

## 1 9 9 3    O R D I N A N C E S

Ordinance No.	DATE	Ordinance
8078	1-19-93	Amending Section 401.042(A)2. and adding Section 401.042(A)3. to the Lake Elmo Municipal Code
8079	2-2-93	Amending Section 301.070C of the 1979 Lake Elmo Municipal Code as it relates to the Zoning District Map
8080	2-2-93	Amending Section 1402.020 of the 1979 Lake Elmo Municipal Code as it relates to the Annual Licensing Date for Dogs
8081	2-2-93	Amending Section 204.018 of the 1979 Lake Elmo Municipal Code as it relates to the starting time of the regular meetings of the Lake Elmo Planning Commission
8082	2-2-93	Adding Section 1402.220 to the 1979 Lake Elmo Municipal Code as it relates to dangerous animals
8083	2-2-93	Repealing Sections 401.500-401.530 and their subdivisions and adding Section 401.505 Required Improvements/ Financial Arrangements to the Lake Elmo Municipal Code relating to Improvements within Subdivisions
8084	2-16-93	Adding Section 303.020C.3. and Section 303.100 B. & amending Section 303.050E.2 & Section 303.080C of the 1979 Municipal Code as it relates to Floodplain Regulations
8085	2-16-93	Adding Chapter 308 and repealing Chapter 307 of the Municipal Code relating to shoreland regulations
8086	3-2-93	Amending Section 212.012, 212.013 & 212.027 of the Municipal Code as it relates to the Heritage Preservation Commission

<b>Ordinance No.</b>	<b>DATE</b>	<b>ORDINANCE</b>
8087	9- 8-93	Ordinance relating to storm shelters in Manufactured Home Parks (Section 302.180)
8088	9- 8-93	Ordinance relating to the moving of buildings
8089	9-23-93	Ordinance relating to recording studios

STATE OF MINNESOTA  
COUNTY OF WASHINGTON  
CITY OF LAKE ELMO

ORDINANCE 8078

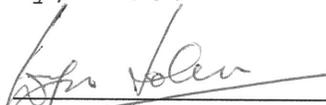
The Lake Elmo City Council ordains that Section 401.042(A)2. is hereby amended and Section 401.042(A)3. is hereby added to the Lake Elmo Municipal Code to read as follows:

2. In those cases where the City Council determines that it is not reasonably possible for each such resultant parcel to comply with the provisions of Section 401.042(A)(1). each resultant parcel when combined with an abutting parcel through an approved lot consolidation procedure shall at least cause a currently nonconforming lot to become less nonconforming or,

3. Agricultural or Rural Residential zoning districts, where the City Council determines that it is not reasonably possible for one of the resultant parcels to have a 300 foot frontage on a publicly improved right-of-way; provided that such parcel shall be served by a restrictive access which is protected by a restrictive covenant which includes the city as a beneficiary.

EFFECTIVE DATE: This ordinance shall be effective the day following its publication.

ADOPTION DATE: Passed by the City Council of the City of Lake Elmo the 19th day of January, 1993.

  
\_\_\_\_\_  
Wyn John, Mayor

ATTEST:

  
\_\_\_\_\_  
Mary Kueffner, City Administrator

Publication Date: This ordinance or an approved summary, thereof, was published on the 10th day of February, 1993.

STATE OF MINNESOTA  
COUNTY OF WASHINGTON  
CITY OF LAKE ELMO

ORDINANCE 8078

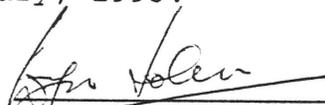
The Lake Elmo City Council ordains that Section 401.042(A)2. is hereby amended and Section 401.042(A)3. is hereby added to the Lake Elmo Municipal Code to read as follows:

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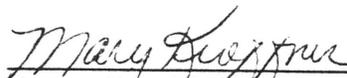
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Wyn John, Mayor

ATTEST:

  
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Mary Kueffner, City Administrator

Publication Date: This ordinance or an approved summary, thereof, was published on the 10th day of February, 1993.

RALEIGH

STATE OF MINNESOTA  
COUNTY OF WASHINGTON  
CITY OF LAKE ELMO

ORDINANCE NO. 8079

AN ORDINANCE AMENDING SECTION 301.070C OF THE  
1979 LAKE ELMO MUNICIPAL CODE AS IT RELATES TO THE  
ZONING DISTRICT MAP

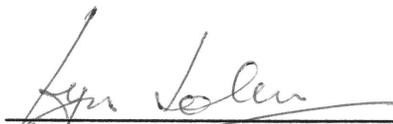
The Lake Elmo City Council hereby ordains:

SECTION 1. AMENDMENT: Section 301.070C of the Lake Elmo Municipal Code is hereby amended to change the zoning from Agricultural (A) to Rural Residential (RR) the following described parcel:

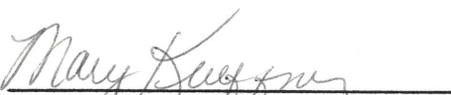
That part of the North Half of the North Half of the Southwest Quarter of Section 2, Township 29 North, Range 21 West, City of Lake ELmo, Washington County, Minnesota.

SECTION 2. EFFECTIVE DATE: This ordinance shall become effective the day following its publication.

ADOPTED by the City Council of the City of Lake Elmo this 2nd day of February, 1993.

  
\_\_\_\_\_  
Wyn John, Mayor

Attest:

  
\_\_\_\_\_  
Mary Kueffner, City Administrator

Published in the Stillwater Gazette on the 17th day of February, 1993.

Raleigh

STATE OF MINNESOTA  
COUNTY OF WASHINGTON  
CITY OF LAKE ELMO

ORDINANCE NO. 8079

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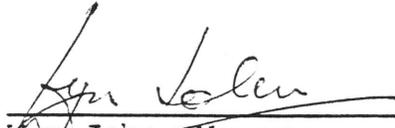
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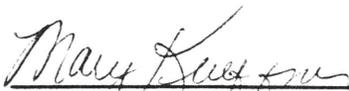
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ADOPTED by the City Council of the City of Lake Elmo this 2nd day of February, 1993.

  
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Wyn John, Mayor

Attest:

  
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Mary Kueffner, City Administrator

Published in the Stillwater Gazette on the 17th day of February, 1993.

CITY OF LAKE ELMO  
WASHINGTON COUNTY, MINNESOTA  
ORDINANCE 80- 80

AN ORDINANCE AMENDING SECTION ~~1402.020~~ OF THE  
1979 LAKE ELMO MUNICIPAL CODE AS IT RELATES TO THE ANNUAL  
LICENSING DATE FOR DOGS

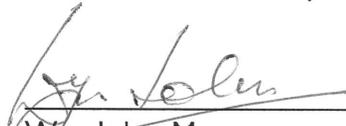
The City Council of the City of Lake Elmo ordains:

**SECTION 1. AMENDMENT:** Section 1402.020 of the 1979 Municipal Code of the City of Lake Elmo is hereby amended to change the date for the annual licensing of dogs in the City of Lake Elmo, and Section 1402.020 will read as follows:

**1402.020 Dog Licensing Required:** No person shall own, keep or harbor any dog over the age of four months, within the City of Lake Elmo, unless a dog license therefor has first been secured. Dog Licenses shall be issued by the Administrator for a fee set by Resolution of the City Council. It shall be the duty of each person owning, keeping, or harboring a dog to pay the license fee imposed by this Section to the Administrator on or before the first day of January each year, or upon establishing residence in the City, to forthwith pay such license fee. The Administrator may cause a notice of the necessity of such license fee to be printed in the official newspaper in December prior to each license year.

**SECTION 2. EFFECTIVE DATE:** This ordinance shall become effective the day following its publication.

Adopted by the City Council of the City of Lake Elmo this 2nd day of February, 1993.

  
\_\_\_\_\_  
Wyn John, Mayor

Attest:

  
\_\_\_\_\_  
Mary Kueffner, City Administrator

Published in the Stillwater Gazette on the 17th day of February 1993.

CITY OF LAKE ELMO  
WASHINGTON COUNTY, MINNESOTA  
ORDINANCE 80- 80

AN ORDINANCE AMENDING SECTION ~~1402.020~~ OF THE  
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Mary Kueffner, City Administrator

Published in the Stillwater Gazette on the 17th day of February 1993.

CITY OF LAKE ELMO  
WASHINGTON COUNTY, MINNESOTA  
ORDINANCE 80- 81

AN ORDINANCE AMENDING SECTION 204.018 OF THE 1979 LAKE ELMO  
MUNICIPAL CODE AS IT RELATES TO THE STARTING TIME OF THE REGULAR  
MEETINGS OF THE LAKE ELMO PLANNING COMMISSION

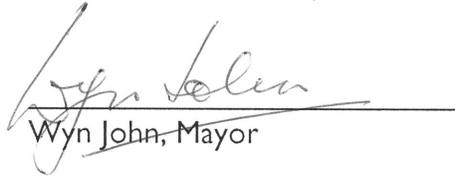
The City Council of the City of Lake Elmo ordains:

**SECTION 1. AMENDMENT:** Section 204.018 of the 1979 Municipal Code of the City of Lake Elmo is hereby amended to change the regular meeting times of the Lake Elmo Planning Commission, and will read as follows:

**204.018 Regular Meetings:** Regular meetings shall be ehld in the City Hall at **7:00** p.m. on the second and fourth Mondays of each month. No action shall be taken in the absence of a quorum except to adjourn the meeting to a subsequent date. A regular ~~meeting~~ meeting may be cancelled or rescheduled by the Commission at a prior meeting or if there are no scheduled agenda items on the Thursday prior to the meeting. All action taken by the Commission shall be by the affirmative vote of a majority of the members present.

**SECTION 2. EFFECTIVE DATE:** This ordinance shall become effective the day following its publication.

Adopted by the City Council of the City of Lake Elmo this 2nd day of February, 1993.

  
Wyn John, Mayor

Attest:

  
Mary Kueffner, City Administrator

Published in the Stillwater Gazette on the 17th day of February, 1993.

CITY OF LAKE ELMO  
WASHINGTON COUNTY, MINNESOTA  
ORDINANCE 80- 81

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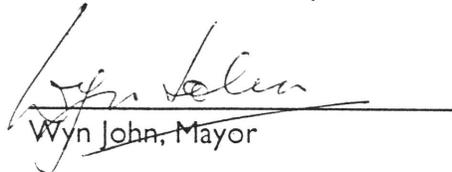
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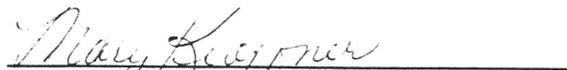
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Adopted by the City Council of the City of Lake Elmo this 2nd day of February, 1993.

  
Wyn John, Mayor

Attest:

  
Mary Kueffner, City Administrator

Published in the Stillwater Gazette on the 17th day of February, 1993.

CITY OF LAKE ELMO  
WASHINGTON COUNTY, MINNESOTA

ORDINANCE 80-82

AN ORDINANCE RELATING  
TO DANGEROUS ANIMALS

The City Council ordains that Section 1402.220 and its subdivisions shall be added to the 1979 Lake Elmo Municipal Code to read as follows:

1402.220 Dangerous Animals Prohibited: No person shall harbor, maintain or control any dangerous animal within the City of Lake Elmo. A dangerous animal is one which is capable of inflicting severe bodily harm to humans, and shall include but not be limited to the following species.

1402.220 A. Class Mammalia

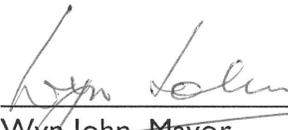
African buffalo (Syncerus caffer)  
Hippopotamus (Hippopotamus amphibius)  
Wolves, dingoes, jackals, all species except foxes (Family Canidae)  
Hyenas, all species except aardwolves (Proteles cristatus)  
(Family Hyaenidae)  
Wolverine (Gulo gulo)  
Honey badger or ratel (Mellivora campensis)  
Old World badger (Meles meles)  
Bears (Family Ursidae)  
Lions, jaguars, leopards, tigers (Genus Panthera)  
Clouded leopard (Neofelis nebulosa)  
Cheetah (Acinonyx jubatus)  
Cougar or mountain lion (Felis concolor)  
Elephants (Family Elephantidae)  
Rhinoceroses (Family Rhinocerotidae)  
Gibbons, siamangs (Family Hylobatidae)  
Orangutans, chimpanzees, gorillas (Family Pongidae)  
Baboons, drills, mandrills (Genus Papio)  
Macaques (Genus Macaca)  
Gelada baboon (Theropithecus gelada)

402.220 B. Class. Reptilia

Gavials (Family Gavialidae)  
Crocodiles (Family Crocodylidae)  
Alligators, caimans (Family Alligatoridae)  
Cobras, coral snakes (Family Elapidae)  
Sea snakes (Family Hydrophidae)  
Adders, vipers (Family Viperidae)  
Pit Vipers (Family Crotalidae)  
All venomous rear-fanged species (Family Colubridae)  
The following species of constricting snakes over eight  
(8) feet in length:  
    Boa constrictor (Boa constrictor), all subspecies  
    Anaconda (Eunectes murinus)  
    Indian python (Python molurus)  
    Reticulate python (Python reticulatus)  
    Rock python (Python sebae)  
Gila monsters and beaded lizards (Family Helodermatidae)  
Komodo dragon (Varanus komodoensis)

Effective Date: This ordinance shall be effective the day following its publication.

