provided for easy and safe ingress and egress for the vehicle. Proposed reductions in, or additions to, the parking space size must be submitted in a dimensioned site plan with size of vehicle to use parking spaces indicted to the Zoning Administrator for review and approval. Signs specifying the vehicle size to use the parking space may be required by the Zoning Administrator. Parking spaces for the handicapped shall not be less than twelve (12) feet wide and twenty (20) feet in length.~~

~~10. **Determination of Areas.** The parking space per vehicle shall not be less than three hundred (300) square feet, or an area equal to the width of the parking space multiplied by the length of the parking space plus eleven (11) square feet.~~

(5) Dimensional Requirements. Unless otherwise specified in this Chapter, stall, aisle and driveway design for required off-street parking shall comply with the following standards:

Dimension	Diagram	45°	60°	75°	90°
Stall width parallel to aisle*	A	12.7	10.4	9.3	9.0
Stall length of line	B	25.0	22.0	20.0	18.5

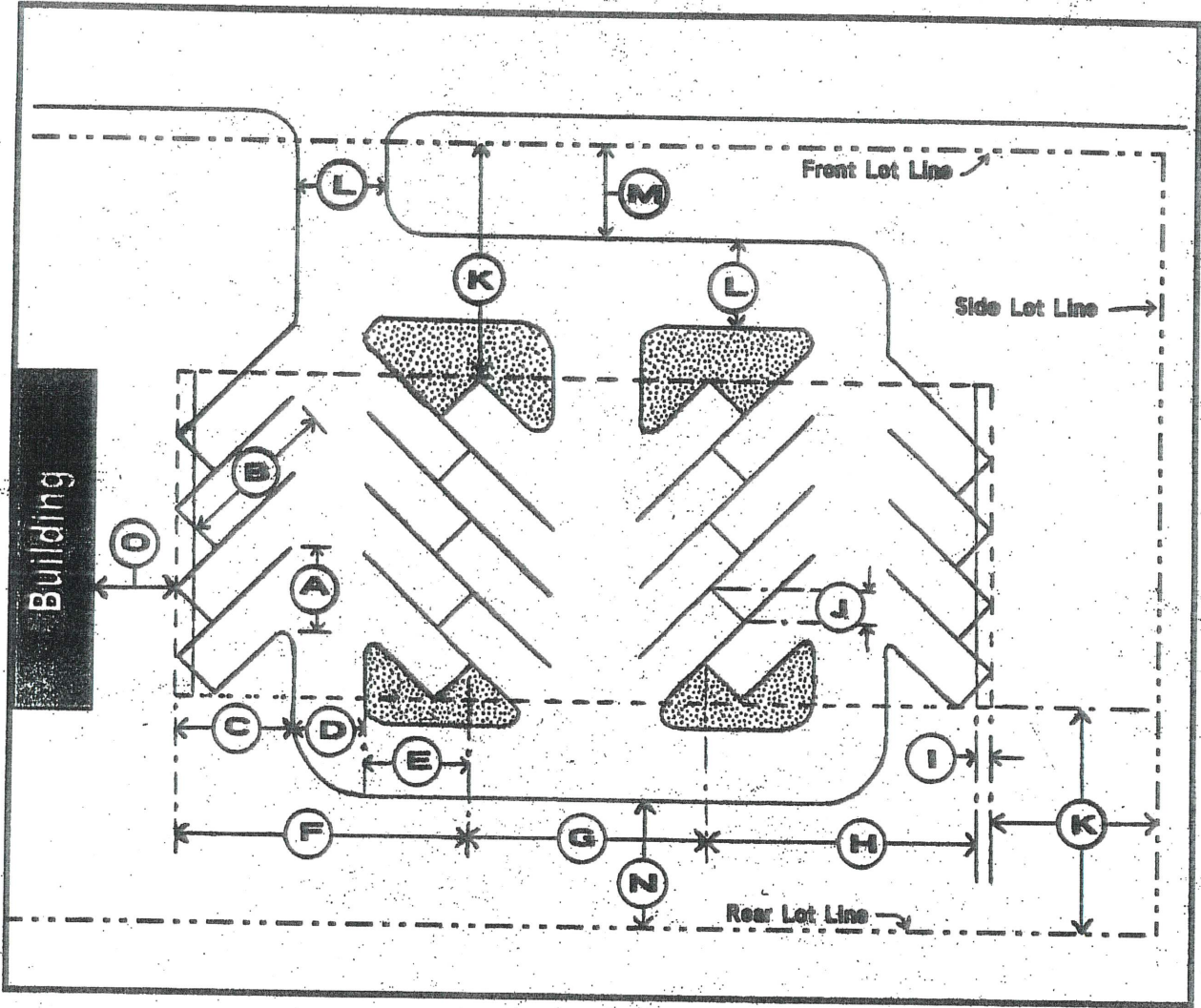
Stall depth	C	17.5	19.0	19.5	18.5
Aisle width between stall lines	D	12.0	16.0	23.0	26.0
Stall depth, interlock	E	15.3	17.5	18.8	18.5
Module, edge of pavement to interlock	F	44.8	52.5	61.3	63.0
Module, interlocking	G	42.6	51.0	61.0	63.0
Module, interlock to curb face	H	42.8	50.2	58.8	60.5
Bumper overhang (typical)	I	2.0	2.3	2.5	2.5
Offset	J	6.3	2.7	0.5	0.0
Front yard setback of parking to lot line	K**	AG, RR, R-2, NC, FSD, SRD 3.5, RE, VR Districts – Residence Uses (except 1 & 2 Family)			30
		AG, RR, R-2, NC, FSD, SRD 3.5, RE, VR Districts – Non Residential Uses			20
		GB, LB, BP, PF Districts			20
		Adult Correctional Facilities			200
Side and rear yard setback of parking to lot line	K**	AG, RR, R-2, NC, FSD, SRD 3.5, RE, VR Districts – Residence Uses (except 1 & 2 Family)			10
		VR, NC, SRD 3.5 Districts- 1 & 2 Family			3***
		AG, RR, R-2, NC, FSD, SRD 3.5, RE, VR Districts – Non Residential Uses			30
		GB, LB, BP, PF Districts			20
Cross aisle, one-way	L	14.0	14.0	14.0	14.0
Cross aisle, two-way	--	24.0	24.0	24.0	24.0
Front lot line to drive (landscape area) Side and rear lot line to drive	M	AG, RR, R-2, NC, FSD, SRD 3.5, RE, VR Districts – Residence Uses			10.0
		AG, RR, R-2, NC, FSD, SRD 3.5, RE, VR Districts – Non Residential Uses			30.0
		GB, LB, BP, PF Districts			10.0
	N	VR, NC, SRD 3.5 Districts - 1&2 Family Dwellings (landscape area)			3.0****
		AG, RR, R-2, NC, FSD, SRD 3.5, RE, VR Districts - Other Residential Uses			10
		AG, RR, R-2, NC, FSD, SRD 3.5, RE, VR Districts – Non Residential Uses			30.0
		Non-Residential Uses			15.0
Parallel parking, stall width	--	9.0			
Parallel parking, stall length	--	23.0			
Parking or drive aisle setback to principal structure	O	All Districts			10.0
Minimum inside turning radius for fire lanes	--	All Districts			45'

