

City of Lake Elmo

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Lake Elmo, Minnesota 55042

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NOTICE OF SPECIAL MEETING

The City of Lake Elmo
Planning Commission will conduct a meeting on
Monday, October 30, 2006, at 6:30 p.m.
in Council Chambers at City Hall.

AGENDA

Pledge of Allegiance

1. Agenda Approval
2. Zoning Ordinance
3. Adjourn

I.H. - GB - General Business.

*Distributed at P2 Meeting
but not discussed on
10/30/06. KAA*

1. Purpose

The purpose of the General Business District is to allow a broad range of retail and service commercial uses as Permitted or Conditional within areas of the City that are designated "C" (Commercial) on the Future Land Use Plan of the 2030 Lake Elmo Comprehensive Plan. The primary geographic location for GB District uses will be the area north and south of State Highway 5 (Stillwater Blvd.), between Lake Elmo Avenue north of State Highway 5 and 39th Street North as it intersects State Highway 5. This area is referred to by the Lake Elmo Comprehensive Plan as the "Old Village" and the "Village Area".

The inclusion of residential use as Conditional in the GB District is to accommodate the mixing of residential and non-residential uses - primarily with residential uses occupying the upper level(s) of structures with commercial ground floor uses.

1. Permitted Uses and Structures.

a. The Following Service/Office uses:

General Business	
Accounting	
Advertising	(Sign fabrication not a permitted use)
Alterations	
Apparel Cleaning pick-up Stations	
Apparel Repair and Alterations	
Architectural	
Art Gallery	
Auditing	
Bakeries	(with production of bakery goods limited to retail sales)
Barber Services	
Beauty Shops	
Bookkeeping	
Business and Management Consultant Offices	
Business Associations	
Cafes and Restaurants	(Limited to full table service operations)
Charitable	
Chiropractic	
Civic, Social and Fraternal Association Offices and Halls	
Collection and Adjustment Services	
Credit Reporting (Consumer and Mercantile)	
Dental	
Detective and Protective Agencies	
Duplication	
Educational	
Employment Agencies	

Engineering	
Finance	
Galleries	
Governmental Offices	
Insurance	
Investment	
Labor Unions	
Legal	
Libraries	
Mailing	
Medical	

General Business - Permitted Service/Office Uses (continued)	
Medical Services:	The compounding, dispensing or retail sale of drugs, prescription items, patient or proprietary medicine, sick room supplies, prosthetic devices or items relating to any of the foregoing when conducted in the building occupied primarily by medical, dental, osteopathic, chiropractic or optometric offices.
Optometric	
Osteopathic	
Photo Gallery	
Professional Membership Organizations	
Real Estate	
Religious	
Scientific Research	(excluding laboratory facilities)
Shore Repair	
Stenographic Service	
Welfare Offices	

b. The Following Retail Uses:

General Business
Antiques and Second Hand Merchandise
Apparel and Related Accessories
Automobile Repair and Services
Automobiles and Automobile Accessories
Bicycles
Books
Building Supplies
Cameras and Photographic Supplies
Cigars and Cigarettes
Drugs and Proprietary Items
Electrical Supplies
Flowers and Floral Accessories
Food and Grocery Products
Furniture
Gifts, Novelties and Souvenirs

Glass
Heating Equipment
Home Furnishings and Related Equipment
Jewelry
Liquors
Marine Craft and Accessories
Newspapers and Magazines

General Business (Permitted Retail Uses <i>con't</i>)	
Nursery and Garden Supplies	
Optical Goods	
Paint	
Pets	
Plumbing Equipment	
Sporting Goods	
Stationery	
Wallpaper	

c. The Following Repair/Service uses:

General Business	
Clock Repair	
Electrical Repair and Supplies	
Equipment Rental and Leasing	
Food Catering	
Furniture Repair	
Heating	
Household Appliances	
Jewelry Repair	
Landscaping	
Plumbing	
Radio	
Reupholstery	
Television	
Watch Repair	

d. The Following Office Uses: (excluding equipment storage).

General Business	
Air Conditioning Contractor	
Building Construction Contractor	
Carpentry Contractor	
Decorating Contractor	
Hearing Contractor	
Masonry Contractor	
Painting Contractor'	
Plastering Contractor	

Plumbing Contractor
Roofing Contractor
Sheet Metal Contractor

General Business (Permitted Office Uses <i>con't</i>)	
Stone Work Contractor	
Tile Setting Contractor	
Wallpaper Contractor	
Water Well Drilling Contractor	
Wood Flooring Contractor	

e. Uses Permitted by Conditional Use Permit: (Amended Ordinance 97-20 on 10-21-97)

General Business	
Bed and Breakfast Facility	15 Beds Maximum
Boarding Care Facility	15 Residents Maximum
Day Care Centers	40 Children Maximum
Kennels	
Nursing Care Facility	15 Residents Maximum
Open Sales Lots	
Manufacturing	Any industrial manufacturing operation in existence within the City at the effective date of this section, including manufacture of wood products and plastic products, may continue the use as a conforming use without a conditional use permit. Nothing in this provision shall otherwise be construed to require the City to authorize any manufacturing use in the general business zone after the effective date of this section.
<u>Sexually Oriented Uses</u>	<u>As Regulated by Section 154.610</u>
<u>Single Family and Multiple Family Residences</u>	
Veterinary Clinics	

f. General Requirements:

- i. All storage, services, repair or processing shall be conducted wholly within an enclosed building, or behind opaque fence or wall not less than six (6) feet high, except the outdoor display of merchandise.
- ii. Incineration of waste matter shall be conducted in approved equipment located within the building wherein the permitted use is conducted.
- iii. Where a proposed GB development abuts on RR, R 1, R 2, R 3, R 4, or RE district other than at a public street line, buffer provision shall be established. There shall be provided a protective strip of not less than thirty five (35) feet in width. The protective strip shall not be used for parking, off street loading or storage and shall be landscaped. The protective strip must be approved by the Council as being in harmony

iv. All lots must have at least one (1) acre of land suitable for septic drainfields and area sufficient for two (2) separate and distinct drainfield sites. Placement of the second required drainfield between the trenches of the first drainfield is prohibited.

v. Must meet all requirements of Section 700, Sewer Systems.

2. Accessory Uses.

a. Uses which are clearly incidental and subordinate to the allowed uses.

3. Minimum District Requirements

General Business	
Lot Size	1 1/2 Acre (except as required by Interstate Corridor Overlay District 300.07, Subd. 4(L))
Lot Width	150 Feet Minimum
Building Setback from property lines: <i>(Also see Section 300.11)</i>	
Front:	10 Feet Minimum
Side (Interior):	20 Feet Minimum
Side (Corner):	50 Feet Minimum
Rear	50 Feet Minimum
Building Height <i>(Also see Section 300.12)</i>	35 Feet Maximum
Maximum area to be covered by buildings, parking lots, driveways and other hard surfaces:	
<u>Lot Size</u>	<u>Covered Area</u>
Up to 4 acres	45% of lot size
Larger than 4 acres to 8 acres	35% of lot size
Larger than 8 acres	25% of lot size
Lot Configuration	Maximum lot depth to width dimension ratio shall be no more than 3:1
Off-Street Parking: <i>(Also See Section 300.13, Subd. 6. and Subd. 7.)</i>	
— Eating and Drinking Places	One (1) space for every two (2) seats and one (1) space for every two (2) employees on the average maximum shift
— Automobile Service Stations	Three (3) spaces for each enclosed bay plus one (1) space for each day shift employee plus a minimum of two (2) spaces for service vehicles and one (1) additional space for each service vehicle over two (2) in number

General Business
(Minimum District Requirements <i>con't</i>)

Retail Stores or Centers	Eleven (11) spaces for the first 1,000 square feet of gross floor area or fraction of floor area; eight (8) spaces for each 1,000 square feet of gross floor area in excess of 1,000 square feet, but not exceeding 15,000 square feet; six (6) spaces for each 1,000 square feet of gross floor area in excess of 15,000 square feet of gross floor area exceeding 30,000 square feet
Motels and Hotels	One (1) space for each unit plus one (1) space for each employee on any one shift
Medical and Dental Clinics	Four (4) spaces for each doctor or dentist, plus one (1) space for every employee or one (1) for each one hundred fifty (150) square feet of gross floor area, whichever requirement is greater.
Other Commercial Uses (excluding wholesale)	One (1) space for each two hundred (200) square feet of gross floor area.
Maximum Width of Driveways	See Section 1405.07
Signage	See Section 535
Septic Drainfield Regulation <i>(Also see Section 700)</i>	<p>All newly subdivided lots shall have a minimum of 20,000 sq. ft. of land to be dedicated for septic system use and suitable for that use. This land may comprise up to two separate areas each of which is contiguous to the 1.25 acre building site or contained within it and each of which contains at least 10,000 contiguous square feet.</p> <p>Placement of the second required drainfield between the trenches of the first drainfield is prohibited.</p>

4. Performance Standards:

a. Purpose and Intent

It is the purpose and intent of the City, by the adoption of the performance standards of this subdivision, to ensure commercial buildings constructed within the City are of a high quality of exterior appearance, consistent with the terms of Non-Residential Development Policy #5 of the 2000-2010 Lake Elmo Comprehensive Plan. It is the Finding of the City that a limited selection of primary exterior surfacing materials meets this standard of quality.

It is the further Finding of the City that several specific exterior surfacing materials are appropriate, and of sufficient quality, to be utilized only as accent materials in varying percentages. The variations of percentage of specific accent materials relates to a Finding by the City as to the relative quality and rural character of those respective accent materials.

b. Architectural and Site Plan Submittals

New building proposals shall include architectural and site plans prepared by registered architect and shall show the following as a minimum:

- i. Elevations of all sides of the buildings,
- ii. Type and color of exterior building materials,
- iii. Typical general floor plans,
- iv. Dimensions of all structures,
- v. Location of trash containers, heating, cooling and ventilation equipment and systems,

c. Applicability — Structure Additions and Renovation

Additions to existing structures resulting in an increase of gross floor area of the structure of less than 100%; and/or installation of replacement exterior surfacing any portion of an existing structure shall be exempt from the standards of this subdivision where it is found that the new or replacement exterior surfacing proposed is identical to that of the existing structure.

Where additions to an existing structure result in an increase in the gross floor area of the existing structure of 100% or greater, the entire structure (existing structure and structure addition) shall be subject to the standard of this subdivision.

d. Performance Standards — Primary Exterior Surfacing

The Primary Exterior Surfacing of structures shall be limited to natural brick, stone, or glass. Artificial or 4-inch brick or stone shall not qualify as complying with this performance standard.

Primary Exterior Surface shall be defined as not less than 70% of the sum of the area of all exterior walls of a structure nominally perpendicular to the ground. All parapet or mansard surfaces extending above the ceiling height of the structure shall be considered exterior surface for the purposes of this subdivision. Windows and glass doors shall be considered a primary surface, but the sum area of such glass shall be deducted from the wall area for purposes of the 70% Primary/30% Accent formulas of this section. Doors of any type or material, except glass, shall not be considered a primary exterior surface.