Adoption Date: Passed by the City Council of the City of Lake Elmo the 2nd day of February 1993.

  
\_\_\_\_\_  
Wyn John, Mayor

Attest:

  
\_\_\_\_\_  
Mary Kueffner, City Administrator

Publication Date: Published on the 24th day of February, 1993 in the Stillwater Gazette.

CITY OF LAKE ELMO  
WASHINGTON COUNTY, MINNESOTA

ORDINANCE 80-82

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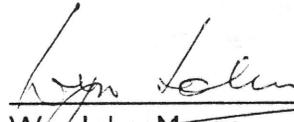
African buffalo (Syncerus caffer)  
Hippopotamus (Hippopotamus amphibious)  
Wolves, dingoes, jackals, all species except foxes (Family Canidae)  
Hyenas, all species except aardwolves (Proteles cristatus)  
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Old World badger (Meles meles)  
Bears (Family Ursidae)  
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Clouded leopard (Neofelis nebulosa)  
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Cougar or mountain lion (Felis concolor)  
Elephants (Family Elephantidae)  
Rhinoceroses (Family Rhinocerotidae)  
Gibbons, siamangs (Family Hylobatidae)  
Orangutans, chimpanzees, gorillas (Family Pongidae)  
Baboons, drills, mandrills (Genus Papio)  
Macaques (Genus Macaca)  
Gelada baboon (Theropithecus gelada)

K402.220 B. Class. Reptilia

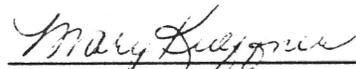
Gavials (Family Gavialidae)  
Crocodiles (Family Crocodylidae)  
Alligators, caimans (Family Alligatoridae)  
Cobras, coral snakes (Family Elapidae)  
Sea snakes (Family Hydrophidae)  
Adders, vipers (Family Viperidae)  
Pit Vipers (Family Crotalidae)  
All venomous rear-fanged species (Family Colubridae)  
The following species of constricting snakes over eight  
(8) feet in length:  
    Boa constrictor (Boa constrictor), all subspecies  
    Anaconda (Eunectes murinus)  
    Indian python (Python molurus)  
    Reticulate python (Python reticulatus)  
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Gila monsters and beaded lizards (Family Helodermatidae)  
Komodo dragon (Varanus komodoensis)

Effective Date: This ordinance shall be effective the day following its publication.

Adoption Date: Passed by the City Council of the City of Lake Elmo the 2nd day of February 1993.

  
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Wyn John, Mayor

Attest:

  
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Mary Kueffner, City Administrator

Publication Date: Published on the 24th day of February, 1993 in the Stillwater Gazette.

**CITY OF LAKE ELMO, MINNESOTA**

**ORDINANCE NO. 8083**

**AN ORDINANCE REPEALING SECTIONS 401.500 THROUGH 401.530 AND THEIR SUBDIVISIONS FROM THE LAKE ELMO MUNICIPAL CODE AND ADDING SECTION 401.505 AND ITS SUBDIVISIONS TO THE LAKE ELMO MUNICIPAL CODE RELATING TO IMPROVEMENTS WITHIN SUBDIVISIONS.**

The City Council ordains that Sections 401.500 through 401.530 be deleted from the Municipal Code.

The City Council ordains that Section 401.505 is hereby added to the Lake Elmo Municipal Code to read as follows:

**401.505 REQUIRED IMPROVEMENTS/FINANCIAL ARRANGEMENTS**

- A. Prior to the acceptance of the Final Plat, the Developer shall enter into a Developer's Agreement with the City of Lake Elmo. In conjunction with this contract, the Developer shall deposit with the City Administrator either a cash deposit or a letter of credit, approved as to form by the City Attorney, in an amount equal to 1.25 times the City Engineer's estimated cost of the improvements and administrative fees.
- B. Upon execution of the Developer's Agreement, the Developer shall deliver to the City Engineer the Final Grading Plan and the Final Plat. The City Engineer shall prepare construction plans and specifications. The City of Lake Elmo shall advertise for bids and award a construction contract for improvements within the subdivision. The City Engineer shall stake, inspect and manage construction of the improvements. Upon completion of the improvements, the City Engineer shall prepare record drawings.
- C. Upon execution of the Developer's Agreement, the Developer shall construct site and street grading within the subdivision. All streets shall be graded to within  $\pm 0.20$  feet of subgrade elevation. All unsuitable material within the street shall be removed by the Developer. Topsoil shall be spread over all disturbed areas.

**CITY OF LAKE ELMO, MINNESOTA**

**ORDINANCE NO. 8083**

**AN ORDINANCE REPEALING SECTIONS 401.500 THROUGH 401.530 AND THEIR SUBDIVISIONS FROM THE LAKE ELMO MUNICIPAL CODE AND ADDING SECTION 401.505 AND ITS SUBDIVISIONS TO THE LAKE ELMO MUNICIPAL CODE RELATING TO IMPROVEMENTS WITHIN SUBDIVISIONS.**

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**401.505 REQUIRED IMPROVEMENTS/FINANCIAL ARRANGEMENTS**

- A. Prior to the acceptance of the Final Plat, the Developer shall enter into a Developer's Agreement with the City of Lake Elmo. In conjunction with this contract, the Developer shall deposit with the City Administrator either a cash deposit or a letter of credit, approved as to form by the City Attorney, in an amount equal to 1.25 times the City Engineer's estimated cost of the improvements and administrative fees.
- B. Upon execution of the Developer's Agreement, the Developer shall deliver to the City Engineer the Final Grading Plan and the Final Plat. The City Engineer shall prepare construction plans and specifications. The City of Lake Elmo shall advertise for bids and award a construction contract for improvements within the subdivision. The City Engineer shall stake, inspect and manage construction of the improvements. Upon completion of the improvements, the City Engineer shall prepare record drawings.
- C. Upon execution of the Developer's Agreement, the Developer shall construct site and street grading within the subdivision. All streets shall be graded to within  $\pm 0.20$  feet of subgrade elevation. All unsuitable material within the street shall be removed by the Developer. Topsoil shall be spread over all disturbed areas.

All disturbed areas outside the street right-of-way shall be seeded or sodded by the Developer within 10 days.

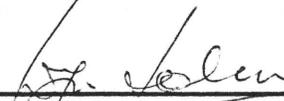
The Developer is responsible for installing and maintaining erosion control devices outside the street right-of-way until turf is fully established throughout the site.

- D. The Developer shall pay all construction, engineering, legal and administrative fees associated with the improvements.
- E. The Developer shall have all property corners and street radius points staked for the City to use in construction of the improvements.
- F. The Developer shall arrange for the installation of underground utilities after the first lift of bituminous pavement has been placed, but before the final lift is placed.

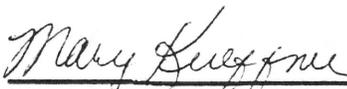
Passed by the City Council of the City of Lake Elmo, this 2nd day of FEBRUARY, 1993.

The provisions of this Ordinance shall become effective on the 25th day of February, 1993.

Published on the 24th day of February, 1993.

  
\_\_\_\_\_  
Wyn John, Mayor

ATTEST:

  
\_\_\_\_\_  
Mary Kueffner, City Administrator

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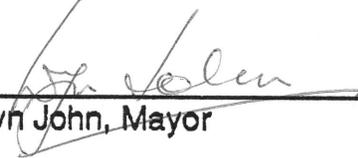
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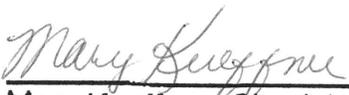
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Published on the 24th day of February, 1993.

  
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Wyn John, Mayor

ATTEST:

  
\_\_\_\_\_  
Mary Kueffner, City Administrator

C. Interpretation:

1. In their interpretation and application, the provisions of the Floodplain Regulation shall be held to be minimum requirements and shall be liberally construed in favor of the City of Lake Elmo and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.

2. Where interpretation is needed as to the exact location of the boundary of the floodplain district as shown on the Official Maps, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board and to submit technical evidence.

\* 3. Permitted and conditional uses allowed in the floodplain shall be limited to those only listed in Section 303.050, and only under the standards and conditions which are also stated herein. Where it is alleged that there is an error in any order, requirement, decision or determination made by the Zoning Administrator, an appeal may be made to the board of Adjustment and Appeals who shall follow the rules and procedures of Section 303.080 in making their final decision.

\*(Amended by Ord. 80-84, February 16, 1993.)

D. Abrogation and Greater Restrictions: The provisions of the Floodplain Regulation are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where the Floodplain Regulation imposes greater restrictions, the provisions of the Floodplain Regulation shall prevail. All other Ordinances inconsistent with the Floodplain Regulation are hereby repealed to the extent of the inconsistency only.

E. Warning and Disclaimer of Liability: The Floodplain Regulation does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. The Floodplain Regulation shall not create liability on the part of the City of Lake Elmo or any officer or employee thereof for any flood damages that result from reliance on the Floodplain Regulation or any administrative decision lawfully made thereunder.

F. Severability: If any section, clause, provision, or portion of the Floodplain Regulation is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Floodplain Regulation shall not be affected thereby.

## SECTION 303.030 DEFINITIONS

Unless specifically defined below, words or phrases used in this Section shall be interpreted so as to give them the same meaning as they have in common usage and so as to give the Floodplain Regulation its most reasonable application. In the event that a definition in Section 301.040 is different than the definition herein, the definition found in this Section shall apply.

Accessory Use or Structure - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Basement - means any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

Conditional Use - means a specific type of structure or land use listed in this ordinance that may be allowed, but only after an in-depth review procedure, and with appropriate conditions or restrictions as provided in Section 301.060 C. of the City Code.

Equal Degree of Encroachment - a method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

Finished Fill - means soil compaction area and the final grade outside the wall and foundation of a structure.

Flood - a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

Flood Frequency - the frequency for which it is expected that a specific flood stage or discharge may be equalled or exceeded.

Flood Fringe - that portion of the floodplain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for the City of Lake Elmo.

Floodplain - the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional 100-year flood.

Flood-Proofing - a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

Floodway - the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.

Obstruction - any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, water-course, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

Principal Use or Structure - means all uses or structures that are not accessory uses or structures.

Reach - a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

Regional Flood - a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.

Regulatory Flood Protection Elevation - The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

Structure - anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes and other similar items.

Variance - means a modification of a specific permitted development standard required in this ordinance to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship as defined in Section 301.060 C. Economic considerations alone shall not constitute a hardship.

#### SECTION 303.040 ESTABLISHMENT OF FLOODPLAIN DISTRICT

A. Designation of the Floodplain District: The Flood Insurance Study for the City of Lake Elmo prepared by the FEMA and dated January, 1979 and the Flood Boundary and Floodway Map and Flood Insurance Rate Map, both dated July 2, 1979 (hereinafter referred to as the "Official Maps") contained therein are hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study shall be on file in the office of the City Clerk. The Floodplain District for the City of Lake Elmo shall include those areas which lie within the 100-year Flood Boundary on the Flood Insurance Rate Map dated July 2, 1979.

B. Compliance: No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of the Floodplain Regulation and other applicable regulations which apply to uses within the jurisdiction of the Floodplain Regulation. In addition, a caution is provided here that:

1. Modifications, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of the Floodplain Regulation and specifically Section 303.100; and

2. As-built elevations for elevated or flood-proofed structures must be certified by a registered professional engineer or architect as specified in the general provisions of the Floodplain Regulation and specifically as stated in Section 303.070.

#### SECTION 303.050 FLOODPLAIN DISTRICT

A. Permitted Uses: The following uses have a low flood damage potential and do not obstruct flood flows. These uses shall be permitted to the extent that they are not prohibited by any other ordinance and provided they do not require structures, fill, or storage of materials or equipment. In addition, no use shall adversely affect the capacity of the channels or floodways or any tributary to the main stream or of any drainage ditch, or any other drainage facility or system.

1. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting.

2. Private and public recreational uses such as golf courses, tennis courts, golf driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming area, parks, wildlife and nature preserves hunting and fishing area, and single or multiple purpose recreational trails.

3. Residential uses such as lawns, gardens, parking area, and play areas.

B. standards for Floodplain Permitted Uses:

1. The use shall have a low flood damage susceptibility.

2. The use shall be permissible in the underlying zoning district.

3. The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

4. New or replacement on-site sewage treatment systems must be designed to eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment of contamination during times of flooding. Any sewage treatment system designed in accordance with the City's and State's current state-wide standards whichever is more restrictive for on-site sewage treatment systems shall be determined to be in compliance with this Section.