* Required handicap stalls and ramps shall be per State Code.

** Joint or combined parking facilities on separate lots as authorized and when constructed adjacent to a common lot line separating two (2) or more parking areas are not required to observe the parking area setback from such common lot line.

*** Except that parking shall not occur within any established drainage or utility easement – refer to Section 21135.08, Subd. 5.

**** Except that the setback for lots with frontage on cul-de-sac turnarounds may be less than 3 feet for that portion of the lot located within 15 feet of such cul-de-sac turnaround.



PARKING LOT DIAGRAM

(6) Parking Garages/Parking Within Structures. Required garage parking for structures containing three (3) or more dwelling units shall be provided underground, under principal structures or in a similar manner to avoid excessive site coverage. The off-street parking requirement may be furnished by providing fee free space so designed within the principal building or structures attached thereto; however, unless provisions are made, no building permit shall be issued to convert said parking structure into a dwelling unit or living area or other activity until other adequate provisions are made to comply with the required off-street parking provisions of this Chapter. In no case shall on-street parking be utilized to satisfy the required off-street parking supply.

(7) Parking Ramps.

(a) Parking ramps shall be set back from lot lines as required for the principal building on the lot, or as required for parking spaces specified by this section, whichever is greater.

(b) Off-street parking ramps shall be designed in compliance with the applicable dimensional requirements of Section 21135.07, Subd. 5.e.

~~9. Access.~~ All off-street parking spaces shall have access from driveways and not directly from the public street.