Each wall of the structure shall be calculated separately; and, individually comply with the 70/30 formula.

e. Performance Standard — Exterior Surfacing Accents

Not more than 30% of the exterior wall surfacing, as defined by paragraph D above may be of the following listed Accent Materials, but no single Accent Material, except natural wood, may comprise more than 20% of the total of all Accent Materials; and no combustible materials shall be used:

- i. ~~Wood Siding — Slow Deteriorating Wood~~
- ii. ~~Cement Fiber Board~~
- iii. ~~Standing Seam Metal~~
- iv. ~~Architectural Metal~~
- v. ~~Stucco~~
- vi. ~~Poured in Place Concrete (Excluding "tilt-up" panels)~~
- vii. ~~Architect Metal Panels or Sheets~~
- viii. ~~Porcelain or Ceramic Tile~~

f. Performance Standards — Accessory Structures

All accessory structures shall comply with the Exterior Surfacing requirements specified by this subdivision.

g. Performance Standard — HVAC Units and Exterior Appurtenances

All exterior equipment, HVAC and trash/recycling and dock areas shall be screened from view of the public with the primary exterior materials used on the principal structure.

h. Performance Standard — Visible Roofing Materials

Any roofing materials that are visible from ground level shall be standing seam metal fire treated cedar shakes, ceramic tile, clay tile, concrete or slate.

i. Applicability - New Construction

The standards of this subdivision shall be applicable to all structures and buildings constructed in the City, on and after the effective date of this subdivision. The performance standards of this subdivision shall not be in any manner minimized by subsequent Planned Unit Development Plans or Agreement.

b. Landscaping. All yard area shall either be landscaped green areas or open and left in a natural state. Yards to be landscaped shall be landscaped attractively with lawn, trees and shrubs in accordance with a plan prepared by a landscape architect. Areas left in a natural state shall be kept free of litter, debris and noxious weeds. Yards adjoining any residential zone shall contain a buffer area consisting of berming, landscaping and/or fencing for the purpose of screening noise, sight, sound and glare. A reasonable attempt shall be made to preserve as many existing trees as is practical and to incorporate them into the site plan. Where areas abut residential districts, a buffer area of a minimum depth of 100 feet will be required. The buffer area shall be completely defined and designed, and approved by the City prior to all final City inspections for construction on site. Prior to the issuance of a building permit or commencement of any improvements on site, the owner shall provide the City with a financial security for a minimum of 24 months, approved by the City Attorney, to assure construction of the buffer area. All landscaping shall comply with Section 520.01

*Distributed at P2 Meeting but
not discussed on 10/31/06.
KAA*

JK. LB - Limited Business District.

1. **Purpose.** ~~The purpose of the Limited Business district is to establish a Comprehensive Planned framework for development where municipal sanitary sewer does not exist. The City has determined that it is in the best interest of the City and the region to responsibly manage growth in this district. It is the intent of this district to promote a high quality of business design and development that produces a positive visual image and minimizes adverse impacts from traffic congestion, noise, odor, glare, and similar problems. Specific development goals within the district include the following:~~
 - a. To encourage a high quality development standard for structures within the district,
 - b. To protect the natural environment, in accordance with City ordinances,
 - c. To allow development to comply with the capacity of regional and local road systems,
 - d. To allow office and limited retail development within areas classified as either LB Future Sewer or LB Non-sewer as depicted by the Future Land Use Plan of the 2030 Lake Elmo Comprehensive Plan.
 - ~~d. To guide development by setting requirements for on-site sewer systems,~~
 - e. ~~To establish permitted, accessory and conditional uses in order to stimulate local economic prosperity along the interstate corridor and within the Metropolitan Rural Service Area while closely monitoring the magnitude of development so not to prematurely demand the expansion of local governmental services.~~

2. Permitted Uses.

Limited Business
Banks and similar Financial Institutions
Medical Clinics and Offices
Offices for Administrative, Executive, Professional and Management Functions
Schools: Business, Professional, Private Trade Schools

3. Conditional Uses.

Limited Business	
Art Sale and Gallery	20,000 Square Feet Maximum Floor Area
Bicycle Sales	20,000 Square Feet Maximum Floor Area
Boats and Fishing Equipment Sales and Service	20,000 Square Feet Maximum Floor Area
Business Services	Uses normally associated with Office Developments (photocopy and printing shops, travel agencies,) and containing limited retail activity. 20,000 Square Feet Maximum Floor Area
Furniture, Home Furnishings and Related Equipment	20,000 Square Feet Maximum Floor Area
Greenhouses and Nurseries	20,000 Square Feet Maximum Floor Area
Landscaping Services; flowers and floral accessories.	20,000 Square Feet Maximum Floor Area
Licensed Dependent Care Centers	20,000 Square Feet Maximum Floor Area
-	-
-	-
Limited Retail Uses clearly accessory to the permitted principal use of the land	- 20,000 Square Feet Maximum Floor Area
Medical, Dental and Research Laboratories	20,000 Square Feet Maximum Floor Area
Motorcycle Sales	20,000 Square Feet Maximum Floor Area
Pre- School Facilities	20,000 Square Feet Maximum Floor Area
Beauty Salons	20,000 Square Feet Maximum Floor Area
Skiing Equipment	20,000 Square Feet Maximum Floor Area
Snowmobile Sales and Service	20,000 Square Feet Maximum Floor Area
Sporting Goods	20,000 Square Feet Maximum Floor Area
Transmission Facilities for Teleconferencing	Are not free-standing and do not extend more than 20 feet above the building to which they are attached. 20,000 Square Feet Maximum Floor Area
Veterinary Clinics	No crematorium, outdoor kennels or storage. 20,000 Square Feet Maximum Floor Area
Vineyard and Winery Produce and Sales	20,000 Square Feet Maximum Floor Area
-	-

4. Accessory Uses.

Limited Business	
<p>Within the Limited Business District, the following are allowed provided they are subordinate to and associated with a permitted or conditional use:</p> <p>Satellite Dish Antennas to permit teleconferencing</p>	
<p>Note: Facilities for the operation of helicopters and STOL aircraft are expressly forbidden.</p>	

Landscape Buffers, Wildlife Areas, Internal Picnicking Areas, Walking/Jogging Trails	
Internal Privately Owned and Maintained Roads for off-street parking and loading areas, between building within a single platted lot	
Other Uses Customarily Associated with, and clearly incidental to a permitted use, as determined by the Council.	
Day Spas as Accessory to Beauty Salons	

5. Minimum District Requirements.

Limited Business	
Lot Area:	3.5 Acres
Minimum Lot Width:	300 Feet
Minimum Lot Depth:	400 Feet
Building Setback from Property Lines: <i>(Also see Section 300.11)</i>	
Front:	100 Feet
Side:	50 Feet
Side (street):	100 Feet
Rear:	50 Feet
Any line adjacent to a residential zone:	150 Feet
Parking Setback from Property Lines:	
Front:	50 Feet
Side:	50 Feet
Side (street):	50 Feet
Rear:	50 Feet
Any line adjacent to a residential zone:	100 Feet
Primary Building Height Maximum: <i>(Also see Section 300.12)</i>	35 Feet
Accessory Structures and Buildings	
Accessory Structures and Buildings Height <i>(Also see Section 300.12)</i>	
Off Street Parking <i>(Also see Section 300.13, Subd. 6.)</i>	See 300.07 K. 6. b.
Maximum Coverage by all structures:	25%

Limited Business – Minimum District Requirements (continued)	
Maximum area to be covered by buildings, parking lots, driveways and other hard surfaces:	40%
Minimum Building Floor Size:	4,000 square feet

Sewer Discharge (Also see Section 700)	No use may exceed a ratio of 3.0 SAC units per 3.5 acres or 235 gallons per day per net acre of land, whichever is more restrictive. For the purpose of this regulation, net acres equals the total area of the lot minus wetlands, open water and dedicated public or street right of ways. No one single on site sewer system shall be designed to handle more than 5,000 gallons per day. Each parcel must dedicate areas for primary and secondary on site sewer treatments areas.
Maximum Width of Driveways	See Section 1405.07
Signage	See Section 300.07 K. 6 d. and Section 535

6. Performance Standards.

a. Minimum Architectural Standards. It is in the best interest of the City to promote high standards of architectural design. New building proposals shall include architectural and site plans prepared by registered architect and shall show the following as a minimum:

- i. Elevations of all sides of the buildings,
- ii. Type and color of exterior building materials,
- iii. Typical general floor plans,
- iv. Dimensions of all structures,
- v. Location of trash containers, heating, cooling and ventilation equipment and systems,
- vi. Description of unique architectural features specific to the particular request.
- vii. The exterior surfaces of all buildings shall be faced with brick, stone, glass or equivalent. The City may allow architecturally enhanced and integrally colored block, in all cases examples of the proposed finish are to be submitted for review by the Planning Commission. No building shall be constructed with a main exterior surface of sheet aluminum, steel corrugated aluminum, or similar products; these materials are acceptable only as trim. Non structural metal standing seam roofing is permitted. No accessory building shall exceed the height of a principal building. All exterior equipment and trash and recycling storage areas and dock areas shall be screened with materials used in the principal structure. Low profile, self contained HVAC units which blend in with the building architecture are exempt from the screening requirement. Underground utilities shall be provided for all structures.

b. Parking. Each building site shall be provided with such off street automobile parking as may be approved by the City. No parking shall be permitted on any street, driveway, or any place other than in approved parking spaces.

- i. Construction— all drives and parking lots shall be constructed with concrete or blacktop, and with concrete curb and gutters. Where appropriate, sidewalks may be required. Parking lot landscape areas, including landscape islands shall be reasonably distributed throughout the parking lot area so as to break up expanses of paved areas.

ii. ~~Ratio~~ unless otherwise approved by the City, parking shall be provided as follows:

(a) The minimum ratio of one permanently paved off street automobile parking space for each 2,000 square feet of warehouse building area, and for each 250 square feet of office building area, and for each 150 square feet of retail area, and a ratio of one for three in seating for full service restaurants;

(b) The minimum ratio of one permanently paved off street automobile parking space for every two employees, whichever ratio shall result in the greater number of parking spaces.

iii. ~~Screening~~ All parking areas shall be screened from public view in a manner approved by the City prior to the construction or alteration of any building or building site.

iv. ~~Location~~ unless otherwise approved by the City prior to construction or alteration, parking will not be permitted within 30 feet of the front property lines (those facing any dedicated street) of the building site, nor within 10 feet of its side property lines, nor within 10 feet of its rear property line.

c. **Landscaping**. All yard area shall either be landscaped green areas or open and left in a natural state. Yards to be landscaped shall be landscaped attractively with lawn, trees and shrubs in accordance with a plan prepared by a landscape architect. Areas left in a natural state shall be kept free of litter, debris and noxious weeds. Yards adjoining any residential zone shall contain a buffer area consisting of berming, landscaping and/or fencing for the purpose of screening noise, sight, sound and glare. A reasonable attempt shall be made to preserve as many existing trees as is practical and to incorporate them into the site plan. Where areas abut residential districts, a buffer area of a minimum depth of 100 feet will be required. The buffer area shall be completely defined and designed, and approved by the City prior to all final City inspections for construction on site. Prior to the issuance of a building permit or commencement of any improvements on site, the owner shall provide the City with a financial security for a minimum of 24 months, approved by the City Attorney, to assure construction of the buffer area. All landscaping shall comply with Section 520.01.

d. **Signage**. All signs shall be of a design and material approved by the City. Unless otherwise approved by the City, all signs must be attached to a building, parallel to and contiguous with, its walls, not projecting above its roof line. All signs shall comply with Section 535.

e. **City Facility Expansion Impact Fee**. The City may assess a public facilities impact fee on a proposed development within the LB zoning district in those cases where it can demonstrate that:

i. The expansion of public facilities is reasonably required as a result of the approval of the development; and

ii. The impact fee does not exceed the development's pro-rata share of the reasonably anticipated public facilities expansion cost.