C. Conditional Uses:

1. Railroads, bridges, utility transmission lines, and pipelines.

2. Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

3. Alterations and/or additions to existing principal structures, located in the flood fringe portion of the flood plain district which are elevated on fill so that the lowest floor including basement floor is at or above the Regulatory Flood Protection Elevation. The finished fill elevation for structures shall be no lower than the Regulatory Flood Protection Elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon. Such construction must comply with the requirements of Section 303.050.D.

D. Standards for Floodplain Conditional Uses:

1. All Uses. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as Conditional Use that will cause any increase in the stage of the (100-year) regional flood or cause an increase in flood damages in the reach or reaches affected.

2. All floodplain Conditional Uses shall be subject to the procedures and standards contained in Section 303.090.

3. The Conditional Use shall be permissible in the underlying zoning district.

4. Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statute, Chapter 103G. Community-wide structural works for flood control intended to remove areas from the regulatory floodplain shall not be allowed in the floodway.

5. When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted. The plan must be prepared and certified by a registered professional engineer.

E. Standards for All Floodplain Uses:

1. All new principal structures must have vehicular access at or above the Regulatory Flood Protection Elevation. If a Variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for time of flooding.

\* 2. Commercial Uses - accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the Regulatory Flood Protection Elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than four feet per second upon occurrence of the regional flood.

\*(Amended by Ord. 80-84, February 16, 1993.)

3. Fill shall be properly compacted and the slopes shall be properly protected by the use of rip-rap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation - FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

4. Floodplain developments shall not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.

5. All dwelling units must be at least twenty (20) feet wide through the main living area of the structure. The structure must have continuous frost footings. Continuous frost footings are not required for porches, decks, and other appendages so long as proper post type footings per existing building codes are constructed.

6. Travel trailers, travel vehicles, and manufactured homes are prohibited in the floodplain district.

SECTION 303.060 PUBLIC UTILITIES, RAILROADS, AND BRIDGES

A. Public Utilities: All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain shall be flood-proofed in accordance with the State Building Code or elevated to above the Regulatory Flood Protection Elevation.

B. Public Transportation Facilities: Railroad tracks, and bridges to be located within the floodplain shall comply with Section 303.050. Elevation to the Regulatory Flood Protection Elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Limited access roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

C. On-site Sewage Treatment and Water Supply Systems: Where public utilities are not provided: 1) On-site water supply systems must be designed to eliminate infiltration of flood waters into the systems; and 2) New or replacement on-site sewage treatment systems must be designed to eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the City's and State's current state-wide standards whichever is more restrictive for on-site sewage treatment systems shall be determined to be in compliance with this Section.

SECTION 303.070 ADMINISTRATION

A. Zoning Administrator: A Zoning Administrator or other official designated by the City of Lake Elmo shall administer and enforce the Floodplain Regulation. If the Zoning Administrator finds a violation of the provisions of the Floodplain Regulation, the Zoning shall notify the person responsible for such violation in accordance with the procedures stated in Section 303.100.

B. Permit Requirements: A Permit issued by the Zoning Administrator in conformity with the provisions of the Floodplain Regulation shall be secured prior to the erection, addition, or alteration of any building, structure, or portion thereof; prior to the use or change of use of building, structure, or land; prior to the change or extension of a nonconforming use; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.

C. Application for Permit: Application for a Permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: Plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the floodplain.

D. State and Federal Permits: Prior to granting a Permit or processing an application for a Conditional Use Permit or Variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal Permits.

E. Certificate of Occupancy for a New, Altered, or Nonconforming Use: It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a Certificate of Occupancy shall have been issued by the Zoning Administrator indicating that the use of the building or land conforms to the requirements of the Floodplain Regulation.

F. Construction and Use to be as Provided on Application, Plans, Permits, Variances and Certificates of Occupancy: Permits, Conditional Use Permits, or Certificates of Occupancy issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of the Floodplain Regulation, and punishable as provided by Section 303.110.

G. Certification: The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this ordinance. Flood-proofing measures shall be certified by a registered professional engineer or registered architect.

H. Record of First Floor Elevation: The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The Zoning Administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood-proofed.

I. Subdivisions: No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the floodplain districts shall contain a building site at or above the Regulatory Flood Protection Elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of the Floodplain Regulation and have road access both to the subdivision and to the individual building sites no lower than the Regulatory Flood Protection Elevation. For all subdivisions in the floodplain, the Floodway and Flood Fringe boundaries, the Regulatory Flood Protection Elevation and the required elevation of all access roads shall be clearly labelled on all required subdivision drawings and platting documents. For all residential structures in the floodplain, the floodway and the flood fringe boundaries, the basement construction, or the lowest floor if there is no basement, shall not be allowed below the Regulatory Flood Protection Elevation.

SECTION 303.080 BOARD OF ADJUSTMENT AND APPEALS

A. Rules: The Board of Adjustment and Appeals shall have rules and power conferred in Section 301.060 C.

B. Hearings: The Board of Adjustment shall follow the hearing procedures of Section 301.060 C.4. The Board shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Variances sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

\* C. Decisions: A Board decision and their findings shall be made according to Section 301.060 C. 4. and 5. In granting a Variance the Board may prescribe appropriate conditions and safeguards which are in conformity with the purposes of the Floodplain Regulation. Violations of such conditions and safeguards, when made part of the terms under which the Variance is granted, shall be deemed a violation of the Floodplain Regulation punishable under Section 303.110. No Variance shall allow in any district a use prohibited in that district or permit a lower degree of flood protection than the Regulatory Flood Protection Elevation. Variances may be used to modify permissible methods of flood protection.

\*(Amended by Ord. 80-84, February 16, 1993.)

A copy of all decisions granting Variances shall be forwarded by mail to the Commission of Natural Resources within ten days of such action.

Appeals from any decision of the Board may be made in accordance with and as specified in Section 301.060 C. 6.

D. Flood Insurance Notice and Record Keeping: The Zoning Administrator shall notify the applicant for a variance that: 1) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and 2) such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

SECTION 303.090 CONDITIONAL USES - STANDARDS OF EVALUATION PROCEDURES

A. Rules and Hearings: A Conditional Use Permit Application shall be acted upon according to the procedures outlined in Section 301.060 D.

Upon filing with the City of Lake Elmo an application for a Conditional Use Permit, the City Council shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Conditional Use sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

B. Procedures to be followed by the City of Lake Elmo in Passing on Conditional Use Permit Applications Within the Floodplain District:

1. Require the applicant to furnish such of the following information and additional information as deemed necessary by the City Council for determining the suitability of the particular site for the proposed use:
  - a) Plans drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood-proofing measures, and the relationship of the above to the location of the stream channel.
  - b) Specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
  - c) Transmit one copy of the information described above to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.

d) Based upon the technical evaluation of the designated engineer or expert, the City council shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

C. Factors Upon Which the Decision of the City Council Shall Be Based: In passing upon Conditional Use applications, the City of Lake Elmo shall consider all relevant factors specified in other sections of the Floodplain Regulation, and:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
2. The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
4. The susceptibility of the proposed facility and its intents to flood damage and the effect of such damage on the individual owner.
5. The importance of the services provided by the proposed facility to the community.
6. The requirements of the facility for a waterfront location.
7. The availability of alternative locations not subject to flooding for the proposed use.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
10. The safety of access to the property in times of flood for ordinary and emergency vehicles.
11. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
12. Such other factors which are relevant to the purposes of the Floodplain Regulation.

D. Conditions Attached to Conditional Use Permits: Upon consideration of the factors listed above and the purpose of this Ordinance, the City of Lake Elmo shall attach such conditions to the granting of Conditional Use Permits as it deems necessary to fulfill the purposes of the Floodplain Regulation. Such conditions may include, but are not limited to, the following:

1. Modification of waste treatment and water supply facilities.
2. Limitations on period of use, occupancy, and operation.
3. Imposition of operational controls, sureties, and deed restrictions.
4. Requirements for construction of channel modifications, compensatory storage of a two to one replacement or greater, dikes, levees, and other protective measures.
5. Flood-proofing measures, in accordance with the State Building Code and the Floodplain Regulation. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.

#### SECTION 303.100 NONCONFORMING USES

A. A structure or the use of a structure or premises which was lawful before the passage or amendment of the Floodplain Regulation but which is not in conformity with the provisions of the Floodplain Regulation may be continued subject to the requirements of Section 301.050 B.

\* B. The cost of all structural alterations or additions both inside and outside of a structure to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions and additions constructed since the adoption of Lake Elmo's initial flood plain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50 percent of the current market value of the structure, then the structure must meet the standards of Section 303.050. \* (Amended by Ord. 80-84, February 16, 1993.)

#### SECTION 303.110 PENALTIES FOR VIOLATION

A. Violation of the provisions of the Floodplain Regulation or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of Variances or Conditional Uses) shall constitute a misdemeanor and shall be punishable as defined by law.

B. Nothing herein contained shall prevent the City of Lake Elmo from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:

1. In responding to a suspected ordinance violation, the Zoning Administrator and Local Government may utilize the full array of enforcement actions available to it including but not limited to, prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The community must act in good faith to enforce these official controls and to correct the Floodplain Regulation violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

2. When the Floodplain Regulation violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources' and Federal Emergency Management Agency Regional Office along with the Community's plan of action to correct the violation to the degree possible.

3. The Zoning Administrator shall notify the suspected party of the requirements of the Floodplain Regulation and all other official Controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the Community. If the construction or development is already completed, then the Zoning Administrator may either (1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls, or (2) notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30-days.

4. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of the Floodplain Regulation and shall be prosecuted accordingly. The Zoning Administrator shall also, upon the lapse of the specified response period, notify the landowner to restore the land to the condition which existed prior to the violation of the Floodplain Regulation.

SECTION 303.120 AMENDMENTS

The floodplain designation on the Official Map shall not be removed from floodplain areas unless it can be shown that the designation is in error. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he determines that, through other measures, lands are adequately protected for the intended use.

All amendments to the Floodplain Regulation including amendments to the Official Zoning Map must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given 10-days written notice of all hearings to consider an amendment to the Floodplain Regulation and said notice shall include a draft of the proposed amendment or technical study under consideration.

CITY OF LAKE ELMO  
WASHINGTON COUNTY, MINNESOTA  
ORDINANCE 80-84

AN ORDINANCE ADDING SECTION 303.020 C. 3. AND SECTION 303.100 B, AND AMENDING SECTION 303.050 E.2. AND SECTION 303.080 C. OF THE 1979 LAKE ELMO MUNICIPAL CODE AS IT RELATES TO FLOODPLAIN REGULATIONS

The City Council of the City of Lake Elmo ordains:

**SECTION I. AMENDMENT:** Section 303.020 C.3. and Section 303.100 B. are hereby added to the 1979 Municipal Code of the City of Lake Elmo; and Section 303.050 E.2. and Section 303.080 C. hereby amended the 1979 Municipal Code of the City of Lake Elmo all relating to Floodplain Regulations, and will read as follows:

**Section 303.020 C.3.** Permitted and conditional uses allowed in the floodplain shall be limited to those only listed in Section 303.050, and only under the standards and conditions which are also stated herein. Where it is alleged that there is an error in any order, requirement, decision or determination made by the Zoning Administrator, an appeal may be made to the Board of Adjustment and Appeals who shall follow the rules and procedures of Section 303.080 in making their final decision.

**Section 303.050E.2.** Commercial Uses - accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the Regulatory Flood Protection Elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than four feet per second upon occurrence of the regional flood.

**Section 303.080 C. Decisions:** A Board decision and their findings shall be made according to Section 301.060 C.4. and 5. In granting a Variance the Board may prescribe appropriate conditions and safeguards which are in conformity with the purposes of the Floodplain Regulation. Violations of such conditions and safeguards, when made part of the terms under which the Variance is granted, shall be deemed a violation of the Floodplain Regulation punishable under Section 303.110. No Variance shall allow in any district a use prohibited in that district or permit a lower degree of flood protection than the Regulatory Flood Protection Elevation. Variances may be used to modify permissible methods of flood protection.

## FLOODPLAIN MANAGEMENT ORDINANCE

### SECTION 303.010 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE

A. Statutory Authorization: The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and 462.357 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of Lake Elmo, Minnesota does ordain as follows:

B. Findings of Fact:

1. The flood hazard areas of Lake Elmo, Minnesota, are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extra-ordinary public expenditures for flood protection and relief and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

2. Methods Used to Analyze Flood Hazards. This Ordinance is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.

C. Title: The provisions of Lake Elmo code Sections 303.010 through 303.120 and amendments thereto shall be referred to as the Floodplain Regulation.

D. Statement of Purpose: It is the purpose of the Floodplain Regulation to promote the public health, safety, and general welfare and to minimize those losses described in Section 303.010 B. by provisions contained herein.