(8) Street Encroachments. Within non-residential and multi-family districts, parking areas shall be designed so that circulation between parking bays or aisles occurs within the designated parking lot upon the property being serviced and does not depend upon a public street or alley. Parking area design which requires backing into the public street is prohibited in non-residential and multi-family areas. Parking spaces in a public right-of-way shall not be utilized in meeting required off-street parking standards, except as may be provided in this Chapter.

(9) Curb Cut Proximity to Intersection. No curb cut or other driveway access shall be located less than forty (40) feet from the intersection of two (2) or more street rights-of-way. This distance shall be measured from the intersection of lot lines, not curb lines. The City Engineer may require a greater distance on collector and arterial streets and at signalized intersections to satisfy recognized traffic safety standards.

~~Design and Maintenance of Off-Street Parking Area 1. Parking Areas.~~ Parking areas shall be designed so as to provide adequate means of access to public alley or street. The driveway access widths shall be in accordance with the State of Minnesota Highway Department standards, but in no case shall they exceed thirty-two (32) feet in width. Driveway access shall be so located as to cause least interference with traffic movement. See also Section 1405 of this Code.

(10) Curb Cut Maximum. For single-family detached uses, curb cut access for driveways shall not exceed twenty-four (24) feet in width, except upon

approval by the Zoning Administrator. For all other uses, curb cut access for driveways shall not exceed thirty-six (36) feet in width.

(11) Curb Cut Spacing Minimum. Curb cut openings shall be located at a minimum of five (5) feet from the side yard lot line in residential districts and a minimum of ten (10) feet from the side lot line in all other districts.

(12) Curb Cut Separation. Driveway access curb openings on a public street except for single, two family, townhouse, and manor home dwellings shall not be located less than forty (40) feet from one another.

9. Surfacing and Drainage. Off-street parking areas shall be improved with a curable and dustless surface. The areas shall be so graded and drained as to dispose of all surface water accumulation within the parking area. Durable and dustless surface may include crushed rock and similar treatment for parking access to one (1), two (2), three (3), and four (4) unit residential structures; all other uses shall utilize asphalt or concrete. All surfacing must be completed prior to occupancy of the structure.

(13) Parking Area Grades. The grade elevation of the required parking area or portion thereof shall not exceed five (5) percent.

(14) Driveway Access Minimum. Each property other than single family uses shall be allowed one (1) driveway access for each one hundred twenty-five (125) feet of street frontage. All property with street frontage shall be entitled to at least one (1) driveway access. Single family uses shall be limited to one (1) driveway access per lot. except when the property exceeds the required street frontage per zoning district requirements, a second driveway access may be allowed by approval of the Zoning Administrator. Except as otherwise approved by the Zoning Administrator, single family uses shall not access arterial and major collector streets. In such cases, if a lot does not have frontage upon a local street and where driveway access to arterial and major collector streets is determined necessary by the Zoning Administrator, joint access through the use of shared curb cuts and access easements shall be utilized to the extent possible.

(15) Street Access. Except as allowed by a conditional use permit or property subdivision, each lot shall have frontage and access directly onto an abutting, improved and City accepted public street.

4. (16) Lighting. Any lighting used to illuminate an off-street parking area shall be so arranged so it is not directly visible from the adjoining property and in a downward vertical direction and be in compliance with Section ## of this Chapter.

(17) Signs. No sign shall be so located as to restrict the sight lines and orderly operation and traffic movement within any parking lot. 3. Signs. No signs shall be located in any parking area except as necessary for orderly operation of traffic

movement and the signs shall not be a part of the permitted advertising space. All signs shall be in conformance with Section 21155 of this Chapter.

~~(18) Cart Storage. Retail commercial uses exceeding fifty-five thousand (55,000) square feet in gross floor area may be required to provide ample space for the storage of customer service carts within off-street parking areas. The need and specific amount of required cart storage space shall be determined as part of site plan review. When required, cart storage areas shall not occupy required off-street parking space, shall be clearly delineated, and include facilities for cart confinement.~~

154.316 LOCATION—10. Location.

All accessory off-street parking facilities required by this subsection shall be located as follows:

~~(A) Spaces accessory to one and two family dwellings on the same lot as the principal use served;~~

(A) Required accessory off-street parking shall be on the same lot under the same ownership as the principal use being served, except as provided for under the provisions of Section 21135.04 and 21135.13;

~~(B) Spaces accessory to multiple family dwellings on the same lot as the principal use served and within two hundred (200) feet of the main entrance of the principal building served;~~

~~(B) Except for single family, two family, townhouse, and manor home dwellings, head-in parking, directly off of and adjacent to a public street, with each stall having its own direct access to the public street, shall be prohibited.~~

(C) Except for single family, two family, townhouse, and manor home dwellings, there shall be no off-street parking spaces within twenty (20) feet of any street right-of-way surface.