~~— Impact fees shall be placed in a restrictive fund and may only be used to finance the cost of the public facilities expansion required by the development approval.~~

~~f. **Lighting.** Plans for new developments shall include a lighting plan denoting the location, type and height of lighting fixtures and the illumination patterns shown on a site plan. Glare, whether direct or reflected, such as from floodlights or high temperature processes, and as differentiated from general illumination, shall not be visible at any property line. The source of lights shall be hooded and controlled. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right of way. All lighting shall comply with Chapter 14, Section 1440.~~

~~g. **Traffic.** No use shall be allowed unless the property owner provides a road plan acceptable to the City, which shall demonstrate, at a minimum, that the proposed use and resulting traffic will not adversely affect the then existing traffic of the City. All private roads must comply with existing City regulations, with construction and maintenance being the sole responsibility of the property owner~~

MEMO

(October 26, 2006 for the Meeting of October 30, 2006)

To: Lake Elmo Planning Commission

From: Chuck Dillerud

Subject: Draft District Standards – FSD and SRD3.5 Districts

I have attached proposed ZO text for two new zoning districts.

The FSD (Future Sewered Development) District is designed only to “preserve” (as METC would view it) areas of the City south of 10th Street from premature and improper development pending the installation of Regional Sewer in those areas in accordance with the Sewer Staging Plan. The development density limitation (be it future residential or non-residential lands) is 1 dwelling unit per 20 acres. That is the density standard specified by METC in these cases. The City could zone the land less densely, but not more dense. We have utilized the RR dimensional standards – except minimum parcel area – as we were advised to by the Commission at a recent meeting.

The SRD3.5 district is designed to regulate development within the residentially planned portions south of 10th Street following installation of Regional Sewer in accordance with the Sewer Staging Plan. Of course, the “3.5” relates to the average residential density expected from any development proposal. There may be densities higher or lower on a “spot” basis within a development, but the overall project density must not exceed 3.5 du’s/gross site acre.

In order to better accommodate the density averaging strategy the district standards focus on development regulation through the PUD (Planned Unit Development) process. Each 40 acre (minimum) residential project would be “custom” designed as to the specific internal design standards and subject to a PUD contract that assures those standards are maintained (as is now the case with the Eagle Point Business Park over the entire 120 acres). Note also that a property owner need not use PUD, but then that property owner essentially develops using the FSD+RR design standards – not likely.

I will continue to work on the balance of the district descriptions/standards. I am hoping to have most to the balance available for presentation (if not PC approval) on October 30.

E. FSD – Future Sewered District.

1. Purpose

The FSD zoning district is intended to regulate land use within areas of the City south of 10th Street North planned and staged for service by regional sewer, pending the availability of sewer service consistent the “Development Staging Plan” contained in Chapter III of the 2030 Lake Elmo Comprehensive Plan. Maintenance of land use scale in this area of the City at 1 dwelling unit per 20 acres or less dense pending regional sewer service is required by the Memorandum of Agreement between the City and the Metropolitan Council.

2. Permitted Uses.

- a. One family residential dwellings;
- b. Commercial within the limits defined in the performance standards for livestock;

3. Uses Permitted by Conditional Use Permit.

- a. Kennels
- b. Home Occupations

4. Accessory Uses

- a. Uses which are customarily accessory and clearly incidental and subordinate to allowed uses.

5. Minimum District Requirements.

<u>Future Sewered Development Zoning District (FSD)</u>		
<u>Lot Size</u>	Nominal 10 acres A ten acre parcel not reduced by more than ten percent (10%) and/or a ten acre parcel located on a corner or abutting a street on two sides not reduced by more than fifteen percent (15%) due to road right-of-way and survey variations	
<u>Lot Width (See Section 400.05 Subd. 1 C.)</u>	<u>300 feet</u>	
<u>Primary Building or Structure Setback from property lines</u>		
<u>Front</u>	<u>30 feet</u>	
<u>Side (Interior)</u>	<u>10 feet</u>	
<u>Side (Corner)</u>	<u>25 feet</u>	
<u>Rear</u>	<u>40 feet</u>	
<u>Arterial Street</u>	<u>50 feet</u>	
<u>Primary Building Height</u>	<u>35 feet</u>	
<u>Off-Street Parking</u>	<u>3 spaces per unit</u>	
<u>Accessory Building or Structure setback from property lines:</u>		
<u>Front:</u>	<u>30 feet</u>	
<u>Side (Interior):</u>	<u>10 feet</u>	
<u>Side Corner</u>	<u>25 feet</u>	
<u>Rear</u>	<u>40 feet</u>	
<u>Arterial Street</u>	<u>50 feet</u>	
<u>Accessory Building Height</u>	<u>14 feet</u>	
<u>Setback for all animal buildings, feedlots, and manure storage sites as follows:</u>		
<u>Any property line:</u>	<u>100 feet</u>	
<u>Any existing well, or residential structure on the same parcel</u>	<u>50 feet</u>	
<u>Any body of seasonal or year-round water</u>	<u>200 feet</u>	

Setback for all uses permitted by Conditional Use Permit from R1, R2, R3, R4)	250 feet	
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B. SRD3.5 – Sewered Residential District (3.5 Units/Acre).

1. Purpose

The SRD3.5 zoning district is intended to regulate new development within areas of the City south of 10th Street North planned and staged for service by regional sewer. Limited scale office, service and retail use may be included as incidental and subordinate use within a predominantly residential Planned Unit Development with the primary intent of that non-residential use to be goods and services to the residential uses. It is intended that the SRD3.5 zoning classification be assigned only upon all of the following Findings:

- a. The property is classified FSD by the Lake Elmo Comprehensive Plan.
- b. The property is located within an area of the City staged for current regional sewer availability by the Lake Elmo Comprehensive Plan. The timing of the sewer service and development is compliant with the “Development Staging Plan” contained in Chapter III of the 2030 Lake Elmo Comprehensive Plan.
- c. The regional sewer is available at the property line of the property.
- d. A Planned Unit Development Preliminary Plan and Preliminary Plat have been approved for the property at an average dwelling unit density that is consistent with the 2030 Lake Elmo Comprehensive Plan.

2. Permitted Uses

- a. Commercial Agriculture
- b. Single family residential homes on parcels of at least 20 acres.

3. Uses Permitted by Conditional Use Permit

- a. Single Family detached, townhouse, and apartment dwellings within an approved Planned Unit Development of 40 acres or more gross land area with average dwelling unit density over the residential portion of the Planned Unit Development to be compliant with the 2030 Lake Elmo Comprehensive Plan.
- b. Neighborhood office, service and retail commercial - except motor fuel service stations - as clearly secondary and incidental use to residential within a Planned Unit Development of 40 acres or more gross land area.

4. Accessory Uses

a. Uses which are customarily accessory and clearly incidental and subordinate to permitted and conditional uses.

5. Minimum District Requirements.

<u>Sewered Residential Zoning District</u>	<u>Dwellings and Related Structures</u>
<u>Lot Size</u>	<u>Unsewered – 20 acres</u> <u>Sewered – Per a PUD Plan and Compliant with the Development Density Standards of the Comprehensive Plan</u>
<u>Lot Width</u>	<u>300 feet or Per Approved PUD Plan</u>
<u>Primary Building setback from property lines:</u>	
<u>Front:</u>	<u>100 feet or Per Approved PUD Plan</u>
<u>Side: (Interior)</u>	<u>100 feet or Per Approved PUD Plan</u>
<u>Rear:</u>	<u>100 feet or Per Approved PUD Plan</u>
<u>Side Corner:</u>	<u>100 feet or Per Approved PUD Plan</u>
<u>Arterial Street:</u>	<u>100 feet or Per Approved PUD Plan</u>
<u>Primary Building Height</u>	<u>35 feet or Per Approved PUD Plan</u>
<u>Accessory Structure setback from property lines- 4.)</u>	
<u>Front:</u>	<u>100 feet or Per Approved PUD Plan</u>
<u>Side: (Interior)</u>	<u>100 feet or Per Approved PUD Plan</u>
<u>Rear:</u>	<u>100 feet or Per Approved PUD Plan</u>
<u>Side Corner</u>	<u>100 feet or Per Approved PUD Plan</u>
<u>Arterial Street</u>	<u>100 feet or Per Approved PUD Plan</u>

Setback for all animal buildings, feedlots, and manure storage sites shall be as follows: -

<u>Any property line</u>	<u>100 feet</u>
<u>Any existing well, or residential structure on the same parcel</u>	<u>50 feet</u>
<u>Any existing well, or residential structure on an adjacent or nearby parcel.</u>	<u>200 feet</u>
<u>Any body of seasonal or year-round surface water</u>	<u>200 feet</u>

MEMO

(October 26, 2006 for the Meeting of October 30, 2006)

To: Lake Elmo Planning Commission

From: Kelli Matzek, Assistant Planner

Subject: Zoning Code Rewrite

We will be discussing the following topics:

- Specialized Housing
- Sexually Oriented Uses
- Tree Preservation

Tree Preservation Ordinance

I have finally remember to attach 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 would like to put in a disclaimer here regarding the Sexually Oriented Uses section of code. The text is fairly graphic. This draft came from the City Attorney who had drafted it for another City. He stated that the text needs to be detailed in order to regulate this use due to case law.

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 **Monday, November 6th at 6:30 p.m.** At that time we will be discussing the following topics:

- Accessory Structures
- Definitions
- Fees

Public Property / Right-of-Way

Land Filling and Exc/Grading Operations

Specialized Housing

- 154.560 Bed and Breakfast Establishments
- 154.561 Residential Shelters

Manufactured Home Park

- 154.570 Purpose.
- 154.571 Scopes.
- 154.572 Definitions.
- 154.573 Permits.
- 154.574 Applications.
- 154.575 Fees.
- 154.576 Hearing.
- 154.577 Design Standards.
- 154.578 Accessory Buildings.
- 154.579 Office.
- 154.580 Child-Free Area.
- 154.581 Building Permits.
- 154.582 Operational Standards for Manufactured Home Park
- 154.583 Violations.
- 154.584 Inspections.
- 154.585 Flood Plain Management.
- 154.586 Storm Shelters.

Manufactured Home Park Closings

- 154.590 Purpose and Intent.
- 154.591 Notice of Closing.
- 154.592 Public Hearing.
- 154.593 Conditions of Closing.
- 154.594 Park Resident Statement.
- 154.595 Election to Receive Relocation Costs.
- 154.596 Election to Receive Compensation.
- 154.597 General Requirements.
- 154.598 Limitation of Relocation Costs and Compensation.

Sexually Oriented Uses

- 154.610 Definitions.
- 154.611 Regulation.
- 154.612 Prohibited Uses.
- 154.613 Means of Enforcement.
- 154.614 Separability.

PUBLIC PROPERTY / RIGHTS-OF-WAY

KEEP IN CURRENT LOCATION PER ADVICE OF CITY ATTORNEY

LAND FILLING AND EXC/GRADING OPERATIONS

LEAVE IN CHAPTER 5

SPECIALIZED HOUSING

154.560 BED AND BREAKFAST ESTABLISHMENTS:

(A) District Application. Bed and breakfast establishments are allowed within the GB zoning districts subject to the approval of a conditional use permit.

(B) Conditions of Approval. A bed and breakfast establishment may be allowed provided that:

(1) A maximum of six (6) bed and breakfast units may be established in a structure.

(2) The parcel on which the bed and breakfast is located shall accommodate at least three thousand (3,000) square feet of lot area per bed and breakfast unit inclusive of the owner-occupants living quarters.