### SECTION 303.020 GENERAL PROVISIONS

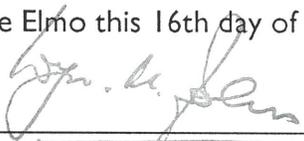
A. Lands to Which Ordinance Applies: The Floodplain Regulation shall apply to all lands within the jurisdiction of the City of Lake Elmo shown on the City's Flood Boundary and Floodway Map and the Flood Insurance Rate Map dated July 2, 1979 (hereinafter "Official Maps") as being located within the boundaries of the Floodway, Flood Fringe, or General Floodplain Districts. These Official Maps are hereby adopted by reference and declared to be a part of the Floodplain Regulation.

B. Regulatory Flood Protection Elevation: The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

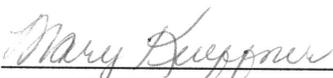
**Section 303.100 B.** The cost of all structural alterations or additions both inside and outside of a structure to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions and additions constructed since the adoption of Lake Elmo's initial flood plain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50 percent of the current market value of the structure, then the structure must meet the standards of Section 303.050.

**SECTION 2. EFFECTIVE DATE:** This ordinance shall become effective the day following its publication.

Adopted by the City Council of the City of Lake Elmo this 16th day of February, 1993.

  
\_\_\_\_\_  
Wyn John, Mayor

Attest:

  
\_\_\_\_\_  
Mary Kueffner, City Administrator

Published in the Stillwater Gazette on the 24th day of February, 1993.

CITY OF LAKE ELMO  
WASHINGTON COUNTY, MINNESOTA  
ORDINANCE 80-84

AN ORDINANCE ADDING SECTION 303.020 C. 3. AND SECTION 303.100 B, AND  
AMENDING SECTION 303.050 E.2. AND SECTION 303.080 C. OF THE 1979 LAKE  
ELMO MUNICIPAL CODE AS IT RELATES TO FLOODPLAIN REGULATIONS

The City Council of the City of Lake Elmo ordains:

**SECTION I. AMENDMENT:** Section 303.020 C.3. and Section 303.100 B. are hereby added to the 1979 Municipal Code of the City of Lake Elmo; and Section 303.050 E.2. and Section 303.080 C. hereby amended the 1979 Municipal Code of the City of Lake Elmo all relating to Floodplain Regulations, and will read as follows:

**Section 303.020 C.3.** Permitted and conditional uses allowed in the floodplain shall be limited to those only listed in Section 303.050, and only under the standards and conditions which are also stated herein. Where it is alleged that there is an error in any order, requirement, decision or determination made by the Zoning Administrator, an appeal may be made to the Board of Adjustment and Appeals who shall follow the rules and procedures of Section 303.080 in making their final decision.

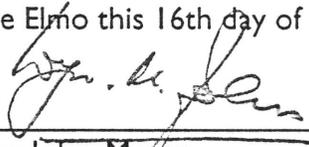
**Section 303.050E.2.** Commercial Uses - accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the Regulatory Flood Protection Elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than four feet per second upon occurrence of the regional flood.

**Section 303.080 C. Decisions:** A Board decision and their findings shall be made according to Section 301.060 C.4. and 5. In granting a Variance the Board may prescribe appropriate conditions and safeguards which are in conformity with the purposes of the Floodplain Regulation. Violations of such conditions and safeguards, when made part of the terms under which the Variance is granted, shall be deemed a violation of the Floodplain Regulation punishable under Section 303.110. No Variance shall allow in any district a use prohibited in that district or permit a lower degree of flood protection than the Regulatory Flood Protection Elevation. Variances may be used to modify permissible methods of flood protection.

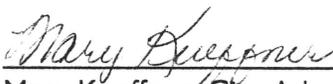
**Section 303.100 B.** The cost of all structural alterations or additions both inside and outside of a structure to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions and additions constructed since the adoption of Lake Elmo's initial flood plain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50 percent of the current market value of the structure, then the structure must meet the standards of Section 303.050.

**SECTION 2. EFFECTIVE DATE:** This ordinance shall become effective the day following its publication.

Adopted by the City Council of the City of Lake Elmo this 16th day of February, 1993.

  
\_\_\_\_\_  
Wyn John, Mayor

Attest:

  
\_\_\_\_\_  
Mary Kueffner, City Administrator

Published in the Stillwater Gazette on the 24th day of February, 1993.

## FLOODPLAIN MANAGEMENT ORDINANCE

### SECTION 303.010 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE

A. Statutory Authorization: The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and 462.357 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of Lake Elmo, Minnesota does ordain as follows:

B. Findings of Fact:

1. The flood hazard areas of Lake Elmo, Minnesota, are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

2. Methods Used to Analyze Flood Hazards. This Ordinance is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.

C. Title: The provisions of Lake Elmo code Sections 303.010 through 303.120 and amendments thereto shall be referred to as the Floodplain Regulation.

D. Statement of Purpose: It is the purpose of the Floodplain Regulation to promote the public health, safety, and general welfare and to minimize those losses described in Section 303.010 B. by provisions contained herein.

### SECTION 303.020 GENERAL PROVISIONS

A. Lands to Which Ordinance Applies: The Floodplain Regulation shall apply to all lands within the jurisdiction of the City of Lake Elmo shown on the City's Flood Boundary and Floodway Map and the Flood Insurance Rate Map dated July 2, 1979 (hereinafter "Official Maps") as being located within the boundaries of the Floodway, Flood Fringe, or General Floodplain Districts. These Official Maps are hereby adopted by reference and declared to be a part of the Floodplain Regulation.

B. Regulatory Flood Protection Elevation: The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

C. Interpretation:

1. In their interpretation and application, the provisions of the Floodplain Regulation shall be held to be minimum requirements and shall be liberally construed in favor of the City of Lake Elmo and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.

2. Where interpretation is needed as to the exact location of the boundary of the floodplain district as shown on the Official Maps, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board and to submit technical evidence.

\* 3. Permitted and conditional uses allowed in the floodplain shall be limited to those only listed in Section 303.050, and only under the standards and conditions which are also stated herein. Where it is alleged that there is an error in any order, requirement, decision or determination made by the Zoning Administrator, an appeal may be made to the board of Adjustment and Appeals who shall follow the rules and procedures of Section 303.080 in making their final decision.

\*(Amended by Ord. 80-84, February 16, 1993.)

D. Abrogation and Greater Restrictions: The provisions of the Floodplain Regulation are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where the Floodplain Regulation imposes greater restrictions, the provisions of the Floodplain Regulation shall prevail. All other Ordinances inconsistent with the Floodplain Regulation are hereby repealed to the extent of the inconsistency only.

E. Warning and Disclaimer of Liability: The Floodplain Regulation does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. The Floodplain Regulation shall not create liability on the part of the City of Lake Elmo or any officer or employee thereof for any flood damages that result from reliance on the Floodplain Regulation or any administrative decision lawfully made thereunder.

F. Severability: If any section, clause, provision, or portion of the Floodplain Regulation is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Floodplain Regulation shall not be affected thereby.

## SECTION 303.030 DEFINITIONS

Unless specifically defined below, words or phrases used in this Section shall be interpreted so as to give them the same meaning as they have in common usage and so as to give the Floodplain Regulation its most reasonable application. In the event that a definition in Section 301.040 is different than the definition herein, the definition found in this Section shall apply.

Accessory Use or Structure - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Basement - means any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

Conditional Use - means a specific type of structure or land use listed in this ordinance that may be allowed, but only after an in-depth review procedure, and with appropriate conditions or restrictions as provided in Section 301.060 C. of the City Code.

Equal Degree of Encroachment - a method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

Finished Fill - means soil compaction area and the final grade outside the wall and foundation of a structure.

Flood - a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

Flood Frequency - the frequency for which it is expected that a specific flood stage or discharge may be equalled or exceeded.

Flood Fringe - that portion of the floodplain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for the City of Lake Elmo.

Floodplain - the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional 100-year flood.

Flood-Proofing - a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

Floodway - the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.

Obstruction - any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, water-course, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

Principal Use or Structure - means all uses or structures that are not accessory uses or structures.

Reach - a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

Regional Flood - a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.

Regulatory Flood Protection Elevation - The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

Structure - anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes and other similar items.

Variance - means a modification of a specific permitted development standard required in this ordinance to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship as defined in Section 301.060 C. Economic considerations alone shall not constitute a hardship.

#### SECTION 303.040 ESTABLISHMENT OF FLOODPLAIN DISTRICT

A. Designation of the Floodplain District: The Flood Insurance Study for the City of Lake Elmo prepared by the FEMA and dated January, 1979 and the Flood Boundary and Floodway Map and Flood Insurance Rate Map, both dated July 2, 1979 (hereinafter referred to as the "Official Maps") contained therein are hereby adopted by reference and declared to be a part of his ordinance. The Flood Insurance Study shall be on file in the office of the City Clerk. The Floodplain District for the City of Lake Elmo shall include those areas which lie within the 100-year Flood Boundary on the Flood Insurance Rate Map dated July 2, 1979.

B. Compliance: No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of the Floodplain Regulation and other applicable regulations which apply to uses within the jurisdiction of the Floodplain Regulation. In addition, a caution is provided here that:

1. Modifications, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of the Floodplain Regulation and specifically Section 303.100; and
2. As-built elevations for elevated or flood-proofed structures must be certified by a registered professional engineer or architect as specified in the general provisions of the Floodplain Regulation and specifically as stated in Section 303.070.

#### SECTION 303.050 FLOODPLAIN DISTRICT

A. Permitted Uses: The following uses have a low flood damage potential and do not obstruct flood flows. These uses shall be permitted to the extent that they are not prohibited by any other ordinance and provided they do not require structures, fill, or storage of materials or equipment. In addition, no use shall adversely affect the capacity of the channels or floodways or any tributary to the main stream or of any drainage ditch, or any other drainage facility or system.

1. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting.
2. Private and public recreational uses such as golf courses, tennis courts, golf driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming area, parks, wildlife and nature preserves hunting and fishing area, and single or multiple purpose recreational trails.
3. Residential uses such as lawns, gardens, parking area, and play areas.

B. standards for Floodplain Permitted Uses:

1. The use shall have a low flood damage susceptibility.
2. The use shall be permissible in the underlying zoning district.
3. The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

4. New or replacement on-site sewage treatment systems must be designed to eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment of contamination during times of flooding. Any sewage treatment system designed in accordance with the City's and State's current state-wide standards whichever is more restrictive for on-site sewage treatment systems shall be determined to be in compliance with this Section.

C. Conditional Uses:

1. Railroads, bridges, utility transmission lines, and pipelines.

2. Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

3. Alterations and/or additions to existing principal structures, located in the flood fringe portion of the flood plain district which are elevated on fill so that the lowest floor including basement floor is at or above the Regulatory Flood Protection Elevation. The finished fill elevation for structures shall be no lower than the Regulatory Flood Protection Elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon. Such construction must comply with the requirements of Section 303.050.D.

D. Standards for Floodplain Conditional Uses:

1. All Uses. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as Conditional Use that will cause any increase in the stage of the (100-year) regional flood or cause an increase in flood damages in the reach or reaches affected.

2. All floodplain Conditional Uses shall be subject to the procedures and standards contained in Section 303.090.

3. The Conditional Use shall be permissible in the underlying zoning district.

4. Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statute, Chapter 103G. Community-wide structural works for flood control intended to remove areas from the regulatory floodplain shall not be allowed in the floodway.

5. When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted. The plan must be prepared and certified by a registered professional engineer.

E. Standards for All Floodplain Uses:

1. All new principal structures must have vehicular access at or above the Regulatory Flood Protection Elevation. If a Variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for time of flooding.

\* 2. Commercial Uses - accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the Regulatory Flood Protection Elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than four feet per second upon occurrence of the regional flood.

\*(Amended by Ord. 30-84, February 16, 1993.)

3. Fill shall be properly compacted and the slopes shall be properly protected by the use of rip-rap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation - FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

4. Floodplain developments shall not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.

5. All dwelling units must be at least twenty (20) feet wide through the main living area of the structure. The structure must have continuous frost footings. Continuous frost footings are not required for porches, decks, and other appendages so long as proper post type footings per existing building codes are constructed.

6. Travel trailers, travel vehicles, and manufactured homes are prohibited in the floodplain district.

SECTION 303.060 PUBLIC UTILITIES, RAILROADS, AND BRIDGES

A. Public Utilities: All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain shall be flood-proofed in accordance with the State Building Code or elevated to above the Regulatory Flood Protection Elevation.

B. Public Transportation Facilities: Railroad tracks, and bridges to be located within the floodplain shall comply with Section 303.050. Elevation to the Regulatory Flood Protection Elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Limited access roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

C. On-site Sewage Treatment and Water Supply Systems: Where public utilities are not provided: 1) On-site water supply systems must be designed to eliminate infiltration of flood waters into the systems; and 2) New or replacement on-site sewage treatment systems must be designed to eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the City's and State's current state-wide standards whichever is more restrictive for on-site sewage treatment systems shall be determined to be in compliance with this Section.