(D) No off-street parking area shall be located closer than ten (10) feet from an adjacent lot zoned or used for residential purposes, except when adjoining an existing parking area on the adjacent lot.

(E) The boulevard portion of the street right-of-way shall not be used for parking or parking lot circulation.

(F) In the case of single family, two family, townhouse, and manor home dwellings, parking shall be prohibited;

(1) Within three (3) feet of any side or rear lot line.

(2) Within any established drainage or utility easement, unless approved by the City Engineer.

(3) In any portion of the front yard except designated driveways leading directly into a garage or one (1) parking space located on the side of a driveway, away from the principal use.

(G) In the case of single family, two family, townhouse and manor home buildings, driveways providing access to garages may qualify as required off-street parking spaces if all of the following conditions are met:

(1) The driveway shall serve a dwelling unit which has use of a two-stall garage.

(2) The driveway shall be under the direct control of the dwelling unit served by the garage.

(3) The driveway shall measure at least 22 feet in length between the front of the garage and the street or roadway; and

(4) Parking on the driveway shall not impede pedestrian or traffic circulation or access to any other dwelling unit, nor shall it adversely effect the ability to provide public utilities or public safety.

154.317 PEDESTRIAN CIRCULATION

A pedestrian circulation route shall be provided from all parking areas, and loading zones as may be applicable to the entrance of the building. Such circulation routes shall be surfaced with material such as asphalt, concrete, or equivalent material determined acceptable by the Zoning Administrator.

154.318 MAINTENANCE

8. Maintenance of Off-Street Parking Space. It shall be the joint responsibility of the operator and owner of the principal use or building (or lessee) to reasonably maintain the parking space, accessways, striping, landscaping, and required fences and to undertake snow removal.

154.319 NUMBER OF OFF-STREET PARKING SPACES REQUIRED

The following minimum number of off-street parking spaces shall be provided and maintained by ownership, easement, and/or lease for and during the life of the respective uses hereinafter set forth.

USE	NUMBER OF PARKING SPACES REQUIRED
Residential:	

Single Family Dwellings	Two (2) spaces.
Two Family Dwellings	Two (2) spaces per dwelling unit.
Town-Houses, Manor Homes	Two and one-half (2.5) fee free spaces for each dwelling unit, of which one (1) must be enclosed, plus one (1) guest parking space for every four (4) units.
Apartment Dwellings	Two and one-half (2.5) fee free spaces for each dwelling unit, of which one (1) must be enclosed.
Housing for Elderly	One and one-half (1.5) spaces for each dwelling unit.
Institutional/Educational/Cultural:	
Auditoriums, Theaters, Religious Institutions, Sports Arenas	One (1) space for each four (4) permanent seats based on the design capacity of the main assembly hall. Facilities as may be provided in conjunction with such buildings or uses shall be subject to additional requirements which are imposed by this Chapter.
Community Center, Physical Culture Studio, Libraries, Museums	One (1) space for each three hundred (300) square feet of floor area.
Nursing Homes, Rest Homes	One (1) space for each four (4) beds.
Private or Private Non-Profit Baseball Fields	One (1) space for each eight (8) seats of design capacity.
School, Elementary and Junior High (Public or Private)	Three (3) spaces for each classroom. This requirement may be reduced at the Zoning Administrator's discretion to reflect facility use and/or parking policy. Adequate space shall be allowed for the dropping off and/or picking up of students as determined by the Zoning Administrator.
School, High School (Public or Private)	One (1) space for each two (2) students based on the design capacity. This requirement may be reduced at the Zoning Administrator's discretion to reflect facility use and/or parking policy. Adequate space shall be allowed for the dropping off and/or picking up of students as determined by the Zoning Administrator.
Non-Residential:	
Animal Hospitals or Kennels	Five (5) spaces plus one (1) space for each five hundred (500) square feet of floor area over one thousand (1,000) square feet.
Automobile Washes:	Shall be determined by the type of automobile wash as listed below:
Automatic Drive Through Service	Five (5) spaces or one (1) per employee on maximum shift, whichever is greater.
Self-Service Car Wash	One (1) space per bay.