(3) The facility shall have a state license (hotel and food), and comply with and maintain all health, safety, building and fire codes as may be required or applicable.

(4) The fee owner shall be in residence of the structure and shall maintain same as their homestead and demonstrate that the structure is in part classified as homestead for tax purposes.

(5) The principal structure shall have a minimum size of one thousand five hundred (1,500) gross square feet and shall be located on a lot which meets the minimum lot sizes of the district in which it is located and is at least one acre in size.

(6) The property shall have access from a roadway classified by the Transportation Element of the Comprehensive Plan as a major collector street or higher.

(7) All bed and breakfast units shall be established within the principal structure.

(8) Not more than the equivalent of two (2) full time persons shall be employed by the bed and breakfast facility who are not residents of the structure.

(9) Dining and other facilities shall not be open to the general public but shall be used exclusively by the registered guests and residents.

(10) No liquor is sold on the premises.

(11) No bed and breakfast facility shall be located closer than at least nine hundred (900) feet from other bed and breakfast facilities as measured from property lines.

(12) The owner-occupant of the bed and breakfast shall be allowed to host small groups and meetings if the facility contains at least one thousand (1,000) square feet of area for this purpose as well as a commercial kitchen that complies with all health, safety, and building code standards. Groups and meetings shall be limited to no more than two (2) persons per bed and breakfast unit.

(13) Two (2) off-street parking spaces shall be provided for the facility plus one (1) space for each bed and breakfast unit. Parking areas shall be screened and landscaped pursuant to Section ### of this Chapter. No parking space shall be located in the front yard of the property, other than on an existing driveway. The parking areas shall be improved with asphalt, but shall be exempt from other commercial parking requirements of the Zoning Ordinance.

(14) All signing and informational or visual communication devices shall meet the requirements pursuant to Section ### of this Chapter.

(15) Lighting shall meet the requirements pursuant to Section ### of this Chapter.

(16) All bed and breakfast conditional use permits shall be reviewed annually by the Zoning Administrator. If violations of City ordinances, Building Code, or conditions of approval are found, the Zoning Administrator shall schedule a public hearing of the Planning Commission to consider the conditional use permit and conditions. Upon a Planning Commission recommendation, the City Council may make adjustments to or cancel the conditional use permit.

154.561 RESIDENTIAL SHELTERS.

(A) District Application. Residential shelters are allowed within any residential district and the public and quasi-public zoning district of the City subject to the approval of a conditional use permit.

(B) Conditions of Approval. Residential shelters may be allowed provided that:

(1) The facility is owned, operated or governed by a non-profit organization or institution.

(2) All applicable state and city laws governing such use are strictly adhered to and all required operating permits are secured.

(3) The performance standards of this Chapter are applicable and strictly adhered to and said operation shall be in continuing full compliance.

(4) Meals and other services provided are limited to and as specified under the conditional use permit.

MANUFACTURED HOME PARK (Taken from Sec. 545)

154.570 PURPOSE.

The purpose of §§ 151.135 et seq. is to promote health, safety, order, convenience, and general welfare by enforcing minimum standards for manufactured home parks, the location and use of the homes and the design, construction, alteration, and arrangement of homes on the lots, authorizing the inspection of manufactured home parks, and fixing penalties for violations.

154.571 SCOPE.

(A) Lot with occupied dwelling. No person shall park or occupy a manufactured home on the premises of a lot with any occupied dwelling.

(B) Requirements. No person shall permit anyone to live or reside temporarily or permanently on land owned or rented by the person except in a structure meeting the requirements of the building and zoning ordinances of this city.

(C) Exemptions.

(1) The provisions of §§ 151.135 et seq. shall not prohibit temporary use of a manufactured home as a single-family residence, during a period not to exceed 10 months, while the family occupying the manufactured home is constructing a residence on the lot on which the manufactured home is located. The owner of the lot shall first secure a building permit for the permanent residence on the lot and a permit for temporary use of a manufactured home as provided in §§ 151.135 et seq. The Building Official may issue a permit for temporary use of a manufactured home for a period not to exceed 10 months from the date of issuing of the permit for the permanent residence, provided the owner shall enter into an agreement with the city, in a form satisfactory to the City Attorney, agreeing to remove the manufactured home from the lot no later than 10 months from the date of issuance of the permit for the permanent home. The agreement shall provide that, in the event the owner fails to remove the manufactured

home in accordance with the provisions of owner's permit, the city may cause the manufactured home to be removed and stored in a suitable place at the owner's expense. The owner's performance of the agreement shall be secured by a bond or a cash deposit filed with the Administrator in the amount of \$1,000.

(2) Nothing in §§ 151.135 et seq. shall prohibit the use of manufactured homes as provided in the zoning code and § 200.07, Subd. (4)(E).

154.572 DEFINITIONS.

Unless specifically defined within §§ 151.135 et seq., common definitions, words, and phrases used in §§ 151.135 et seq. shall be interpreted so as to give them the same meaning throughout this code, and are found in § 11.01.

154.573 PERMITS.

No person shall attempt to establish, maintain, or operate a manufactured home park within the city without first obtaining a permit from the Council.

154.574 APPLICATIONS.

(A) No permit for a park shall be issued by the Council until and unless the person requesting the permit shall first apply to the City Administrator on the form of application to be provided by the Administrator, and shall submit with the application all information and data specified in §§ 151.135 et seq.

(B) The application shall be in writing, signed by the applicant, and shall include the following:

- (1) Name and address of applicant;
- (2) Location and legal description of the manufactured home park;
- (3) Complete engineering plans and specifications of the proposed park including, but not limited to the following:
 - (a) The area and dimensions of the tract of land;
 - (b) Two foot topography sketch of the land;
 - (c) The number, location, and size of all manufactured home lots;
 - (d) The location and width of roadways and walkways;
 - (e) The location of water and sewer lines and reset pipes;

(f) Plans and specifications of the water supply and refuse and sewage disposal facilities;

(g) Plans and specifications of all buildings constructed or to be constructed within the manufactured home park;

(h) The location and details of lighting and electrical systems; and

(i) A landscaping plan approved by the city, and that park ground area and recreation equipment be shown on the landscaping plan, as provided by state statute and § 151.142.

(4) A plan for the warning and sheltering or the safe evacuation to a safe place of shelter of the residents of the park in times of severe weather conditions, such as tornadoes, high winds, and floods. The shelter or evacuation plan shall be developed with the assistance and approval of the city and shall be posted at conspicuous locations throughout the park. Residents of the park must also be given the option of constructing a shelter under or near their home, approved by the city and park owners; and

(5) Further information as the Council may request to enable the Council to determine if the proposed park will comply with the legal requirements and will ensure the protection of the best interests of the city and its citizens as to health, welfare, and public safety. Twenty copies of the application, and all accompanying plans and specifications, shall be filed. The Council shall make investigations of the applicant, the plans, the site, and any other related subjects as it may deem necessary and proper. For purposes of this investigation, the Council may use the services of regular city offices and employees or the Council may employ the service of outside consultants and experts as it may choose. This application shall be required for all area not yet occupied by manufactured homes prior to the effective date of this section.

154.575 FEES.

Application fees shall be set from time to time by resolution of the City Council.

154.576 HEARING.

The Council shall provide for a public hearing before granting a park permit. Notice of the hearing shall be made by publication in the official city newspaper. Publication shall be made at least 10 days prior to the date of hearing. All property owners within 350 feet shall also be notified by mail.

154.577 DESIGN STANDARDS.

A park shall conform to the following requirements.

(A) ~~Location.~~ Drainage. The park shall be located on a well-drained site properly graded to ensure prompt drainage of surface and storm waters and to ensure freedom from stagnant pools of water.

(B) Lot size. Individual manufactured home lots shall be provided consisting of a minimum of ~~6,000~~ 7,800 square feet each, and shall be at least ~~60~~ 65 feet wide, ~~which size lot allows for a maximum length manufactured home of 55 feet.~~ and a depth of not less than one hundred twenty (120) feet. Larger homes will require longer lots to comply with the following division (B)(3) below, and other requirements of §§ 151.135 et seq. Changes to lot width and lot depth requirements may be allowed by conditional use permit as regulated by Section 21115.04 Subd. 4 of this Chapter.

(C) Each manufactured home shall have frontage on an approved roadway. ~~Lot markings.~~ The limits of each manufactured home lot shall be clearly marked on the ground by permanent flush stakes, markers, or other suitable means and the manufactured home lot limits shall be the same as shown on the accepted plans. Each lot shall be numbered.

(D) Clearance between homes. Manufactured homes shall be placed upon lots so that there shall be at least a 20 foot clearance between homes. ~~and 20 feet between the front of the home and the front lot line and 25 feet between the rear of the home and the rear lot line.~~

(E) Lot Setbacks. Individual manufactured home lot setbacks:

In manufactured home parks created after 1 July 1997, no manufactured home shall be located closer than ten (10) feet to a side or rear lot line. The front yard setback shall be at least thirty (30) feet from the street surface. Under no conditions shall a home be located closer than 30 feet to a public road right of way line. On corner lots, the side yard setback shall be at least twenty (20) feet from the street surface. No manufactured home shall be located within 125 feet of the existing or planned-for edge of the traveled part of a public road.

(G) Internal streets. All streets shall be ~~Internal~~ private streets within the park and shall have a driving surface no less than 32 feet in width and shall have unobstructed access to a public street, road, or alley, shall meet city engineering design standards, and be posted 20 mph speed limit.

(H) Walkways. Walkways shall be no less than 2 feet in width.

(I) Driveways and sidewalks. All driveways and sidewalks shall be hard surfaced and shall be no closer than 5 feet from park boundary.

(J) Utilities. ~~Utility building.~~

(1) Each park shall have the utility buildings as are required by state law.

(2) All manufactured home parks ~~The park~~ shall be serviced by a central sanitary sewer system and a central water system approved by the Department of Health of the State of Minnesota, and by the Council. The owner shall pay any required sewer and water connection fees to the City.

(3) ~~Surface waters shall be disposed of according to a plan approved by the city.~~ All installations for disposal of surface storm water must be approved by the City.

(4) All utility connections shall be as approved by the City.

(5) The source of fuel for cooking, heating, or other purposes at each manufactured home site shall be as approved by the City.

(6) All utilities shall be under ground; there shall be no overhead wires or supporting poles except those essential for street or other lighting purposes.

(7) No obstruction shall be permitted that impedes the inspection of plumbing, electrical facilities, and related manufactured home equipment.

(8) The method of garbage, waste, and trash disposal must be approved by the City.

(9) The owner shall pay inspection and testing fees for utility service to the City.

(K) Landscaping.

(1) Parks shall be landscaped as the Council shall approve and direct in the specifications established in the permit.

(2) The landscaping may be ordered by the Council as appears necessary and proper to cause the appearance of the park to harmonize with the general appearance of the surrounding neighborhood and to provide borderline screening if deemed advisable. The landscaping must also follow the landscaping regulations as outlined in Section ###.

(L) Electric. Electrical service shall be provided for each manufactured home, with service to be at least 110 volt, 100 ampere capacity.

(M) Parking. Each manufactured home lot shall have off-street parking space for at least two (2) automobiles. All parking spaces shall be hard surfaced according to specifications established by the City.

(N) Open space and Recreation. ~~Public open space shall be provided as set forth in § 153.16.~~ The minimum area required for a manufactured home park designation shall be twenty (20) acres. All manufactured home parks shall have at least ten (10) percent of the land area developed for recreational use (tennis courts, children's play equipment, swimming pool, golf green, etc.). The recreational use shall be developed and maintained at the owner/operator's expense.