SECTION 303.070 ADMINISTRATION

A. Zoning Administrator: A Zoning Administrator or other official designated by the City of Lake Elmo shall administer and enforce the Floodplain Regulation. If the Zoning Administrator finds a violation of the provisions of the Floodplain Regulation, the Zoning shall notify the person responsible for such violation in accordance with the procedures stated in Section 303.100.

B. Permit Requirements: A Permit issued by the Zoning Administrator in conformity with the provisions of the Floodplain Regulation shall be secured prior to the erection, addition, or alteration of any building, structure, or portion thereof; prior to the use or change of use of building, structure, or land; prior to the change or extension of a nonconforming use; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.

C. Application for Permit: Application for a Permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: Plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the floodplain.

D. State and Federal Permits: Prior to granting a Permit or processing an application for a Conditional Use Permit or Variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal Permits.

E. Certificate of Occupancy for a New, Altered, or Nonconforming Use: It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a Certificate of Occupancy shall have been issued by the Zoning Administrator indicating that the use of the building or land conforms to the requirements of the Floodplain Regulation.

F. Construction and Use to be as Provided on Application, Plans, Permits, Variances and Certificates of Occupancy: Permits, Conditional Use Permits, or Certificates of Occupancy issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of the Floodplain Regulation, and punishable as provided by Section 303.110.

G. Certification: The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this ordinance. Flood-proofing measures shall be certified by a registered professional engineer or registered architect.

H. Record of First Floor Elevation: The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The Zoning Administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood-proofed.

I. Subdivisions: No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the floodplain districts shall contain a building site at or above the Regulatory Flood Protection Elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of the Floodplain Regulation and have road access both to the subdivision and to the individual building sites no lower than the Regulatory Flood Protection Elevation. For all subdivisions in the floodplain, the Floodway and Flood Fringe boundaries, the Regulatory Flood Protection Elevation and the required elevation of all access roads shall be clearly labelled on all required subdivision drawings and platting documents. For all residential structures in the floodplain, the floodway and the flood fringe boundaries, the basement construction, or the lowest floor if there is no basement, shall not be allowed below the Regulatory Flood Protection Elevation.

SECTION 303.080 BOARD OF ADJUSTMENT AND APPEALS

A. Rules: The Board of Adjustment and Appeals shall have rules and power conferred in Section 301.060 C.

B. Hearings: The Board of Adjustment shall follow the hearing procedures of Section 301.060 C.4. The Board shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Variances sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

\* C. Decisions: A Board decision and their findings shall be made according to Section 301.060 C. 4. and 5. In granting a Variance the Board may prescribe appropriate conditions and safeguards which are in conformity with the purposes of the Floodplain Regulation. Violations of such conditions and safeguards, when made part of the terms under which the Variance is granted, shall be deemed a violation of the Floodplain Regulation punishable under Section 303.110. No Variance shall allow in any district a use prohibited in that district or permit a lower degree of flood protection than the Regulatory Flood Protection Elevation. Variances may be used to modify permissible methods of flood protection.

\*(Amended by Ord. 80-84, February 16, 1993.)

A copy of all decisions granting Variances shall be forwarded by mail to the Commission of Natural Resources within ten days of such action.

Appeals from any decision of the Board may be made in accordance with and as specified in Section 301.060 C. 6.

D. Flood Insurance Notice and Record Keeping: The Zoning Administrator shall notify the applicant for a variance that: 1) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and 2) such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

SECTION 303.090 CONDITIONAL USES - STANDARDS OF EVALUATION PROCEDURES

A. Rules and Hearings: A Conditional Use Permit Application shall be acted upon according to the procedures outlined in Section 301.060 D.

Upon filing with the City of Lake Elmo an application for a Conditional Use Permit, the City Council shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Conditional Use sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

B. Procedures to be followed by the City of Lake Elmo in Passing on Conditional Use Permit Applications Within the Floodplain District:

1. Require the applicant to furnish such of the following information and additional information as deemed necessary by the City Council for determining the suitability of the particular site for the proposed use:
  - a) Plans drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood-proofing measures, and the relationship of the above to the location of the stream channel.
  - b) Specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
  - c) Transmit one copy of the information described above to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.

d) Based upon the technical evaluation of the designated engineer or expert, the City council shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

C. Factors Upon Which the Decision of the City Council Shall Be Based: In passing upon Conditional Use applications, the City of Lake Elmo shall consider all relevant factors specified in other sections of the Floodplain Regulation, and:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
2. The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
4. The susceptibility of the proposed facility and its intents to flood damage and the effect of such damage on the individual owner.
5. The importance of the services provided by the proposed facility to the community.
6. The requirements of the facility for a waterfront location.
7. The availability of alternative locations not subject to flooding for the proposed use.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
10. The safety of access to the property in times of flood for ordinary and emergency vehicles.
11. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
12. Such other factors which are relevant to the purposes of the Floodplain Regulation.

D. Conditions Attached to Conditional Use Permits: Upon consideration of the factors listed above and the purpose of this Ordinance, the City of Lake Elmo shall attach such conditions to the granting of Conditional Use Permits as it deems necessary to fulfill the purposes of the Floodplain Regulation. Such conditions may include, but are not limited to, the following:

1. Modification of waste treatment and water supply facilities.
2. Limitations on period of use, occupancy, and operation.
3. Imposition of operational controls, sureties, and deed restrictions.
4. Requirements for construction of channel modifications, compensatory storage of a two to one replacement or greater, dikes, levees, and other protective measures.
5. Flood-proofing measures, in accordance with the State Building Code and the Floodplain Regulation. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.

#### SECTION 303.100 NONCONFORMING USES

A. A structure or the use of a structure or premises which was lawful before the passage or amendment of the Floodplain Regulation but which is not in conformity with the provisions of the Floodplain Regulation may be continued subject to the requirements of Section 301.050 B.

\* B. The cost of all structural alterations or additions both inside and outside of a structure to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions constructed since the adoption of Lake Elmo's initial flood plain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50 percent of the current market value of the structure, then the structure must meet the standards of Section 303.050. \* (Amended by Ord. 80-84, February 16, 1993.)

#### SECTION 303.110 PENALTIES FOR VIOLATION

A. Violation of the provisions of the Floodplain Regulation or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of Variances or Conditional Uses) shall constitute a misdemeanor and shall be punishable as defined by law.

B. Nothing herein contained shall prevent the City of Lake Elmo from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:

1. In responding to a suspected ordinance violation, the Zoning Administrator and Local Government may utilize the full array of enforcement actions available to it including but not limited to, prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The community must act in good faith to enforce these official controls and to correct the Floodplain Regulation violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

2. When the Floodplain Regulation violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources' and Federal Emergency Management Agency Regional Office along with the Community's plan of action to correct the violation to the degree possible.

3. The Zoning Administrator shall notify the suspected party of the requirements of the Floodplain Regulation and all other official Controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the Community. If the construction or development is already completed, then the Zoning Administrator may either (1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls, or (2) notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30-days.

4. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of the Floodplain Regulation and shall be prosecuted accordingly. The Zoning Administrator shall also, upon the lapse of the specified response period, notify the landowner to restore the land to the condition which existed prior to the violation of the Floodplain Regulation.

SECTION 303.120 AMENDMENTS

The floodplain designation on the Official Map shall not be removed from floodplain areas unless it can be shown that the designation is in error. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he determines that, through other measures, lands are adequately protected for the intended use.

All amendments to the Floodplain Regulation including amendments to the Official Zoning Map must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given 10-days written notice of all hearings to consider an amendment to the Floodplain Regulation and said notice shall include a draft of the proposed amendment or technical study under consideration.

STATE OF MINNESOTA  
COUNTY OF WASHINGTON  
CITY OF LAKE ELMO

ORDINANCE 80-85

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AN ORDINANCE ADDING CHAPTER 308 AND REPEALING CHAPTER 307 OF THE  
LAKE ELMO MUNICIPAL CODE RELATING TO  
SHORELAND REGULATIONS

The City Council ordains that Chapter 308 and its subsections shall be added to the Lake Elmo Municipal code to read as follows:

## 308 SHORELAND ORDINANCE

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308 SHORELAND DISTRICT

308.010 SHORELAND DISTRICT

The Shorelands within the City of Lake Elmo are hereby designated as Shoreland District. Regulations set forth in this chapter shall govern land use and other activities within this district. The classification of the lakes shall govern the use, alteration and development of land within the Shoreland district.

The uncontrolled use of shorelands adversely affects the public health, safety and general welfare by contributing to pollution of public waters and by impairing the local tax base. In furtherance of the policies declared in Minnesota Statutes, Chapters 103G, 103F, 115, 116, 394, 396 and 462, the Commissioner provides the following minimum standards and criteria for the subdivision, use and development of the shorelands of public waters. The standards and criteria are intended to preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands and provide for the wise use of water and related land resources of the state.

308.020 INTENT

IT IS THE INTENT OF THE CITY OF LAKE ELMO TO:

- A. Regulate placement of sanitary and waste treatment facilities on shorelands of public waters to prevent pollution of public waters and public health hazards resulting therefrom.
- B. Regulate alteration of Shorelands of public waters to prevent excessive sediment pollution, increased water runoff, excessive nutrient runoff pollution.
- C. To preserve and enhance the unique aesthetic appearance and ecological value of the shoreland.
- D. Regulate the construction of buildings and changes of land use in Shorelands to minimize property damage during period of high water.

308.030 DEFINITIONS

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this chapter its most reasonable application. For the purpose of this chapter, the words "must" and "shall" are mandatory and not permissive. All distances, unless otherwise specified, shall be measured horizontally.

- a. Accessory Structure or Facility. "Accessory Structure" or "facility" means any building or improvement subordinate to a principal use which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks.

- b. Bluff. "Bluff" means a topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 18 percent over a distance of 50 feet or more shall not be considered part of the bluff):
- (1) Part or all of the feature is located in a shoreland area;
  - (2) The slope rises at least 25 feet above the ordinary high water level of the water body;
  - (3) The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater; and
  - (4) The slope must drain toward the water body.
- c. Bluff Impact Zone. "Bluff Impact Zone" means a bluff and land located within 20 feet from the top of a bluff.
- d. Boathouse. "Boathouse" means a structure designed and used solely for the storage of boats AND boating equipment.
- e. Building Line. "Building Line" means a line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.
- f. Commercial Use. "Commercial Use" means the principal use of land or buildings for the sale, lease, rental or trade of products, goods and services.
- g. Commissioner. "Commissioner" means the Commissioner of the Department of Natural Resources.
- h. Conditional Use. "Conditional Use" means a defined land use in a particular district which is allowed if the City Council determines that such use will not be detrimental to the health, safety, convenience, morals or general welfare of the community; that such use will not cause serious traffic congestion or hazards; that such use will not seriously depreciate surrounding property values; and that such use is in harmony with the general purpose and intent of the City's zoning regulations and Comprehensive Plan.
- i. Deck. "Deck" means a horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above ground.
- j. Dwelling Unit. "Dwelling Unit" means any structure or portion of a structure or other shelter designed as short or long term living quarters for one or more persons.

- k. Extractive Use. "Extractive Use" means the use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other non-metallic minerals, and peat not regulated under Minnesota Statutes, Sections 93.44 to 93.51.
- l. Forest Land Conversion. "Forest Land Conversion" means the clear cutting of forested lands to prepare for a new land use other than re-establishment of a subsequent forest stand.
- m. Hardship. "Hardship" means the proposed use of the property and associated structures in question cannot be established under the conditions allowed by the City's zoning regulations and no other reasonable alternative use exists; that the plight of the landowner is due to the physical conditions unique to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the same zoning district; and that these unique conditions of the site were not caused or accepted by the landowner after the effective date of the City's zoning regulations.
- n. Height of Building. "Height of Building" means the vertical distance between the lowest grade level at the building line and the uppermost point on the roof.
- o. Industrial Use. "Industrial Use" means the use of land or buildings for the production, manufacture, warehousing, storage or transfer of goods, products, commodities, or other wholesale items.
- p. Intensive Vegetation Clearing. "Intensive Vegetation Clearing" means the complete removal of trees or shrubs in a contiguous patch, strip, row or block.
- q. Lift. "Lift" means the mechanical system designed to elevate or lower someone or something up or down a topographical slope.
- r. Lot. "Lot" means a parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease or separation.
- s. Lot, Non-Riparian. "Non-riparian Lot" means a separate parcel of land within a designated shoreland area but which does not have frontage along a lake or tributary stream.
- t. Lot, Riparian. "Riparian Lot" means a separate parcel of land within a designated shoreland area having frontage along a lake or tributary stream.
- u. Lot Width. "Lot Width" means the shortest distance between lot lines measured at the midpoint of the building line.