Motor Fuel Station Automobile Washes	One (1) space in addition to that required for the station.
Beauty or Barber Shops	Two (2) spaces for each beauty or barber chair.
Bowling Alleys	Five (5) spaces for each lane or alley, plus additional spaces as may be required herein for related uses contained within the principal structure.
Day Care Facilities	One (1) space for each employee, plus one (1) space for each six (6) children of licensed capacity.
Drive-In Convenience Food Establishment	One (1) space for each two and one-half (2.5) seats plus one (1) space for each fifteen (15) square feet of public service and counter area.
Furniture Sales	One (1) space for each four hundred (400) square feet of floor area for the first twenty-five thousand (25,000) square feet, plus one (1) space for each six hundred (600) square feet thereafter.
Manufacturing	One (1) space for each employee on the major shift or one (1) space for each three hundred fifty (350) square feet, whichever is greater, plus one (1) space for each company motor vehicle on the premises.
Medical, Chiropractic, or Dental Offices or Clinics	One (1) space for every two hundred (200) feet of floor area.
Motels, Hotels, Lodging or Boarding Houses	One (1) space per sleeping unit, plus one (1) space per day shift employee plus one (1) space for each forty (40) square feet devoted to meeting or banquet rooms.
Motor Fuel Stations	Four (4) spaces plus two (2) spaces for each service stall. Those facilities designed for sale of other items than strictly automobile products, parts or service shall be required to provide additional parking in compliance with other applicable sections of this Chapter.
Office Buildings and Professional Offices, Other Than Any Area for Doctors, Chiropractors, or Dentists; Banks without Drive Up Tellers, Public Administration Offices	One (1) space for each two hundred fifty (250) square feet of floor area.
Restaurants, Private Clubs, Lodges, Food Dispensing Establishments (Except Drive-In Restaurants)	One (1) space for each forty (40) square feet of floor area of dining and bar area and one (1) space for each eighty (80) square feet of kitchen area.
Retail Commercial Uses, Except as Prescribed Herein	One (1) space for each two hundred (200) square feet of floor area.

Retail Sales and Service Business with 50 Percent or More of Gross Floor Area Devoted to Storage, Warehouses, and/or Industry	Eight (8) spaces or one (1) space for each two hundred (200) square feet devoted to public sales or service plus one (1) space for each five hundred (500) square feet of storage area, whichever is greater.
Shopping Center	One (1) space for each two hundred (200) square feet of leasable floor area.
Truck Wash	Three (3) spaces plus one (1) space per bay.
Warehousing	One (1) space for each two (2) employees of the largest shift or one (1) space for each two thousand (2,000) square feet of floor area, whichever is greater.
Subd. 4. Non-Specified Uses:	
For uses not specifically listed above, off-street parking requirements shall be computed by the Zoning Administrator on the same basis as required for the most similar listed uses. In such cases, the Zoning Administrator shall also consult off-street parking reference materials including, but not limited to, manuals prepared by the American Planning Association, and Institute of Transportation Engineers.	

154.320 SPACE REDUCTIONS

~~E. **Off-Street Parking Spaces.** Off-street parking spaces shall not be reduced in number unless the number exceeds the requirements set forth in this subsection.~~

Subject to the review and processing of a conditional use permit as regulated by Section 21020 of this Chapter, the City may reduce the number of required off-street parking spaces when the use can demonstrate in documented form a demand which is less than required by this Chapter. In such situations, the City may require land to be reserved for parking development should the use or needs change.

154.321 JOINT FACILITIES

~~5. **Joint Parking Facilities.** Off-street parking facilities for a combination of mixed buildings, structures, or uses may be provided collectively in any "district" (except residential districts) in which separate parking facilities for each separate building, structure, or use would be required, provided that the total number of spaces provided shall equal the sum of the separate requirements of each use during any peak hour parking period.~~

(A) Off-Site Joint Use of Parking. The City Council may, after receiving a report and recommendation from the Planning Commission, approve a conditional use permit for one (1) or more businesses to provide the required off-street parking facilities by joint use of one (1) or more sites where the total number of spaces provided are less than the sum of the total required for each business should they provide them separately. Such a permit shall not be granted except when the following conditions are found to exist:

(1) Entertainment Uses. Up to fifty (50) percent of the parking facilities required for a theater, bowling alley, or other commercial recreational facilities may be supplied by the off-street parking facilities provided by type of uses specified as primarily daytime uses in Section 21135.13, Subd. 1.d.