(O) Lights. A lighting system for the park grounds approved by the Council shall be installed and lighting provided from sunset to sunrise. Artificial light shall be maintained during all hours of darkness in all buildings containing public toilets, laundry equipment, and the like.

(P) Hydrants. Fire hydrants shall be installed and connected as necessary.

(Q) Foundations.

(1) All dwellings shall be placed on a permanent foundation or anchored to resist overturning, uplift, and sliding in compliance with the Minnesota State Building Code.

(2) Foundation Enclosure. The area beneath a manufactured home shall be enclosed except that such enclosure must have access for inspection.

(R) Building Height Requirements. No structure shall exceed one (1) story or twenty-five (25) feet, whichever is least.

(S) Outdoor Camping. There shall not be outdoor camping anywhere in a manufactured home park

(T) Community Building. A manufactured home park shall have an adequate central community building. Such building must be provided with rest room facilities, have adequate heating in all areas, and be maintained in a safe, clean and sanitary condition.

(U) Storage. Exterior storage on individual manufactured home lots shall comply with the provisions of Section 21105.11 of this Chapter.

(X) Landscaping. All manufactured home parks shall be landscaped as required by Section 21130.03, Subd. 2 of this Chapter.

154.578 ACCESSORY BUILDINGS.

(A) Limit. Accessory buildings including garages shall be limited to one (1) per manufactured home lot. Maximum allowable floor area shall not exceed six (6) percent of the lot size in manufactured home parks where lot size is delineated by site plan or lot markers.

(B) Maximum Building Height. Fifteen (15) feet.

(C) Location. The manufactured home park site plan shall designate the locations proposed for the development of garages and/or accessory buildings on each manufactured home. Said accessory buildings shall comply with the following setback requirements:

(1) An accessory building shall only be located in side or rear yards.

(2) Accessory buildings shall not be located within any utility easements.

(3) In manufactured home parks and on manufactured home parks lots established after 1 July 1997, all accessory buildings located on individual manufactured home unit lots shall be owned, constructed, and maintained by the manufactured home park owner. All accessory structures shall be established as part of a predetermined site plan and subject to the approval of the City Council.

(D) Building Type and Construction. Any building addition shall either be manufactured or custom built of materials that are consistent or compatible to the design of the principal building. "Compatible" means that the exterior appearance of an accessory building is not at variance with the principal building from an aesthetic and architectural standpoint to cause:

(1) A difference to a degree to cause incongruity with the principal building.

(2) A deviation from the general character of the neighborhood.

(3) A depreciation of neighborhood values or adjacent property values.

(4) A nuisance. Types of nuisance characteristics include, but are not limited to noise, dust, odors, glare and unsightly building exterior.

154.579 OFFICE.

Each park shall have an office for the use of the operator distinctly marked "office" and the marking shall be illuminated during all hours of darkness.

154.580 CHILD-FREE AREA.

Each park plan may provide for an area of lots within the park reserved for residents without minor children, not to exceed 1/3 of the individual lots.

154.581 BUILDING PERMITS.

A building permit shall be required for each manufactured home brought into a park and any alterations to a structure (fences, storage, decks, etc.) in a manufactured home park. Fences shall be prohibited on individual manufactured home lots.

154.582 ~~OPERATOR.~~ OPERATIONAL STANDARDS FOR MANUFACTURED HOME PARK

(A) Maintenance. The operator or duly authorized agent or caretaker shall be responsible in attendance at the park at all times and shall keep the manufactured home park, its facilities and equipment in a clean, orderly, sanitary condition. The attendant or caretaker shall be answerable, along with said operator, for the violation of any provisions of these regulations to which said operator is subject.

(B) Inspections Prior to Sale. Prior to the sale of a manufactured home within a manufactured home park, the operator of a manufactured home park or the duly authorized attendant and/or caretaker must inform the Building Official of the prospective sale and provide him with a completed copy of the Manufactured Home Safety Disclosure Form required by Minnesota Statutes, Section 327.07, Subdivision 3A.

(C) Permits. Prior to a manufactured home being moved into a lot, the owner shall apply for and obtain a building permit for the (foundation) blocking to State Code and a permit for connection to public sewer and water. The application for permits shall be accompanied by a site plan, drawn to scale, detailing the unit placement, accessory structures, and setbacks.

(D) Upgrading. Prior to locating a manufactured home housing unit constructed prior to 1 July 1972, on a lot within a manufactured home park within the City, said unit shall be upgraded to current life safety codes and subject to the approval of the Building Official.

(E) Street Maintenance. All private internal streets in manufacturing home parks shall be maintained by the park owner in a good state of repair, free from obstructions, encumbrances, depressions, pot holes, and break ups. Snow shall be promptly plowed and removed from streets and adjacent mail boxes and fire hydrants, so that snow or snow piles do not constitute a safety hazard to motorists and pedestrians, or constitute an obstruction to emergency service vehicles. Icy streets and areas adjacent to mail boxes shall be promptly sanded. "Promptly" shall mean no later than twenty-four (24) hours after the end of a snow fall or in the case of ice within twenty-four (24) hours after it was formed.

154.583 VIOLATIONS.

Failure to comply with any provision or requirement of §§ 151.135 et seq. or with any provision or requirement imposed upon the park or owner or operator by the terms of the permit or the terms of any contract agreement or stipulation entered into or imposed by the Council as part of or in connection with the permit shall be cause for revocation of the

park permit by the Council after a 10-day mailed notice of violation and time and place of hearing to the owner and operator and a hearing by the Council. Compliance with the terms of §§ 151.135 et seq. shall be a condition precedent to the issuance of a state license and shall run with the license so as to be an essential part of the license. Upon revocation of a permit by the Council, no further occupancy of the manufactured homes in the park shall be allowed. However, the Council may allow a reasonable time for termination of occupancy. This section shall apply in all respects to any violation of provisions previously in effect that continue to control existing occupied park areas.

154.584 INSPECTIONS.

(A) Compliance with ordinance. The Building Inspector is authorized and directed to make inspections as are necessary to determine satisfactory compliance with §§ 151.135 et seq., including the power to enter at reasonable times upon any private or public property for inspections.

(B) Registration record. The Building Inspector, the County Sheriff, or their duly authorized representatives, shall have the power to inspect the register containing a record of all residents of the manufactured home park.

(C) Access. It shall be the duty of the park management to give the Building Inspector free access to all lots at a reasonable time for the purpose of inspection.

(D) Repairs. It shall be the duty of every occupant of a manufactured home park to give the owner of the park or owner's agent or employee access to any part of the manufactured home park at reasonable times for the purpose of making repairs or alterations that are necessary to effect compliance with §§ 151.135 et seq.

154.585 FLOOD PLAIN MANAGEMENT.

(A) Requirements. New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by § 153.03(F).

(B) Existing parks in flood plain districts. Manufactured homes in existing manufactured home parks that are located in flood plain districts are non-conforming uses and may be replaced only if in compliance with the following conditions:

- (1) The manufactured home lies in the flood fringe district;
- (2) The manufactured home is anchored with tie-downs that comply with requirements of Minnesota Statutes;
- (3) The manufactured home owner or renter is notified that the manufactured home site lies in the flood plain and may be subject to flooding; and

(4) The manufactured home park owner develops a flood emergency plan consistent with the time available after a flood warning. The plan shall be filed with and approved by the Council.

154.586 STORM SHELTERS.

Emergency Storm Protections. Manufactured home parks established prior to 1 July 1993 shall comply with emergency storm protections as required by Minnesota Statutes. A new manufactured home park established after 1 July 1997 shall have storm shelters in compliance with Minnesota Statutes. Additionally, all emergency storm protection measures shall be subject to the approval of the City.

(A) Manufactured home park owners shall adopt regulations relating to the use and maintenance of storm shelters. A copy of the regulations or any amendments thereto shall be kept on file with the Administrator, the Civil Defense Director, the Fire Chief, and the Washington County Sheriffs Department.

(B) The regulations shall address the following minimum concerns.

(1) Maintenance of shelters. The regulations shall include a routine maintenance schedule in order to control vandalism and maintain the shelters in a sanitary and safe manner. During the storm season, shelters shall be checked at least once during each business day by a representative of the manufactured home park owners. As used herein, storm season means the period between April 1 and September 15 of each year.

(2) Shelter access map. An access map illustrating the most convenient route from an individual manufactured home to a designated storm shelter shall be disseminated in the following manner.

(a) A copy shall be delivered to each manufactured home owner within the park.

(b) A copy shall be included with the park "move-in" information packets for each new tenant.

(c) Copies shall be posted on any manufactured home park community bulletin board.

(d) A copy shall be posted in the club house of the golf facility at the manufactured home park.

(e) A copy shall be available at the manufactured home park office.

(3) Storm shelter drills. Storm shelter drills shall be conducted at a reasonable time in the spring of each year prior to the storm season. The Lake Elmo Civil Defense Director and the Fire Chief shall be given 72 hours advance notice of any proposed storm shelter drill. The park owner shall include within their regulations relating to storm shelter drills any recommendations of the Civil Defense Director and/or Fire Chief.

(4) Periodic review. On an annual basis, park owners shall solicit comments from park residents and the Administrator regarding the effectiveness of current storm shelter regulations or proposals for changes to the regulations.

MANUFACTURED HOME PARK CLOSINGS (Taken from 550 Manufactured Home Park Closings)

154.590 PURPOSE AND INTENT.

(A) Based upon the difficulty and expense of relocating manufactured homes and the availability of manufactured home parks within a reasonable distance of the city, the Council finds that the public health, safety, and welfare of city residents will be promoted by adopting regulations relating to the payment of relocation costs and compensation in the event of the closing of all or a portion of a manufactured home park.

(B) The purpose of the regulation is to define the regulations which will apply to manufactured home park closings and is adopted pursuant to the authority granted by M.S. § 327C.095, as it may be amended from time to time.

154.591 NOTICE OF CLOSING.

At least 9 months prior to the anticipated date for the full or partial park closing, the park owner shall:

(A) Personally serve a copy of the closure statement on at least 1 adult resident of each manufactured home within the manufactured home park; and

(B) Personally serve the City Administrator with a copy of the closure statement, a current resident list, and a plan for funding the relocation costs and compensation which will be required as a condition of closing.

154.592 PUBLIC HEARING.

(A) The City Administrator shall forward the closure statement to the Planning Commission for comment.

(B) Upon review by the Planning Commission, the City Administrator shall schedule a public hearing before the Council preceded by 10-days mailed notice to people whose names appear on the resident list.

(C) Failure to notify all park residents shall not invalidate the public hearing.

(D) At the public hearing, the Council shall review the closure statement, receive comments, and evaluate the impact of the manufactured home park closing on the park residents, the city's resources, and its Comprehensive Plan.

154.593 CONDITIONS OF CLOSING.

As a condition of closing, the park owner shall pay relocation costs to eligible park residents or the park purchaser shall pay compensation to eligible park residents as provided subsequently in §§ 151.165 et seq. Development and/or building permits shall not be issued for subsequent uses of the manufactured home park property until the park owner has complied with the city's development regulations and until the park owner and/or park purchaser have made arrangements, acceptable to the city, for funding relocation costs and compensation required by §§ 151.165 et seq.

154.594 PARK RESIDENT STATEMENT.

Within 90 days of receipt of a closure notice, a park resident shall provide the park owner with a written statement of relocation costs or, in the alternative, a written statement that the park resident cannot relocate the park resident's manufactured home to another manufactured home park within a 25 mile radius and the reasons for the conclusion.