- v. Nonconformity. "Nonconformity" means any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of zoning regulations or amendments thereto that would not have been permitted to become established under the terms of the zoning regulations as now written, if the zoning regulations had been in effect prior to the date it was established, recorded or authorized.
- w. Ordinary High Water ELEVATION. "Ordinary High Water Elevation" (OHW) means the boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.
- x. Public Waters. "Public Waters" means any waters as defined in Minnesota Statutes, Section 105.37, Subdivisions 14 and 15.
- y. Setback. "Setback" means the minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line or other facility.
- z. Sewage Treatment System. "Sewage Treatment System" means a septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Section 5.8 of this ordinance.
- aa. Sewer System. "Sewer System" means pipelines or conduits, pumping stations and forcemain, and all other construction, devices, appliances or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.
- bb. Shore Impact Zone. "Shore Impact Zone" means land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback.
- cc. Shoreland. "Shoreland" means land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond or flowage; and 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner.

- dd. Significant Historic Site. "Significant Historic Site" means any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, Section 308.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota State Archaeologist or the Director of the Minnesota Historic Society. All unplatted cemeteries are automatically considered to be significant historic sites.
- ee. Steep Slope. "Steep Slope" means land where agricultural activity or development is either not recommended or described as poorly suited, due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this ordinance. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.
- ff. Structure. "Structure" means any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles and other supporting facilities.
- gg. Subdivision. "Subdivision" means land that is divided for the purpose of sale, rent or lease, including Planned Unit Developments.
- hh. Toe of the Bluff. "Toe of the Bluff" means the point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above. If no break in the slope is apparent, the toe of the bluff shall be determined to be the lower end of a 50-foot segment, measured on the ground, with an average slope exceeding 18 percent.
- ii. Top of the Bluff. "Top of the Bluff" means the point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in the slope is apparent, the top of the bluff shall be determined to be the upper end of a 50-foot segment, measured on the ground, with an average slope exceeding 18 percent.
- jj. Variance. "Variance" means any modification of the provisions of this chapter where it is determined that, by reason of exceptional circumstances, the strict enforcement of the terms of this chapter would cause a hardship.
- kk. Water-Oriented Accessory Structure or Facility. "Water-Oriented Accessory Structure or Facility" means a small, above ground building or other improvement, except stairways, fences, docks,

and retaining walls which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses and detached decks.

11. Wetland. "Wetland" means a surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition), which is hereby incorporated by reference, is available through the Minitex interlibrary loan system and is not subject to frequent change.

: 308.040 ADMINISTRATION

The local government must provide for the administration and enforcement of their shoreland management controls by establishing permanent procedures for building construction, installation of sewage treatment systems, and grading and filling.

A. Permits Required

A permit is required for the construction of buildings or building additions (including such related activities as construction of decks and signs), installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by Section 308.060 E of this ordinance. Application for a permit shall be made to the City of Lake Elmo on the forms provided. The application shall include the necessary information so that the City can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.

B. Variances

A variance only may be granted if there is a hardship. A variance may not circumvent the general purposes and intent of this ordinance. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and public interest. In considering a variance request, the board of adjustment must also consider whether the property owner has reasonable use of the land without the variance, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

The board of adjustment shall hear and decide requests for variances in accordance with the rules that it has adopted for the conduct of business. When a variance is approved after the Department of Natural Resources has formally recommended denial

in the hearing record, the notification of the approved variance required in Section 308.040 C below shall also include the board of adjustment's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.

C. Notifications to the Department of Natural Resources

Copies of all notices of any public hearings to consider variances, amendments or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked at least ten days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

A copy of approved amendments and subdivisions/plats and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked within ten days of final action.

308.050 SHORELAND CLASSIFICATION

The public waters of Lake Elmo have been classified below, consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the Protected Waters Inventory Map for Washington County, Minnesota. The shoreland area for the waterbodies listed below shall be defined in Section 308.030 AA. and as shown on the City's Shoreland Management Area Map.

A. Classifications

The classes of public waters for the City of Lake Elmo are Natural Environment Lakes, Recreational Environment Lakes and Tributary Streams.

1. Natural Environment Lakes

Generally small, often shallow lakes with limited capacities for assimilating the impacts of development and recreational use. They often have adjacent lands with substantial constraints for development, such as high water tables, exposed bedrock and unsuitable soils. These lakes, particularly in rural areas, usually do not have much existing development or recreational use.

DNR				
<u>I.D. #</u>	<u>LAKE NAME</u>	<u>LOCATION</u>	<u>OHW</u>	<u>100-YEAR ELEV.</u>
82-74	Horseshoe	Sec. 25	876.8	877.4
82-99	Clear	Sec. 2, 11		938
82-100	Unnamed	Sec. 4		962
82-105	Berschen's Pond	Sec. 10		925
82-107	Sunfish	Sec. 14	896.4	901
82-108	Friedrich Pond	Sec. 15, 22		972.6

DNR				
<u>I.D. #</u>	<u>LAKE NAME</u>	<u>LOCATION</u>	<u>OHW</u>	<u>100-YEAR ELEV.</u>
82-109	Eagle Point	Sec. 22, 27	896.5	901
82-110	Downs	Sec. 24	889.1	893
82-111	H.J. Brown Pond	Sec. 26		900
82-112	Rose (Sunfish)	Sec. 25, 36		888
82-113	Goose	Sec. 27, 34, 35		932
82-116	Unnamed (Armstrong)	Sec. 28, 33		
82-117	Kramer	Sec. 35		916

## 2. Recreational Development Lakes

Recreational Development Lakes are generally medium-sized lakes of varying depths and shapes with a variety of landforms, soil and groundwater situations on the lands around them. They often are characterized by moderate levels of recreational use and existing development. Development consists mainly of seasonal and year-round residences. Many of these lakes have capacities of accommodating additional development and use.

DNR				
<u>I.D. #</u>	<u>LAKE NAME</u>	<u>LOCATION</u>	<u>OHW</u>	<u>100-YEAR ELEV.</u>
82-101	DeMontreville	Sec. 4, 5, 9	930	931.5
82-103	Olson	Sec. 8, 9	930	931.5
82-104	Jane	Sec. 9, 10	924	926.0
82-106	Elmo	Sec. 13, 14, 23, 24, 26	886	891.0

## 3. Tributary Streams

Tributary Stream segments consist of watercourses mapped in the Protected Waters Inventory that have not been assigned one of the river classes. These segments have a wide variety of existing land and recreational use characteristics.

<u>LOCATION</u>	<u>STREAM NAME</u>
Sec. 33	Unnamed to Wilmes Lake
Sec. 16, 21, 22	Unnamed to Eagle Point Lake (Eagle Point Creek North)
Sec. 22, 23, 27	Unnamed to Lake Elmo (Eagle Point Creek South)
Sec. 25	Unnamed Tributary

B. Land Use Regulations

The permitted and conditional uses allowed in the underlying zoning district shall be those allowed in the Natural Environment Lakes, Recreational Development Lakes and Tributary Streams shoreland districts.

LAND USE MATRIX

Land Uses	Zoning District									
	<u>AG</u>	<u>R-1</u>	<u>P</u>	<u>HB</u>	<u>GB</u>	<u>R-3</u>	<u>RR</u>	<u>RE</u>	<u>LB</u>	<u>B</u>
Commercial Ag	P	P					P			
Greenhouses	CUP									
Kennels	CUP				CUP		CUP			
Stables	CUP									
Single-Family Residential	P	P				P	P	P		
Farming	P	P		P	P	P	P	P		
Manu.Homes w/ sewer						P				
Retail Uses				P	P				P	C
Office Uses				P	P				P	P
Manufacturing					CUP					
Auto. Service				P						
Restaurants				P						
Churches and Schools			P						CUP	C

P = Permitted Use  
CUP = Conditional Use Permit

NOTE: The land use matrix outlines general allowed uses, subject to restrictions and provisions of the zoning ordinance. Reference Section 301 of the Lake Elmo City Code for specific allowable uses in each district.

308.060 SHORELAND STANDARDS

A. General Provisions

The following standards shall apply to all shorelands of the protected waters. Where the requirements of the underlying zoning district as shown on the official zoning map are more restrictive than those set forth herein, the more restrictive standards shall apply. Only land above the ordinary high water level of public waters can be used to meet lot area standards, and lot width standards must be met at both the ordinary high water level and at the building line.

B. Lot Area - No Sewer

MINIMUM LOT AREAS  
CLASSIFICATIONS

ZONING DISTRICT	NATURAL ENVIRONMENT LAKES		RECREATION DEVELOPMENT LAKES	
	RIPARIAN	NON- RIPARIAN	RIPARIAN	NON- RIPARIAN
RE	2.5 AC	2.5 AC	2.5 AC	2.5 AC
R-1	80,000 S.F.	80,000 S.F.	1.5 AC	1.5 AC
RR	10 AC	10 AC	10 AC	10 AC
AG	40 AC	40 AC	40 AC	40 AC
R-3 W/SEWER	40,000 S.F.	20,000 S.F.	20,000 S.F.	15,000 S.F.

C. Lot Width - No Sewer

<u>Classification</u>	<u>Riparian Lot</u>	<u>Non-Riparian Lot</u>
Natural Environment	200 ft.	200 ft.
Recreational Development	150 ft.	150 ft.
Tributary Streams	100 ft.	n/a

D. Placement, Design and Height of Structures

1. Placement

When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone. Structures shall be located as follows:

a. Structure and On-Site Sewage System Setbacks (in feet) from Ordinary High Water Level

Setbacks from OHW

<u>Classification</u>	<u>Structures</u>	<u>Sewage Treatment System</u>
Natural Environment	150 ft	150 ft
Recreational Development	100 ft	75 ft
Tributary	100 ft	75 ft

b. Additional Structure Setbacks. The following additional structure setbacks apply, regardless of the classification of the waterbody:

<u>Setback From</u>	<u>Setback (in feet)</u>
(1) top of bluff	30
(2) unplatted cemetery	50
(3) right-of-way line of federal, state or county highways; and	50
(4) right-of-way line of town road public street, or other roads or streets not classified	30

c. Bluff Impact Zone. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

d. Significant Historic Sites. No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.

e. Steep Slopes. The City shall evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public water, assuming summer, leaf-on vegetation.

f. Proximity to Roads and Highways. No structure may be placed nearer than 50 feet from the right-of-way line of any federal, state or county highway; or 30 feet from the right-of-way line of any town road, public street or others not classified.

- g. Use without Water-Oriented Needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public water frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

2. Design Criteria for Structures

- a. High Water Elevations. Structures must be placed in accordance with any floodplain regulations applicable to the site. All principal structures shall have their lowest floor at a level at least three feet above the highest known water level or the ordinary high water level, whichever is higher.

- b. Water-Oriented Accessory Structures. Each lot may have one water-oriented accessory structure not meeting the normal structure setback in Section 308.060 D if this water-oriented accessory structure complies with the following provisions:

- (1) the structure or facility must not exceed thirteen feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point;
- (2) the setback of the structure or facility landward from the ordinary high water level must be at least twenty feet on a recreational development lake and fifty feet on a natural environment lake;
- (3) the structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
- (4) the roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;
- (5) the structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and

- c. Stairways, Lifts and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

- (1) stairways and lifts must not exceed four feet in width. Wider stairways may be used for public open-space recreational properties;
- (2) landings for stairways and lifts must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for public open-space recreational properties;
- (3) canopies or roofs are not allowed on stairways, lifts or landings;
- (4) stairways, lifts and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
- (5) stairways, lifts and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
- (6) facilities such as ramps, lifts or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of sub-items 1 to 5 are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.

### 3. Height of Structures

All structures in residential districts, except churches and non-residential agricultural structures, must not exceed 35 feet in height.

## E. Shoreland Alterations

Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping and protect fish and wildlife habitat. Best Management Practices are recommended to guide shoreland alteration activities.

### 1. Vegetation Alterations

- a. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Section 308.060 F are exempt from the vegetation

alteration standards that follow. Removal or alteration of vegetation, except for agricultural uses as regulated in Section 308.060 H (2) is allowed, subject to the following standards:

- (1) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed.
- (2) In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs, and cutting, pruning and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas and permitted water-oriented accessory structures or facilities, provided that:
  - a. the screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
  - b. along rivers, existing shading of water surfaces is preserved; and
  - c. the above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased or pose safety hazards.

## 2. Topographic Alterations/Grading and Filling

- a. Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this Section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems and driveways.
- b. Public roads and parking areas are regulated by Section 308.060 F.
- c. Notwithstanding Items a. and b. above, a grading and filling permit will be required for:
  - (1) the movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and

(2) the movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.

d. The following considerations and conditions in addition to Chapter 306 must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:

1. Grading and filling in any Type 2, 3, 4, 5, 6, 7 or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland \*:

- a. sediment and pollutant trapping and retention;
- b. storage of surface runoff to prevent or reduce flood damage;
- c. fish and wildlife habitat;
- d. recreational use;
- e. shoreline or bank stabilization; and
- f. noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

\* This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews or approvals by other local, state or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers. The applicant will be so advised.

2. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;

3. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as grading is complete;

4. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;
5. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;
6. Fill or excavated material must not be placed in a manner that creates an unstable slope;
7. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;
8. Fill or excavated material must not be placed in bluff impact zones;
9. Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner under Minnesota Statutes, Section 103G.245;
10. Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
11. Placement of natural rock rip rap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the rip rap is within ten feet of the ordinary high water level, and the height of the rip rap above the ordinary high water level does not exceed three feet.

- e. Connections to public waters. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons and harbors, must COMPLY with all provisions of this Chapter. Permission for excavations may be given only after the Commissioner has approved the proposed connection to public waters.

F. Placement and Design of Roads, Driveways and Parking Areas

1. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view of public waters. Documentation must be provided by a qualified individual

that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local Soil and Water Conservation District, or other applicable technical materials.

2. Roads, driveways and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If the City Council, at its discretion, determines that no alternative exists, such structures may be placed within these areas and must be designed to minimize adverse impacts.
3. Public and private (intended solely for the use of the property owner) watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones, provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of Section 308.060 E. must be met.

G. Stormwater Management

The following general and specific standards shall apply:

1. General Standards:

- a. Existing natural drainageways, wetlands, and vegetated soil surfaces must be used to convey, store, filter and retain stormwater runoff before discharge to public waters.
- b. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as grading is complete and facilities or methods used to retain sediment on the site.
- c. When development density, topographic features and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways and ponds may be used. Preference must be given to designs using surface drainage, vegetation and infiltration rather than buried pipes and man-made materials and facilities.
- d. Use of fertilizers, pesticides, or animal wastes within shorelands must be done in such a way as to minimize impact on the shore impact zone or public water by proper application.

2. Specific Standards:

- a. Impervious surface coverage of lots must not exceed 6,000 S.F. or 15 percent of the lot area, whichever is larger.
- b. When constructed facilities are used for stormwater management, documentation must be provided by a licensed civil engineer that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.
- c. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

H. Special Provisions for Public/Semi-Public, Agricultural and Forestry

1. Standards for Public and Semi-Public Uses

- a. Surface water-oriented public or semi-public uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:
  - (1) in addition to meeting impervious coverage limits, setbacks and other zoning standards in this ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;
  - (2) uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need;
  - (3) no advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the County Sheriff; and
  - (4) other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

- b. Use without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be setback double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

## 2. Agriculture Use Standards

- a. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management System) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service, as provided by a qualified individual or agency. Best Management Practices of the Minnesota DNR must be used. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.
- b. Animal feedlots, as defined by the Minnesota Pollution Control Agency rules, Chapter 7020.0100 - 7020.1900 for compliance and permits, must meet the following standards:
  - (1) new feed lots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 300 feet from the ordinary high water level of all public water basins; and
  - (2) modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.

## I. Water Supply and Sewage Treatment

- 1. Water Supply. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency. Private wells must be located, constructed, maintained and sealed in accordance with or in a more thorough manner than the Water Well Construction Code of the Minnesota Department of Health.

2. Sewage Treatment. Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:
- a. Publicly-owned sewer systems must be used where available.
  - b. All private sewage treatment systems must meet or exceed Chapter 700 of the City Code or the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled "Individual Sewage Treatment Systems Standards, Chapter 7080", a copy of which is hereby adopted by reference and declared to be a part of this ordinance. In all cases, the more restrictive regulation shall apply.
  - c. On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in Section 308.060 D (1).
  - d. All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in subitems (1) - (4). If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations.

Evaluation Criteria:

- (1) depth to the highest known or calculated groundwater table or bedrock;
  - (2) soil conditions, properties and permeability;
  - (3) slope;
  - (4) the existence of lowlands, local surface depressions and rock outcrops.
- e. Non-conforming sewage treatment systems shall be regulated and upgraded in accordance with Section 308.070 C of this ordinance.
  - f. The discharge of non-treated raw sewage effluent into a lake, wetland or stream is strictly prohibited and any such condition will be required to be ceased immediately; and within a reasonable period (not-to-exceed 30 days) of notice and order to comply by the Zoning Administrator, the property owner shall install a system which complies with Minnesota PCA Chapter 7080 and Chapter 700 of the City Code, whichever is more restrictive.

- g. "Greywater", meaning liquid waste from a dwelling produced by bathing, laundry, culinary operations and floordrains associated with these sources, and specifically excluding toilet waste, must be treated in accordance with Minnesota Pollution Control Agency Chapter 7080. Discharge of greywater directly into a lake, wetland or stream is prohibited and such condition shall cease immediately.
- h. Any discharge of chemically treated water into a lake, wetland or stream, such as an example only, the drainage of a swimming pool, must not be done without first obtaining all required permits from the Minnesota Pollution Control Agency.

J. Conditional Uses

Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established in Chapter 301. The following additional evaluation criteria and conditions apply within shoreland areas:

1. Evaluation Criteria. A thorough evaluation of the waterbody and topographic, vegetation and soils conditions on the site must be made to ensure:
  - a. the prevention of soil erosion or other possible pollution of public waters, both during and after construction;
  - b. the visibility of structures and other facilities as viewed from public waters is limited;
  - c. the site is adequate for water supply and on-site sewage treatment; and
  - d. the types, uses and numbers of watercraft that the project will generate are compatible in relation to the ability of public waters to safely accommodate these watercraft.
2. Conditions Attached to Conditional Use Permits. The City Council, upon consideration of the criteria listed above and the purposes of this ordinance, shall attach such conditions to the issuance of the Conditional Use Permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:
  - a. increased setbacks from the ordinary high water level;
  - b. limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and

- c. special provisions for the location, design and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

308.070 NON-CONFORMITIES

All legally established non-conformities as of the date of this ordinance may continue, but they will be managed according to applicable state statutes and other regulations of this community for the subjects of alterations and additions, repair after damage, discontinuance of use and intensification of use; except that the following standards will also apply in shoreland areas:

A. Construction on Non-Conforming Lots of Record

1. Lots of record in the office of the County Recorder on the date of enactment of this chapter that do not meet the requirements of Section 308.060 B may be allowed as building sites without variances from lot size requirements, provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this ordinance are met.
2. A variance from setback requirements must be obtained before any use, sewage treatment system or building permit is issued for a lot. In evaluating the variance, the board of adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.
3. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Section 308.060 B, the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of Section 308.060 B as much as possible.

B. Additions/Expansions to Non-Conforming Structures

1. Additions/Expansions

All additions or expansions to the outside dimensions of an existing non-conforming structure must meet the setback, height, and other requirements of Section 308.060. Any deviation from these requirements must be authorized by a variance pursuant to Section 308.040 B.

## 2. Decks

Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary highwater level if all of the following criteria and standards are met:

- a. the structure existed on the date the structure setbacks were established;
- b. a thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
- c. the deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive; and
- d. the deck is constructed primarily of wood and is not roofed or screened.

## C. Non-Conforming Sewage Treatment Systems

1. A sewage treatment system not meeting the requirements of Section 308.060 I of this ordinance must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered non-conforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.
2. The City Council of the City of Lake Elmo has notified the DNR Commissioner of its plan to identify nonconforming sewage treatment systems in shoreland areas. The City of Lake Elmo will require upgrading or replacement of any nonconforming system identified by this program within a reasonable period of time, which will not exceed 180 days of notice and order to comply by the Zoning Administrator. Sewage systems installed according to tall applicable local shoreland management standards adopted under Minnesota Statutes, Section 103F.201, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems including cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency's Chapter 7080 for design of off-site sewage treatment systems, shall be considered nonconforming.

308.080 Subdivision / Platting Provisions

A. Land Suitability.

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

B. Platting.

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

C. Consistency with Other Controls.

Subdivisions must conform to all regulations for the City of Lake Elmo. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with Sections 308.060 D and 308.060 I can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of Section 308.060 B and Section 308.060 C, including at least a minimum contiguous vegetative area, that is free of limiting factors sufficient for the construction of two standard sewage treatment systems. Lots that would require use of holding tanks must not be approved.

D. Information Requirements.

Sufficient information must be submitted by the applicant for the community to make a determination of land suitability. The information shall include at least the following:

1. topographic contours at 2-foot intervals or less;
2. the surface water features required in Minnesota Statutes, Section 505.02, Subdivision 1, to be shown on plats obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;
3. adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every

lot from the most current existing sources or from field investigations such as soil borings, percolation tests or other methods.

4. information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;
5. location of 100-year floodplain areas and floodway districts from existing adopted maps or data; and
6. a line or contour representing the ordinary high water level, the "toe" and "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

E. Dedications

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

F. Controlled Access or Recreational Lots

Lots intended as controlled accesses to public waters or for recreational use areas for use by nonriparian lots within a subdivision must meet or exceed the sizing criteria in Section 308.060 B and 308.060 C.

STATE OF MINNESOTA  
COUNTY OF WASHINGTON  
CITY OF LAKE ELMO

ORDINANCE 80- 85

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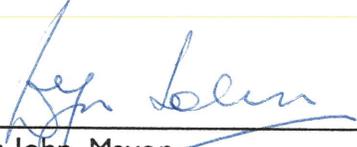
AN ORDINANCE ADDING CHAPTER 308 AND REPEALING CHAPTER 307 OF THE  
LAKE ELMO MUNICIPAL CODE RELATING TO  
SHORELAND REGULATIONS

The City Council ordains that Chapter 308 and its subsections shall be added to the Lake Elmo Municipal code to read as follows:

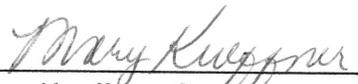
The City Council further ordains that Chapter 307 of the Lake Elmo Municipal Code is hereby repealed.

Effective Date: This ordinance shall be effective the day following its publication.

Adoption Date: Passed by the City Council of the City of Lake Elmo the 16 day of February, 1993.

  
\_\_\_\_\_  
Wyn John, Mayor

Attest:

  
\_\_\_\_\_  
Mary Kueffner, City Administrator

Published in the Stillwater Gazette the 24th day of February, 1993.

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308 SHORELAND DISTRICT

308.010 SHORELAND DISTRICT

The Shorelands within the City of Lake Elmo are hereby designated as Shoreland District. Regulations set forth in this chapter shall govern land use and other activities within this district. The classification of the lakes shall govern the use, alteration and development of land within the Shoreland district.

The uncontrolled use of shorelands adversely affects the public health, safety and general welfare by contributing to pollution of public waters and by impairing the local tax base. In furtherance of the policies declared in Minnesota Statutes, Chapters 103G, 103F, 115, 116, 394, 396 and 462, the Commissioner provides the following minimum standards and criteria for the subdivision, use and development of the shorelands of public waters. The standards and criteria are intended to preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands and provide for the wise use of water and related land resources of the state.

308.020 INTENT

IT IS THE INTENT OF THE CITY OF LAKE ELMO TO:

- A. Regulate placement of sanitary and waste treatment facilities on shorelands of public waters to prevent pollution of public waters and public health hazards resulting therefrom.
- B. Regulate alteration of Shorelands of public waters to prevent excessive sediment pollution, increased water runoff, excessive nutrient runoff pollution.
- C. To preserve and enhance the unique aesthetic appearance and ecological value of the shoreland.
- D. Regulate the construction of buildings and changes of land use in Shorelands to minimize property damage during period of high water.

308.030 DEFINITIONS

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this chapter its most reasonable application. For the purpose of this chapter, the words "must" and "shall" are mandatory and not permissive. All distances, unless otherwise specified, shall be measured horizontally.

- a. Accessory Structure or Facility. "Accessory Structure" or "facility" means any building or improvement subordinate to a principal use which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks.

- b. Bluff. "Bluff" means a topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 18 percent over a distance of 50 feet or more shall not be considered part of the bluff):
- (1) Part or all of the feature is located in a shoreland area;
  - (2) The slope rises at least 25 feet above the ordinary high water level of the water body;
  - (3) The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater; and
  - (4) The slope must drain toward the water body.
- c. Bluff Impact Zone. "Bluff Impact Zone" means a bluff and land located within 20 feet from the top of a bluff.
- d. Boathouse. "Boathouse" means a structure designed and used solely for the storage of boats AND boating equipment.
- e. Building Line. "Building Line" means a line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.
- f. Commercial Use. "Commercial Use" means the principal use of land or buildings for the sale, lease, rental or trade of products, goods and services.
- g. Commissioner. "Commissioner" means the Commissioner of the Department of Natural Resources.
- h. Conditional Use. "Conditional Use" means a defined land use in a particular district which is allowed if the City Council determines that such use will not be detrimental to the health, safety, convenience, morals or general welfare of the community; that such use will not cause serious traffic congestion or hazards; that such use will not seriously depreciate surrounding property values; and that such use is in harmony with the general purpose and intent of the City's zoning regulations and Comprehensive Plan.
- i. Deck. "Deck" means a horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above ground.
- j. Dwelling Unit. "Dwelling Unit" means any structure or portion of a structure or other shelter designed as short or long term living quarters for one or more persons.