(2) Night Time or Sunday Uses. Up to fifty (50) percent of the off-street parking facilities required for any use specified under Section 21135.13, Subd. 1.d below, as primarily daytime uses may be supplied by the parking facilities provided by the following uses which typically have their major parking demand occurring during night time or weekends; auditoriums incidental to a public or parochial school, churches, bowling alleys, theaters, or apartments.

(3) Schools, Auditorium and Church Uses. Up to eighty (80) percent of the parking facilities required by this section for a church, or an auditorium incidental to a public or parochial school may be supplied by the off-street parking facilities provided by uses specified under Section 21135.13, Subd. 1.d, below as primarily daytime use.

(4) Daytime Uses. For the purpose of this section, the following uses are considered as primary daytime uses: banks, business offices, retail stores, personal service shops, household equipment or furniture shops, clothing or shoe repair, service shops, manufacturing, wholesale and similar uses.

(5) Additional Criteria for Joint Parking. In addition to the preceding requirements, the following conditions are required for joint parking usage:

(a) Proximity. The building or use which application is being made to utilize the off-street parking facilities provided by another building or use shall be located within three hundred (300) feet of such parking facilities, excluding public rights-of-way.

(b) Conflict in Hours. The applicant shall demonstrate in documented fashion that there is no substantial conflict in the principal operating hours of the two (2) buildings or uses for which joint use of off-street parking facilities is proposed.

(c) Written Consent and Agreement. A legally binding instrument, executed by the parties concerned, for joint use of off-street parking facilities, duly approved as to title of grantors or lessors, and in a form and manner of execution approved by the City Attorney, shall be filed with the City Clerk and recorded with the Washington County Recorder or Registrar of Titles, and a certified copy of the recorded document shall be filed with the City within sixty (60) days after approval of the joint parking use by the City or the interim use permit shall be considered null and void.

154.322 OFF-STREET LOADING SPACE, DESIGN AND MAINTENANCE

(A) Design.

Subd. 7 Off-Street Loading and Unloading Areas. B. Size. Unless otherwise specified in this section, a required loading berth shall not be less than twelve (12) feet in width, fifty (50) feet in length, and fourteen (14) feet in height, exclusive of aisle and maneuvering space.

(1) Dimensional Requirements.

(a) Residential Uses. Required off-street truck loading or unloading spaces for residential uses shall be at least twelve (12) feet in width and thirty-two (32) feet in length in accordance with the requirements of Section 21135.14, Subd. 2.b of this Chapter. Where a loading space parallel to a building is to be utilized, such area shall not be less than twelve (12) feet in width nor less than forty (40) feet in length. In no instance shall any designated side loading space encroach upon a fire lane or driving aisle or parking spaces.

(b) Non-Residential Uses. Required off-street truck loading or unloading spaces for non-residential uses shall be at least twelve (12) feet in width, fourteen (14) feet in height, and sixty (60) feet in length, in accordance with the requirements of Section 21135.14, Subd. 2.b. of this Chapter. Where a loading space parallel to a building is to be utilized, such area shall not be less than twelve (12) feet in width nor less than sixty-five (65) feet in length. In no instance shall any designated side loading space encroach upon a fire lane or driving aisle or parking spaces.

(c) Reductions. Reductions to loading space size may be granted by the Zoning Administrator upon demonstration of facility need.

(2) In addition to the required loading space, all loading spaces shall include a maneuvering area. The maneuvering area shall not use any of that portion of the site containing parking stalls or customer service areas. Maneuvering areas shall be of such size as to permit the backing of truck tractors and coupled trailers into the loading space, without blocking the use of other loading spaces, drives, parking spaces, or maneuvering areas on public right-of-way.

(3) The construction and setback standards listed in Section 21135.07, Subd. 1 and 3 shall apply to all loading spaces.

(4) Customer drop off spaces shall not constitute off-street loading spaces as may be required by Section 21135.07, Subd. 5.e. of this Chapter.