154.595 ELECTION TO RECEIVE RELOCATION COSTS.

(A) Single section manufactured homes. If a single section manufactured home can be relocated to another manufactured home park within a 25 mile radius, the park owner shall pay eligible park residents' relocation costs as defined in §§ 151.165 et seq., or, an amount equal to \$3,500, whichever is less.

(B) Double section manufactured homes. If a double section manufactured home can be relocated to another manufactured home park within a 25 mile radius, the park owner shall pay eligible park residents' relocation costs as defined in §§ 151.165 et seq., or, an amount equal to \$5,000, whichever is less.

(C) Relocation payments. The park owner shall make relocation payments directly to contractors providing the relocation service, but, upon proof of payment of the relocation costs by an eligible park resident, shall reimburse the eligible park resident directly for the relocation costs. The park owner shall be entitled to receive adequate documentation of relocation costs, including costs of proposals, invoices, estimates, and contracts for relocation services.

(D) Maximum relocation payment. The maximum relocation payment specified in divisions (A) and (B) above shall be adjusted on January 1 of each year commencing on 1-1-1992, based upon the change in the consumer price index, Minneapolis-St. Paul,

for all urban consumers (CPI-U) as published in the Bureau of Labor Statistics of the United States Department of Labor. The amount of the adjustment shall be equal to the percentage of change in the CPI-U on the date of adjustment over the CPI-U in effect on January 1 of the preceding year.

154.596 ELECTION TO RECEIVE COMPENSATION.

(A) If a manufactured home cannot be relocated to another manufactured home park within a 25 mile radius, an eligible park resident shall elect 1 of the following options by giving written notice to the park owner who shall forward the notice to the park purchaser, and the compensation payment provided for in §§ 151.165 et seq. shall be paid within 30 days prior to the date of the closing on the sale of the manufactured home park.

(B) (1) Retaining title. The eligible park resident may elect to receive compensation in an amount equal to the average relocation cost provided to eligible park residents for the relocation of similar housing, in which event the park purchaser shall pay the compensation and the eligible park resident shall retain title to the manufactured home and be responsible for its prompt removal from the manufactured home park; or

(2) Title transfer. The eligible park resident may elect to receive compensation in an amount equal to the estimated fair market value of the manufactured home as determined by an independent appraiser experienced in manufactured home appraisals. The appraisal shall be made no earlier than 60 days prior to the closing of the park or its conversion to another use in order to ensure that the current fair market value of the eligible park residents' manufactured home is appraised. The park purchaser and the eligible park resident shall each pay 1/2 of the cost of the appraisal. The park purchaser shall pay the compensation to the eligible park resident upon transfer of clear title to the manufactured home.

154.597 GENERAL REQUIREMENTS.

(A) Vacation of manufactured home from park. Displaced park residents cannot be required to vacate the manufactured home park until 60 days after conclusion of the public hearing before the Council.

(B) Partial closure. If there is a partial closure of the manufactured home park and other lots remain available within the same manufactured home park, the park owner must allow displaced residents an opportunity to relocate within the manufactured home park unless the displaced resident's manufactured home, because of its size, is not compatible with the available lot.

154.598 LIMITATION OF RELOCATION COSTS AND COMPENSATION.

The total amount of relocation cost and compensation to be paid to eligible park residents shall not exceed 20% of the estimated market value of the manufactured home park, as

stated in the property tax statement for the year in which the closure statement is served on the City Administrator. If the total of the relocation cost and compensation payable to eligible park residents exceeds this limitation, the relocation costs and compensation payable to each eligible park resident shall be decreased proportionately so that the total of the relocation costs and compensation does not exceed the limitation stated in this section.

SEXUALLY ORIENTED USES

154.610 DEFINITIONS.

For the purposes of this ordinance, the following terms shall be defined as set forth below:

(A) Adult Establishment. Adult Establishment means:

(1) Adult Patronage. Any business that is conducted exclusively for the patronage of adults and that excludes minors from patronage, either by operation of law or by the owners of the business;

(2) Receipts; Floor Area; Types of Merchandise. Any business that (i) derives 25% or more of its gross receipts during any calendar month from, or (ii) devotes 25% or more of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to items, merchandise, devices or other materials distinguished or characterized by an emphasis on material depicting, exposing, describing, discussing, or relating to Specified Sexual Activities or Specified Anatomical Areas; or

(3) Adult Usage. Any business that engages in any Adult Use.

(B) Adult Uses, Generally. "Adult Uses" are premises, enterprises, establishments, businesses or places open to some or all members of the public at, or in which, there is an emphasis on the presentation, display, depiction or description of Specified Sexual Activities or Specified Anatomical Areas which are capable of being seen, heard, or smelled by members of the public. Adult Uses include, but are not limited to, the following:

(1) Adult Body Painting Studio. An establishment or business which provides the service of applying paint or other substance, whether transparent or non-transparent, to or on the body of a patron when such body is wholly or partially nude in terms of "Specified Anatomical Areas."

(2) Adult Bookstore. A building or portion of a building used for the barter, rental or sale of items consisting of printed matter specifically included, but not limited to, greeting cards, pictures, slides, records, audio tape, videotape or motion picture film if such building or portion of a building is not open to the public generally

but only to one or more classes of the public excluding any minor by reason of age or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

(3) Adult Cabaret. A building or portion of a building used for providing dancing or other live entertainment, if such building or portion of a building excludes minors by virtue of age or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

(4) Adult Companionship Establishment. A companionship establishment which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

(5) Adult Conversation/Rap Parlor. A conversation/rap parlor which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion, if such service is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

(6) Adult Health/Sport Club. A health/sport club which excludes minors by reason of age, or if such club is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

(7) Adult Hotel or Motel. Adult hotel or motel means a hotel or motel from which minors are specifically excluded from patronage by reason of age and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Areas.

(8) Adult Massage Parlor, Health Club. A massage parlor or health club which restricts minors by reason of age, or which provides the services of massage, if such service is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

(9) Adult Motion Picture Theater. A building or portion of a building used for presenting material if such building or portion of a building as a prevailing practice excludes minors by reason of age, or if such material is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas for observation by patrons therein.

(10) Adult Modeling Studio. A modeling studio which restricts minors by reason of age, or whose major business is the provision, to customers, of figure

models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers, or who engage in Specified Sexual Activities or display Specified Anatomical Areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

(11) Adult Motion Picture Arcade. Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled or operated, still or motion picture machines, projectors or other image-producing devices (including, but not limited to images from CD-ROM and/or the Internet) are maintained to show images to five or few persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing Specified Sexual Activities or Specified Anatomical Areas.

(12) Adult Novelty Business. An establishment or business engaged in the sale of novelty items which:

(a) Restricts minors by reason of their age; or

(b) Has as its principal activity the sale of devices and other products which:

1. Stimulate human genitals or devices which are designed to create sexual stimulation or excitement; or,

2. Are otherwise designed to stimulate or arouse sexual excitement in any manner whatsoever, specifically including, but not limited to, items such as inflatable dolls or similar devices; or,

3. Is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

(13) Adult Sauna. A sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

(14) Adult Steam Room/Bathhouse Facility. A building or portion of building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent if such building or portion of a building restricts minors by reason of age or if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

(C) Specified Anatomical Areas. "Specified Anatomical Areas" are defined as follows:

(1) Female. Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breast(s) below a point immediately above the top of the areola; and,

(2) Male. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(D) Specified Sexual Activities. "Specified Sexual Activities" are defined as follows:

(1) General Sexually Oriented Acts. Actual or simulated:

(a) Sexual intercourse;

(b) Oral copulation;

(c) Anal intercourse;

(d) Oral-anal copulation;

(e) Bestiality;

(f) Direct physical stimulation of unclothed genitals or the female breast;

(g) Flagellation or torture in the context of a sexual relationship;

(h) The use of excretory functions in the context of a sexual relationship; or,

(i) Any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or

(2) Genitalia. Any clear depiction of human genitals in the state of sexual stimulation, arousal or tumescence.

(3) Certain Uses and Activities. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation.

(4) Touching. Fondling or touching of nude human genitals, public region, buttocks, or female breast.

(5) Nature of Clothing, or Lack Thereof. Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such person.

(6) Animals. Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being.

(7) Irrigation. Human excretion, urination, menstruation, vaginal irrigation.

(8) Minor. An individual under eighteen (18) years of age.

154.611 REGULATION.

(A) Location Restrictions. The restrictions set forth below shall apply to the location of Adult Establishments.

(1) No Adult Establishment shall be operated or maintained except within the GB zoning district pursuant to a Conditional Use Permit.

(2) No Adult Establishment shall be operated or maintained within 1000 feet of any residential district, public or private school with students under the age of 18, child day care center, or religious place of worship, or within 500 feet of another adult establishment. Distance shall be measured from the closest point of the lot lines of subject uses.

(B) Sign Requirements. In addition to the requirements of sign regulations in Section ### (and as subsequently amended), all businesses regulated under this chapter shall comply with the following sign requirements:

(1) All signs shall be wall signs.

(2) No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or in any area where they can be viewed from a public street or sidewalk in front of the building.

(3) Window areas shall not be covered or made opaque in any way.

(4) No sign shall be placed in any window.

(5) A one square foot sign shall be placed on the door of the establishment to state hours of operation and admittance is limited to adults only.

(6) Sign content shall be limited to text only. Text is limited to the name of the business and its address.

(7) Where any provisions of this section conflict with Sign Ordinance, the provision that is more stringent shall be applied.

(C) Physical Layout of Business. Any Adult Establishment having available for customers, patrons or members, a booth, room or cubicle for the private viewing of any Specified Anatomical Areas or Specified Sexual Activities must comply with the following requirements:

(1) Each booth, room or cubicle shall be totally accessible to and from aisles and public areas of the Adult Establishment and shall be unobstructed by any door, lock or other control type devices.

(2) Every booth, room or cubicle shall meet the following construction requirements:

(a) Each booth, room or cubicle shall be separated from adjacent booths, rooms and cubicles and any non-public areas by a wall.

(b) Have at least one side totally open to a public lighted aisle so there is an unobstructed view at all times of anyone occupying the area.

(c) All walls shall be solid and without any openings, extended from the floor to a height of not less than six feet and be light colored, non-absorbent, smooth textured and easily cleanable.

(d) The floor must be light colored, non-absorbent, smooth textured and easily cleanable.

(e) The lighting level of each booth, room or cubicle when not in use shall be a minimum of 10 foot candles at all times, as measured from the floor.

(3) Only one individual shall occupy a booth, room or cubicle at any time. No occupant of a booth, room or cubicle shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth. No individual shall damage or deface any portion of the booth.

(D) License Required.

(1) From and after the effective date of this ordinance no Adult Establishment shall be operated or maintained in the City of Lake Elmo without first obtaining a license to operate issued by the City.

(2) A license may be issued for only one Adult Establishment located at a fixed and certain place. Any person, partnership or corporation which desires to operate more than one Adult Establishment shall have a separate license for each such business.

(3) No license or interest in a license may be transferred to any person, partnership, corporation, or other entity.

(4) Only one licensed adult establishment may be operated:

(a) Within a single building; or,

(b) Upon a single tax parcel.

(5) No liquor license shall be issued for an adult establishment.

(E) Application for License.

(1) Any person, partnership or corporation desiring to secure a license shall make application to the City Clerk.

(2) The application for a license shall be upon a form provided by the City.