(B) Number of Loading Spaces Required. The number of required off-street loading spaces shall be as follows:

USE	REQUIRED NUMBER OF LOADING

	SPACES*
a. Residential Uses:	
1. Single Family and Two Family Dwellings	None
2. Multiple Family Dwellings -	
a. Less than 4 dwelling units	None
b. Four to 48 dwelling units	1 per building
c. For each additional 48 dwelling units over 48	1 per building
b. Non-Residential Uses:	
Gross Floor Area (Square Feet)	
Less than 10,000	1
10,001 to 20,000	2
20,001 to 50,000	3
50,001 to 75,000	4
75,001 to 100,000	5
For each additional 50,000 over 100,000	1

* Reductions to loading space quantity requirements may be granted by the Zoning Administrator upon determination of facility need.

(C) Landscaping and Screening of Loading Spaces. Loading spaces shall be screened from all property lines. Said screening shall be accomplished by a solid wall or fence and shall be so designed as to be architecturally harmonious with the principal structure and in conformance with Section 21130 of this Chapter. Screening plantings may be substituted, provided such plantings are in conformance with Section 21130 to this Chapter.

~~Subd. 7 Off-Street Loading and Unloading Areas. A. Location. All required loading berths shall be off-street and shall be located on the same lot as the building or use to be served. A loading berth shall be located at least twenty-five (25) feet from a residential district, unless within a building. Loading berths shall not occupy the required front yard space.~~

(D) Location.

(1) Off-Street. All required loading spaces for a non-residential use shall be off-street and located on the same lot as the building or use to be served.

(2) Distance from Intersection. All loading space curb cuts shall be located at minimum fifty (50) feet from the intersection of two (2) or more street rights-of-way. This distance shall be measured from the property line.

(3) Pedestrians. Loading spaces shall not conflict with pedestrian movement.

(4) Visibility. Loading spaces shall not obstruct the view of the public right-of-way from off-street parking access.

(5) General Compliance. Loading spaces shall comply with all other requirements of this section.

~~Subd. 7 Off-Street Loading and Unloading Areas. C. Access. Each required loading berth shall be located with appropriate means of vehicular access to a street or public alley in a manner which will least interfere with traffic.~~

(6) Traffic Interference. Each loading space shall be located with appropriate means of vehicular access to a street or public alley in a manner which will cause the least interference with traffic.

~~Subd. 7 Off-Street Loading and Unloading Areas. E. Accessory Use. Any space allocated as a loading berth or maneuvering area so as to comply with the terms of this section shall not be used for the storage of goods, inoperable vehicles, or be included as part of the space requirements necessary to meet the off-street parking area.~~

(7) Accessory Use; Parking and Storage. Required loading spaces shall not be used for the storage of goods, inoperable vehicles or snow and shall not be included as part of the space requirements to meet off-street parking requirements.

(Taken from Subd. 7 Off-Street Loading and Unloading Areas. D. Surfacing)

(E) Surfacing. All loading berths and accessways shall be improved with a hard surface to control the dust and drainage before occupancy of the structure.

(Taken from Subd. 7 Off-Street Loading and Unloading Areas. F. Remodeled Structures or Uses.)

(F) Remodeled Structures or Uses. Any structure erected or substantially altered for a use which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles, shall provide off-street loading space as required for a new structure.

154.323 OFF-STREET BICYCLE AND MOTORCYCLE PARKING.

Provisions shall be made for the off-street parking of bicycles and motorcycles in all multiple family and non-residential developments and uses. Plans for such facilities shall be reviewed and evaluated on an individual project or use basis as part of site plan review provisions of Section 21045 of this Chapter.

~~154.324~~ DRIVE THROUGH BUSINESSES

In addition to the provisions of this Section, drive through businesses are also regulated by Section 21120.09 of this chapter.

DRIVEWAYS (Taken from Sec. 1405)

154.340 PURPOSE.

The purpose of §§ 93.20 *et seq.* is to control the location of driveways and curb cuts in order that traffic hazards be reduced, adequate street drainage be maintained, and that ingress and egress from properties shall not constitute a hazard or impair the health, safety, or general welfare of the residents of the city.

(1997 Code, § 1405.01)

154.341 PERMIT REQUIREMENTS.

No driveway shall be constructed in any location where motor vehicles will be provided with access to any public right-of-way without first obtaining a permit for the construction from the properly designated city employee, who shall require a grade to establish the driveway. Prior to the issuance of the permit, the provisions of §§ 93.20 *et seq.* shall be complied with.

(1997 Code, § 1405.02) Penalty, see § 10.99

154.342 APPLICATION.

Any person desiring the permit shall present written application to the city describing the project along with a site plan that indicates that the requirements of §§ 93.20 *et seq.* is met. For new residential developments, these site plans shall be reviewed by the City Building Inspector. In commercial districts, driveways shall be reviewed as part of the site plan review by the City Planner

(1997 Code, § 1405.03)

154.343 PERMIT FEES.

The permit fees shall be set, from time to time, by ordinance by the Council.

(1997 Code, § 1405.04)

154.344 PERMIT REVOCATION.

The permit issued may be revoked by the city at any time after its issuance for failure to comply with the conditions of the permit or the directions of the city relative to the work covered by the permit.

(1997 Code, § 1405.05)

154.345 GENERAL REQUIREMENTS.

(A) Licensed contractor. All work done within the right-of-way of the street shall be done by a regularly licensed contractor under the supervision of the proper city employee, who will see that all regulations are rigidly followed.

(B) Driveway surface. Whenever a driveway is constructed, all that portion of the boulevard designated as driveway shall be surfaced with a plant-mixed machine laid bituminous material conforming to standards approved by the City Engineer and in accordance with plans approved by the City Engineer. Concrete specifications approved by the City Engineer may also be used for driveway surfacing at the property owner's own risk. Should it subsequently become necessary to repair or replace the concrete surfacing in whole or in part, the owner, or owners, of property serviced by the concrete driveways shall pay all costs of the repairs or replacements.

(C) Scope. The requirements of §§ 93.20 *et seq.* apply to all new construction and to repairs and changes to old driveways which do not conform to present requirements.

(D) Notification of construction. The city is to be notified at least 24 hours in advance of the date the construction will start.

(E) Plot plan. Prior to the construction of a driveway, a plan must be submitted which indicates the location and specifications for driveways and curb cuts in accordance with §§ 93.20 *et seq.* The plot plan submitted shall be approved prior to the issuance of a permit for a driveway.

(1997 Code, § 1405.06) Penalty, see § 10.99

154.346 STANDARDS.

The following regulations shall apply to all driveways, curb cuts and aisles.

(A) Width. The width of driveways in any zoning district shall provide adequate egress and ingress to the site for the safety of residents, and provide access for emergency vehicles. The maximum width of driveways in residential districts is 22 feet, ~~except that in the Residential Estates (RE) Zoning District, the maximum width at a lot line shall be 12 feet and the maximum width at the public street shall be 18 feet.~~ The maximum width of driveways in commercial districts is 34 feet. Driveways shall be included on all site plans for new residential permits for review by the Building Official. In commercial districts, driveways shall be reviewed as part of the site plan review by the City Planner.

(Am. Ord. 97-18, passed 9-16-1997)

(B) Distance between driveways. The minimum distance between curbs of driveways at right-of-way line shall be 10 feet in any residential district. In all other districts, the minimum distance shall be 20 feet.

(C) Width of aisles. Any aisle in any parking lot in a zoning district other than a residential district shall be a minimum of 24 feet. Any aisle in a parking lot in any residential district serving a building containing 3 or more dwelling units shall also be a minimum of 24 feet.

(D) Distance from intersection. No driveway or curb cut shall be less than 20 feet from any right-of-way line of any street intersection, except that in retail, business, and industrial zoning districts, the minimum distance shall be 50 feet.

(E) Driveway angle. The minimum driveway angle from a 2-way access street shall be 90 degrees. The minimum driveway angle from a 1-way street shall be 30 degrees.

(F) Control of traffic.

(1) Where commercial land uses are adjacent to residential districts, ingress and egress from the commercial uses on streets leading to or through the residential districts shall not be permitted unless it can be demonstrated that adequate access to public right-of-way is thereby denied.

(2) In this manner, traffic shall be controlled to ensure that the location of driveways shall not constitute a hazard nor be injurious to adjacent residential uses.

(G) Access to thoroughfares. On properties having frontage on both thoroughfares and minor roads, access shall be provided via the minor road wherever feasible in order to reduce the number of curb cuts on thoroughfares.

(H) State and county highway requirements. The proposed driveway is to be constructed so that if it opens into any street designated as a state or county highway, all additional specifications of the appropriate highway departments will apply.

(I) Distance from driveways to side lot line. A driveway must be at least 5 feet from any side lot line, except that in the Residential Estates (RE) Zoning District, a driveway must be at least 10 feet from any side lot line.

(1997 Code, § 1405.07) Penalty, see § 10.99

154.347 PARKING AREAS.

The parking restrictions applicable to driveways are stated in the zoning code and §§ 150.001 *et seq.*

(1997 Code, § 1405.08)