(3) An applicant shall furnish the following information:

(a) Names, addresses and dates of birth of applicant and spouse if any.

(b) Written proof that the applicant is at least eighteen years of age.

(c) Address of the Adult Establishment to be operated by the applicant.

(d) The name of the City, County and State, if any, where the applicant previously operated an Adult Establishment.

(e) Whether the applicant has ever been convicted of a felony involving sexual conduct, the use or distribution of controlled substances or the use or distribution of a dangerous weapon. If the answer to the last is yes, state the jurisdiction in which the offense or offenses occurred. The applicant may attach any explanation he or she deems appropriate.

(f) If the applicant is a corporation (partnership/LLC/trust or other business entity which is not a natural person), the name of the corporation, the date

and state of incorporation, the name and address of the registered agent and the name and address of all shareholders owning more than five percent of the stock in said corporation and all officers and directors of the corporation.

(4) Within sixty days of receiving a completed application for a license, the City Clerk shall submit the application to the City Council for approval or denial.

(5) Failure or refusal of the applicant to give any information relative to the investigation of the application shall constitute grounds for denial of the license.

(F) Standards for Issuing Licenses.

(1) To receive a license to operate an Adult Establishment, an applicant must meet the following standards:

(a) The applicant must be eighteen years of age or older.

(b) The applicant or his or her spouse has not been denied a similar license by any other city, county or state within the preceding twelve months or has not had such a license revoked or suspended within the preceding twelve months.

(c) All current real estate taxes have been paid on the licensed premises.

(d) The licensed premise meets all the provisions of this Chapter as well as all building and fire codes.

(e) The applicant or spouse has not been convicted of any felony involving moral turpitude, prostitution, obscenity or other crime of a sexual nature or involving the use or distribution of a controlled substance as defined by Minnesota laws, or the use or distribution of a dangerous weapon. The fact that a conviction may be under appeal shall not affect the disqualification of the applicant.

(f) All license and investigation fees required by this Chapter have been paid.

(2) For the purposes of this section the term "applicant" shall include an individual, all persons having a financial interest in a partnership or joint venture, and, in the case of a corporation (partnership/LLC/trust or other business entity which is not a natural person), all officers, directors and stockholders required to be named in the application.

(3) All police, fire and building code investigations shall be completed within twenty-one days after the date the completed application is filed with the City Clerk. Upon a showing of good cause and reasonable diligence on the part of an

investigator, the City Council may extend the investigation period for a reasonable time. Any investigation not completed within the allotted time period shall be deemed to be waived.

(G) License Fees.

(1) The annual license fee to operate an Adult Establishment shall be determined by the City Council by resolution.

(2) In addition to the annual license fee, an investigation fee in an amount determined by the City Council by resolution shall be paid at the time of the initial license application.

(3) All appropriate fees shall be submitted along with the application for a new or renewal license.

(4) If an application is denied, the license fee, but not the investigation fee, shall be refunded to the applicant.

(H) Display of License. The license shall be displayed in a conspicuous public place in the Adult Establishment.

(I) Renewal of License.

(1) Every license issued pursuant to this chapter shall expire at 12:00 midnight on December 31st of each year unless sooner revoked by the City Council, and must be renewed before operation is allowed in the following year.

(2) Applications for renewal must be submitted with the annual license fee to the City Clerk not later than sixty days before the license expires.

(3) Renewal of a license may be issued by the City Clerk unless the Clerk finds cause for not renewing the license in which case the Clerk shall submit the renewal application to the City Council prior to the expiration of the license.

(4) No license for which application for renewal has been timely made shall be deemed to expire until the City Council has rendered its decision not to renew a license. No application for renewal of a license may be denied by the City Council until after the applicant has received ten days' written notice of a public hearing before the Council. The applicant may appear with or without counsel at that public meeting and may present such evidence and witnesses, as he or she deems appropriate.

(J) Revocation of License.

(1) The City Council shall revoke a license for any of the following reasons:

(a) Discovery that false or misleading information or data was given on any initial or renewal application or material facts was omitted from any such application.

(b) The operator or an employee of the operator violates any provisions of this chapter or any rule or regulation adopted by the Council pursuant to this Chapter, provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee the penalty shall not exceed a suspension of thirty days if the Council finds that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.

(c) The operator becomes ineligible to obtain a license.

(d) Any cost or fee required to be paid by this ordinance is not paid.

(e) Any intoxicating liquor or cereal malt beverage is served or consumed on the premises of the Adult Establishment.

(2) The Council, before revoking or suspending any license, shall give the operator ten days written notice of the charges against him or her, and an opportunity for a public hearing before the Council at which time the operator may appear with or without counsel and may present such evidence and witnesses as he or she deems appropriate.

(3) The transfer of a license or any interest in a license shall automatically and immediately revoke the license.

(4) Any operator whose license is revoked shall not be eligible to receive a license for one year from the date of revocation. No location or premises for which a license has been issued shall be used as an Adult Establishment for six months from the date of revocation of the license.

(K) Responsibilities of Operator.

(1) Every act or omission by an employee constituting a violation of the provisions of this Chapter shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(2) Any act or omission of any employee constituting a violation of the provisions of this Chapter shall be deemed the act or omission of the operator for

purposes of determining whether the operator's license shall be revoked, suspended or renewed.

(3) No employee of an Adult Establishment shall allow any minor to loiter around or to frequent the Adult Establishment or to allow any minor to view Specified Anatomical Areas or Specified Sexual Activity at the Adult Establishment.

(4) The operator shall maintain the premises in a clean and sanitary manner at all times.

(5) The operator shall maintain at least ten-foot candles of light in the public portions of the establishment, including aisles, at all times as measured from sixty (60) inches above the floor. However, if a lesser level of illumination in the aisles shall be necessary to enable a patron to view the adult entertainment in a booth, room or cubicle adjoining an aisle, a lesser amount of illumination may be maintained in such aisles, provided, however, at no time shall there be less than 1 foot candle of illumination in said aisles as measured from the floor.

(6) All business transactions shall occur within the licensed building.

(7) No employee shall have been convicted of any felony involving moral turpitude, prostitution, obscenity or other crime of a sexual nature or involving the use or distribution of a controlled substance as defined by Minnesota laws, or the use or distribution of a dangerous weapon. The fact that a conviction may be under appeal shall not affect the disqualification of the employee.

(8) No minor may be employed by or work at an Adult Establishment.

(9) The operator shall ensure and be responsible for the compliance of the establishment and its patrons with the provisions of this Chapter.

(L) Exclusions. All public and private schools or churches located within the City of Lake Elmo are exempt from obtaining a license hereunder when instructing pupils in sex education as part of its curriculum.

(M) No Minors. No person under the age of 18 shall be permitted to be present in an Adult Establishment.

(N) Hours of Operation. The hours of operation for any business licensed under this Chapter shall be between 9:00 AM to midnight.

(O) Penalties.

(1) Any individual, partnership or corporation (partnership/LLC/trust or other business entity which is not a natural person) who is found to have violated the

provisions of this Chapter shall be guilty of a misdemeanor and shall also be subject to revocation of any license.

(2) Each violation of this ordinance shall be considered a separate offense and any violation continuing more than one day shall be considered a separate offense.

(P) Enforcement. Members of the law enforcement agency providing service to the City, the Fire Marshal, or designee, the Building Official or designee and the Zoning Administrator or designee, shall have authority to enter any Adult Establishment at all reasonable times to inspect the premises for the purposes of enforcing this Chapter and all other applicable State laws, fire codes and building codes.

154.612 PROHIBITED USES. An Adult Use which is also classified as "obscene" by Minn. Stat. §617.241, Subd. 1A and/or as an "Adult Entertainment Establishment" by Minn. Stat. §617.242, Subd. 1 is prohibited in the City of Shoreview.

154.613 MEANS OF ENFORCEMENT. The City may enforce any provision of this ordinance by mandamus, injunction or any other appropriate civil remedy in any court of competent jurisdiction. The ordinance may also be enforced by appropriate criminal prosecution.

154.614 SEPARABILITY. Every section, provision or part of this ordinance is declared separable from every section, provision or part of this ordinance. If any section, provision, or part of this ordinance is adjudged to be invalid by a court of competent jurisdiction, such judgment shall not invalidate any other section, provision, or part of this ordinance.

An Ordinance providing for the management, protection and care of significant trees and other vegetative growth in the City of Oak Park Heights and the preservation of trees in land development.

THE CITY COUNCIL FOR THE CITY OF OAK PARK HEIGHTS DOES HEREBY ORDAIN:

Section One. Amendment.

The Code of Ordinances of the City of Oak Park Heights shall be amended to add Chapter 1307 regulating, protecting and providing for the care and management of significant trees and vegetation within the city providing as follows:

1307.010

Purpose.

The City of Oak Park Heights finds that it is in the best interests of the community to protect, preserve and enhance the natural environment by encouraging a resourceful and prudent approach to the development and alteration of wooded areas. The City also finds that it is in the best interests of the community to require licensing of commercial arborists. It is the intent of this ordinance to protect the community's existing tree resource by preservation and protection of established trees, by promoting proper tree maintenance practices and by requiring the replacement of trees which are damaged or removed in the course of private residential or commercial development or construction activities. The City recognizes that trees and other vegetation help to stabilize soils, reduce storm water runoff, aid in the removal of carbon dioxide and the production of oxygen, provide a buffer and screen against both noise pollution and objectionable views, provide wildlife habitat, protect and increase property values, conserve and enhance the City's physical and aesthetic environment, and enhance the quality of life of the City's residents. Therefore, this ordinance is designed to minimize tree damage and loss, and mitigate tree removal resulting from development in areas where significant trees or tree cover occur within the City.

1307.020

Applicability.

This ordinance shall apply to parcels of land, one acre or larger, containing at least five significant trees. It shall also apply to parcels containing smaller native woody understory vegetation which covers an area of at least 10,000 sq. ft., especially when such an area is contiguous with other natural areas and serves as a wildlife corridor, or when such an area is a buffer to wetland and riparian areas, or provides a separation between land uses.

This section shall apply to parcels being developed within the City of Oak Park Heights and apply to mining or other land alteration, expansion of commercial, industrial or institutional building or impervious surfaces, or any other project that would require a grading permit from the city. This ordinance shall not apply to public improvement projects consisting of street, public utility, parks, playgrounds or similar projects initiated and constructed by local government.

1307.030

Definitions.

(a) dbh : Diameter at breast height - diameter of a tree measured at a point approximately 54 inches above the ground.

(b) significant tree: A healthy deciduous tree measuring at least 8 inches dbh, or a healthy coniferous tree at least 10 feet in height. For slower-growing or smaller stature tree species, healthy specimens would be considered significant at 4 inches dbh for ironwood, bur oak or bicolor (swamp white) oak, and two inches dbh for pagoda dogwood or serviceberry. Deciduous softwood species such as cottonwood and silver maple would be considered significant at a size of 12 inches dbh when growing within a floodplain or other riparian area, and significant at a size of 20 inches dbh when growing on other sites. Boxelder, buckthorn (*Rhamnus cathartica* or *R. frangula*) and Siberian elm would not be considered significant trees at any size.

(c) native woody understory vegetation: shrubs and small trees which are components of natural (unplanted) woodland and brushland areas in Minnesota and which provide important benefits in terms of wildlife habitat, prevention of soil erosion and slowing of runoff.

(d) caliper inches: The diameter of a tree measured at six inches above the ground (usually used for trees whose trunks are less than 4 inches in diameter)

1307.040

License Required for Commercial Tree Pruning, Chemical Treatment or Removal

(a) License application and fee. It shall be unlawful for any person to conduct as a business the cutting, trimming, pruning, removal, spraying or otherwise treating of trees in the City without first having secured a license.

1. Application for said license shall be made at Oak Park Heights City Hall on a form which has been approved by the City.
2. The annual fee for such a license shall be set by the City and said fee will be reviewed annually and specified by resolution.
3. All licenses issued shall expire on the 31st day of December following the date of issue.

(b) Proof of Insurance. All applicants for the license must file with the City of Oak Park Heights proof of a public liability insurance policy covering all operations of the applicant hereunder for the sum of at least three hundred thousand dollars (\$300,000.00) combined single limit coverage. If such insurance is canceled and the licensee fails to replace the same with another policy, which conforms to the provisions of this section, the license shall be automatically suspended until the liability insurance is replaced.

(c) Chemical Treatment Requirements. Applicants who propose to use chemical substances in any activity related to treatment or disease control of trees shall file with the City of Oak Park Heights proof that the applicant administering such treatment has been certified by the State Dept. of Agriculture as a "Commercial Pesticide Applicator" for the current year of operation.

(d) Revocation of license. Failure to comply with any part of the tree work license will result in the revocation of the license by the City Council, following a public hearing. Written notice of said public hearing shall be mailed at least ten (10) days prior to said hearing to the current holder of the license. Such notice should outline the violation(s) considered by the City to be grounds for revocation and inform the current holder of the license of the opportunity to be heard at such public hearing.

(e) Penalty for Doing Commercial Tree Work without a License. Violation of the terms and provisions of this ordinance shall constitute a misdemeanor punishable by ninety (90) days in jail and up to a \$700.00 fine or any combination of the two.

1307.050.

Tree Protection

(a) Tree Protection Methods

1. All residential and commercial development of land within the City of Oak Park Heights shall adhere to the tree protection standards of the City. The tree protection standards of the City shall be those as are adopted by resolution of the City Council from time to time.

(b) Tree Protection Plan

1. As part of any application for subdivision, planned unit development or other development of residential or commercial property, a tree protection plan shall be submitted to and reviewed by the Municipal Arborist.

2. The tree protection plan shall be submitted with preliminary subdivision or development plans and incorporated as part of a grading plan or as part of a landscape plan, as required by the type of project. The plan must be certified by a forester, landscape architect, or land surveyor retained by the applicant and approved by the City. All costs associated with the preparation of the tree protection plan will be borne by the applicant.

3. The tree protection plan shall be reviewed by the Municipal Arborist to assess the best possible layout to preserve significant trees and areas of native woody vegetation, and to enhance the efforts to minimize damage to the same. The applicant shall meet with the Municipal Arborist and Community Development Director to discuss tree preservation on the site prior to submission of the development application or prior to application for the grading permit, whichever is sooner.

4. The tree protection plan shall include the following information:

- a. the name(s), telephone number(s) and address(es) of the applicant.
- b. location of all buildings, structures, or impervious surfaces situated upon or contemplated to be built upon the land.
- c. delineation of all areas to be graded and the limits of land disturbance.
- d. size, species and location of all existing significant trees, and delineation of the canopy cover of areas of native woody vegetation greater than 10,000 square feet in size. The data on the significant trees should also be listed in tabular form on the plan or included as an attachment.
- e. measures to be taken to protect significant trees, and large areas of native woody vegetation.
- f. signature of the person(s) preparing the plan, their certification, and employer or firm, including address and phone number.

1307.060. Tree Removal

(a) The City recognizes that a certain amount of tree removal is an inevitable consequence of the development process. It is expected, however, that driveways, parking lots, buildings, and other parts of the private development will be situated in such a way as to maximize preservation of significant trees and minimize damage to natural areas.

(b) In the enforcement of this ordinance, the City may give preference to the preservation of those trees considered to be of higher quality or value because of their size, species, location, and/or condition.

(c) No removal of trees or areas of smaller native woody vegetation larger than 10,000 sq. ft. shall be allowed on parcels covered by this ordinance, until the site plan and tree protection plan for the project have been approved by the Municipal Arborist and the Community Development Director.

1307.070 Tree Replacement Requirements.

1. The applicant shall be required to replace significant live trees lost or reasonably anticipated to be lost as a result of grading, or building upon, the parcel as determined in accordance with the following formula:

A = Total Diameter Inches of Significant Trees Lost as a Result
of the Land Alteration

B = Total Diameter Inches of Significant Trees Situated on the Land
C = Tree Replacement Constant (1.33)
D = Replacement Trees (Number of Caliper Inches)
 $[(A/B) \times C] \times A = D$

2. Credit for Tree Preservation - If 50% or more of the existing significant trees are to remain on the parcel undisturbed during and after the course of development, 10% less caliper inches of replacement trees will be required.
3. Woodland Type Factors - For projects which remove more than 1500 diameter inches of significant trees, the tree replacement requirement will be modified by multiplying the caliper inches of replacement trees by the following woodland type factors: oak (primarily oak species (100%), mixed hardwood (primarily native hardwood species other than oak (80%)), conifer (primarily evergreens, native or introduced (65%)), softwood deciduous (cottonwood, aspen, silver maple (50%)).
4. Where trees are less than significant size, if areas of native woody vegetation greater than 10,000 sq. ft. in size are damaged or destroyed, the applicant shall be required to install 1 replacement tree for every 1,000 sq. ft. of native woody vegetation damaged or destroyed.
5. If the land which is being developed contains trees grown as a crop, i.e. a nursery or tree farm, all efforts shall be made to move trees which will be good landscape specimens to other portions of the property or to other properties within the community. Tree replacement caliper inches will only be required for those crop trees which are of significant size and are destroyed in the development process. Replacement inches in this situation will be calculated by taking the total diameter inches of significant crop trees destroyed and multiplying this number by the woodland type factors above and also by the following condition factors: trees. Trees relocated to other areas of the development property may also be counted as part of the caliper inches of poor (20%), fair (50%), good (80%).
6. The requirement for replacement trees may in part be satisfied by trees which are required to be planted in accordance with any other provision of the Code. New trees included in a landscape plan submitted for the development may be counted as part of the caliper inches of replacement trees. Trees existing on the property which are relocated to other properties in the community will be credited towards replacement at half of their caliper inch total.
7. Location of Replacement Trees. Replacement trees shall be planted in one or more of the following areas on the land:
 - a. restoration areas including steep slopes
 - b. outlots or common areas

- c. buffer zones between different land uses and/or activities
- d. project entrance areas
- e. any other part of the land except any part thereof dedicated or conveyed to the City, unless the City consents thereto
- f. on other parcels of land within the city, public or private, subject to the approval of the City of Oak Park Heights and the property owner.

8. Replacement Trees

a. Species. Replacement trees shall be species which are included on the approved tree list of the City of Oak Park Heights and shall include species indigenous to the area, and species similar to those lost or removed. Not more than 20% of the replacement trees shall be of the same species.

b. Size. A minimum of 2.0 caliper inches for deciduous trees (except bur oak, bicolor oak, ironwood, and ornamental trees, which may be 1.25 caliper inches), and a minimum of 6 feet in height for coniferous trees.

c. Warranty Requirements - Any replacement tree which is not alive or healthy, as determined by the Municipal Arborist, within two growing seasons after the date of the planting of the last replacement tree, shall be removed by the Applicant and replaced with a new, healthy tree meeting the same species and size requirements.

d. Planting Standards - Planting specifications for replacement trees shall adhere to the tree and shrub planting standards of the City of Oak Park Heights.

The tree and shrub planting standards of the City shall be those as are adopted by resolution of the City Council from time to time.

9. Tree Replacement Plan Required

a. Applicant shall provide a plan showing the size, species, and location of all replacement trees proposed to be planted on the property in accordance with the tree replacement requirements.

b. No planting of trees shall be allowed on parcels covered by this ordinance, until the tree replacement plan for the project has been approved by the Municipal Arborist and the Community Development Director.

10. Payment in Lieu of Tree Replacement.

In development of lands under this ordinance should the applicant determine that there is insufficient opportunity within the development to replace trees lost or anticipated to be lost as a result of the development the applicant may request of the city council permission to pay an amount into the city tree fund an amount equal to the value of the required replacement tree. The city tree fund, upon receipt of such funds as may be authorized by the council under the provisions of this ordinance, shall act as a dedicated fund to provide for the care and replacement of shade trees within the City of Oak Park Heights.

1307.080 . Inspection and Enforcement

All site inspections shall be carried out by the Municipal Arborist under the following criteria:

1. Site inspection shall occur prior to issuance of grading permit to confirm that a tree inventory and tree protection measures are in place.
2. An additional site inspection shall be performed after completion of final grading to evaluate any tree damage or removal caused by the project.
3. On wooded lots –
 - (a) Site inspection shall occur prior to issuance of a building permit to confirm that tree protection measures are in place
 - (b) An additional site inspection shall occur prior to issuance of Certificate of Occupancy to evaluate if any additional tree damage or removal has occurred.
4. For any additional tree damage discovered during site inspections resulting in tree mortality and/or removal, there shall be restitution made to the City by paying \$100.00 per diameter inch of significant trees destroyed.

1307.090 Agreement to Replace Trees - Security

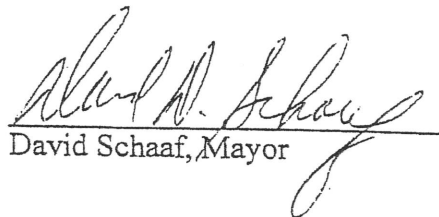
- A. Prior to the issuance of any subdivision, planned unit development or grading permit, the applicant shall enter into a written agreement with the City of Oak Park Heights in a form to be approved by the City Attorney and City Administrator which agreement shall include provisions providing for the following:

1. The Developer shall undertake to comply with the provisions and conditions imposed by this Section and in connection with any such approval or issuance of a permit.
2. The Developer shall indemnify the City against any loss, cost or expense, including an amount for reasonable attorneys' fees incurred in enforcing the terms of such agreement.
3. The Developer shall provide security for the performance of its obligations pursuant to such agreement. The security may consist of a bond, cash or escrow deposit, all in such form and substance as shall be approved by the City Attorney. The amount of security shall be 150% of the estimated cost to furnish and plant the replacement trees. The estimated cost shall be at least as much as the reasonable amount charged by nurseries for the furnishing and planting of the replacement trees and shall be subject to approval by the Municipal Arborist.
3. The security shall be maintained at least for two growing seasons after the date the last replacement tree has been planted. Upon a showing by the Developer and inspection by the Municipal Arborist, that portion of the security may be released by the City equal to 150% of the estimated cost of the replacement trees which are alive and healthy at the end of the performance period. Any portion of the security not entitled to be released at the end of the performance period shall be maintained and shall secure the Developer's obligation to remove and replant replacement trees which are not alive or are unhealthy, and to replant missing trees. Upon completion of the replanting of such trees, the entire security may be released. Notwithstanding the foregoing, no portion of the security shall be released while there are unsatisfied Developer's obligations to indemnify the City for any expenses incurred in enforcing the terms of the agreement provided for in this subsection.

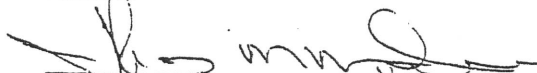
Section Two. Effective Date.

This ordinance shall be in full force and effect from and after its passage and publication according to law.

Passed by the City Council for the City of Oak Park Heights this 23 day of March,
1999


David Schaaf, Mayor

Attest:


Thomas Melena, City Administrator