- k. Extractive Use. "Extractive Use" means the use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other non-metallic minerals, and peat not regulated under Minnesota Statutes, Sections 93.44 to 93.51.
- l. Forest Land Conversion. "Forest Land Conversion" means the clear cutting of forested lands to prepare for a new land use other than re-establishment of a subsequent forest stand.
- m. Hardship. "Hardship" means the proposed use of the property and associated structures in question cannot be established under the conditions allowed by the City's zoning regulations and no other reasonable alternative use exists; that the plight of the landowner is due to the physical conditions unique to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the same zoning district; and that these unique conditions of the site were not caused or accepted by the landowner after the effective date of the City's zoning regulations.
- n. Height of Building. "Height of Building" means the vertical distance between the lowest grade level at the building line and the uppermost point on the roof.
- o. Industrial Use. "Industrial Use" means the use of land or buildings for the production, manufacture, warehousing, storage or transfer of goods, products, commodities, or other wholesale items.
- p. Intensive Vegetation Clearing. "Intensive Vegetation Clearing" means the complete removal of trees or shrubs in a contiguous patch, strip, row or block.
- q. Lift. "Lift" means the mechanical system designed to elevate or lower someone or something up or down a topographical slope.
- r. Lot. "Lot" means a parcel of land designated by plat, metes and bounds, registered land survey, auditor's plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease or separation.
- s. Lot, Non-Riparian. "Non-riparian Lot" means a separate parcel of land within a designated shoreland area but which does not have frontage along a lake or tributary stream.
- t. Lot, Riparian. "Riparian Lot" means a separate parcel of land within a designated shoreland area having frontage along a lake or tributary stream.
- u. Lot Width. "Lot Width" means the shortest distance between lot lines measured at the midpoint of the building line.

- v. Nonconformity. "Nonconformity" means any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of zoning regulations or amendments thereto that would not have been permitted to become established under the terms of the zoning regulations as now written, if the zoning regulations had been in effect prior to the date it was established, recorded or authorized.
- w. Ordinary High Water ELEVATION. "Ordinary High Water Elevation" (OHW) means the boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.
- x. Public Waters. "Public Waters" means any waters as defined in Minnesota Statutes, Section 105.37, Subdivisions 14 and 15.
- y. Setback. "Setback" means the minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line or other facility.
- z. Sewage Treatment System. "Sewage Treatment System" means a septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Section 5.8 of this ordinance.
- aa. Sewer System. "Sewer System" means pipelines or conduits, pumping stations and forcemain, and all other construction, devices, appliances or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.
- bb. Shore Impact Zone. "Shore Impact Zone" means land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback.
- cc. Shoreland. "Shoreland" means land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond or flowage; and 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner.

- dd. Significant Historic Site. "Significant Historic Site" means any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, Section 308.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota State Archaeologist or the Director of the Minnesota Historic Society. All unplatted cemeteries are automatically considered to be significant historic sites.
- ee. Steep Slope. "Steep Slope" means land where agricultural activity or development is either not recommended or described as poorly suited, due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this ordinance. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.
- ff. Structure. "Structure" means any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles and other supporting facilities.
- gg. Subdivision. "Subdivision" means land that is divided for the purpose of sale, rent or lease, including Planned Unit Developments.
- hh. Toe of the Bluff. "Toe of the Bluff" means the point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above. If no break in the slope is apparent, the toe of the bluff shall be determined to be the lower end of a 50-foot segment, measured on the ground, with an average slope exceeding 18 percent.
- ii. Top of the Bluff. "Top of the Bluff" means the point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in the slope is apparent, the top of the bluff shall be determined to be the upper end of a 50-foot segment, measured on the ground, with an average slope exceeding 18 percent.
- jj. Variance. "Variance" means any modification of the provisions of this chapter where it is determined that, by reason of exceptional circumstances, the strict enforcement of the terms of this chapter would cause a hardship.
- kk. Water-Oriented Accessory Structure or Facility. "Water-Oriented Accessory Structure or Facility" means a small, above ground building or other improvement, except stairways, fences, docks,

and retaining walls which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses and detached decks.

11. Wetland. "Wetland" means a surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition), which is hereby incorporated by reference, is available through the Minitex interlibrary loan system and is not subject to frequent change.

#### 308.040 ADMINISTRATION

The local government must provide for the administration and enforcement of their shoreland management controls by establishing permanent procedures for building construction, installation of sewage treatment systems, and grading and filling.

##### A. Permits Required

A permit is required for the construction of buildings or building additions (including such related activities as construction of decks and signs), installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by Section 308.060 E of this ordinance. Application for a permit shall be made to the City of Lake Elmo on the forms provided. The application shall include the necessary information so that the City can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.

##### B. Variances

A variance only may be granted if there is a hardship. A variance may not circumvent the general purposes and intent of this ordinance. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and public interest. In considering a variance request, the board of adjustment must also consider whether the property owner has reasonable use of the land without the variance, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

The board of adjustment shall hear and decide requests for variances in accordance with the rules that it has adopted for the conduct of business. When a variance is approved after the Department of Natural Resources has formally recommended denial

in the hearing record, the notification of the approved variance required in Section 308.040 C below shall also include the board of adjustment's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.

C. Notifications to the Department of Natural Resources

Copies of all notices of any public hearings to consider variances, amendments or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked at least ten days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

A copy of approved amendments and subdivisions/plats and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked within ten days of final action.

308.050 SHORELAND CLASSIFICATION

The public waters of Lake Elmo have been classified below, consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the Protected Waters Inventory Map for Washington County, Minnesota. The shoreland area for the waterbodies listed below shall be defined in Section 308.030 AA. and as shown on the City's Shoreland Management Area Map.

A. Classifications

The classes of public waters for the City of Lake Elmo are Natural Environment Lakes, Recreational Environment Lakes and Tributary Streams.

1. Natural Environment Lakes

Generally small, often shallow lakes with limited capacities for assimilating the impacts of development and recreational use. They often have adjacent lands with substantial constraints for development, such as high water tables, exposed bedrock and unsuitable soils. These lakes, particularly in rural areas, usually do not have much existing development or recreational use.

DNR				
<u>I.D. #</u>	<u>LAKE NAME</u>	<u>LOCATION</u>	<u>OHW</u>	<u>100-YEAR ELEV.</u>
82-74	Horseshoe	Sec. 25	876.8	877.4
82-99	Clear	Sec. 2, 11		938
82-100	Unnamed	Sec. 4		962
82-105	Berschen's Pond	Sec. 10		925
82-107	Sunfish	Sec. 14	896.4	901
82-108	Friedrich Pond	Sec. 15, 22		972.6

DNR				
<u>I.D. #</u>	<u>LAKE NAME</u>	<u>LOCATION</u>	<u>OHW</u>	<u>100-YEAR ELEV.</u>
82-109	Eagle Point	Sec. 22, 27	896.5	901
82-110	Downs	Sec. 24	889.1	893
82-111	H.J. Brown Pond	Sec. 26		900
82-112	Rose (Sunfish)	Sec. 25, 36		888
82-113	Goose	Sec. 27, 34, 35		932
82-116	Unnamed (Armstrong)	Sec. 28, 33		
82-117	Kramer	Sec. 35		916

## 2. Recreational Development Lakes

Recreational Development Lakes are generally medium-sized lakes of varying depths and shapes with a variety of landforms, soil and groundwater situations on the lands around them. They often are characterized by moderate levels of recreational use and existing development. Development consists mainly of seasonal and year-round residences. Many of these lakes have capacities of accommodating additional development and use.

DNR				
<u>I.D. #</u>	<u>LAKE NAME</u>	<u>LOCATION</u>	<u>OHW</u>	<u>100-YEAR ELEV.</u>
82-101	DeMontreville	Sec. 4, 5, 9	930	931.5
82-103	Olson	Sec. 8, 9	930	931.5
82-104	Jane	Sec. 9, 10	924	926.0
82-106	Elmo	Sec. 13, 14, 23, 24, 26	886	891.0

## 3. Tributary Streams

Tributary Stream segments consist of watercourses mapped in the Protected Waters Inventory that have not been assigned one of the river classes. These segments have a wide variety of existing land and recreational use characteristics.

<u>LOCATION</u>	<u>STREAM NAME</u>
Sec. 33	Unnamed to Wilmes Lake
Sec. 16, 21, 22	Unnamed to Eagle Point Lake (Eagle Point Creek North)
Sec. 22, 23, 27	Unnamed to Lake Elmo (Eagle Point Creek South)
Sec. 25	Unnamed Tributary

B. Land Use Regulations

The permitted and conditional uses allowed in the underlying zoning district shall be those allowed in the Natural Environment Lakes, Recreational Development Lakes and Tributary Streams shoreland districts.

LAND USE MATRIX

Land Uses	Zoning District									
	<u>AG</u>	<u>R-1</u>	<u>P</u>	<u>HB</u>	<u>GB</u>	<u>R-3</u>	<u>RR</u>	<u>RE</u>	<u>LB</u>	<u>B</u>
Commercial Ag	P	P					P			
Greenhouses	CUP									
Kennels	CUP				CUP		CUP			
Stables	CUP									
Single-Family Residential	P	P				P	P	P		
Farming	P	P		P	P	P	P	P		
Manu.Homes w/ sewer						P				
Retail Uses				P	P				P	C
Office Uses				P	P				P	P
Manufacturing					CUP					
Auto. Service				P						
Restaurants				P					CUP	C
Churches and Schools			P							

P = Permitted Use  
CUP = Conditional Use Permit

NOTE: The land use matrix outlines general allowed uses, subject to restrictions and provisions of the zoning ordinance. Reference Section 301 of the Lake Elmo City Code for specific allowable uses in each district.

308.060 SHORELAND STANDARDS

A. General Provisions

The following standards shall apply to all shorelands of the protected waters. Where the requirements of the underlying zoning district as shown on the official zoning map are more restrictive than those set forth herein, the more restrictive standards shall apply. Only land above the ordinary high water level of public waters can be used to meet lot area standards, and lot width standards must be met at both the ordinary high water level and at the building line.

B. Lot Area - No Sewer

MINIMUM LOT AREAS  
CLASSIFICATIONS

ZONING DISTRICT	NATURAL ENVIRONMENT LAKES		RECREATION DEVELOPMENT LAKES	
	RIPARIAN	NON- RIPARIAN	RIPARIAN	NON- RIPARIAN
RE	2.5 AC	2.5 AC	2.5 AC	2.5 AC
R-1	80,000 S.F.	80,000 S.F.	1.5 AC	1.5 AC
RR	10 AC	10 AC	10 AC	10 AC
AG	40 AC	40 AC	40 AC	40 AC
R-3 W/SEWER	40,000 S.F.	20,000 S.F.	20,000 S.F.	15,000 S.F.

C. Lot Width - No Sewer

<u>Classification</u>	<u>Riparian Lot</u>	<u>Non-Riparian Lot</u>
Natural Environment	200 ft.	200 ft.
Recreational Development	150 ft.	150 ft.
Tributary Streams	100 ft.	n/a

D. Placement, Design and Height of Structures

1. Placement

When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone. Structures shall be located as follows:

a. Structure and On-Site Sewage System Setbacks (in feet)  
from Ordinary High Water Level

Setbacks from OHW

<u>Classification</u>	<u>Structures</u>	<u>Sewage Treatment System</u>
Natural Environment	150 ft	150 ft
Recreational Development	100 ft	75 ft
Tributary	100 ft	75 ft

b. Additional Structure Setbacks. The following additional structure setbacks apply, regardless of the classification of the waterbody:

<u>Setback From</u>	<u>Setback (in feet)</u>
(1) top of bluff	30
(2) unplatted cemetery	50
(3) right-of-way line of federal, state or county highways; and	50
(4) right-of-way line of town road public street, or other roads or streets not classified	30

c. Bluff Impact Zone. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

d. Significant Historic Sites. No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.

e. Steep Slopes. The City shall evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public water, assuming summer, leaf-on vegetation.

f. Proximity to Roads and Highways. No structure may be placed nearer than 50 feet from the right-of-way line of any federal, state or county highway; or 30 feet from the right-of-way line of any town road, public street or others not classified.

- g. Use without Water-Oriented Needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public water frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

2. Design Criteria for Structures

- a. High Water Elevations. Structures must be placed in accordance with any floodplain regulations applicable to the site. All principal structures shall have their lowest floor at a level at least three feet above the highest known water level or the ordinary high water level, whichever is higher.

- b. Water-Oriented Accessory Structures. Each lot may have one water-oriented accessory structure not meeting the normal structure setback in Section 308.060 D if this water-oriented accessory structure complies with the following provisions:

- (1) the structure or facility must not exceed thirteen feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet, above grade at any point;
- (2) the setback of the structure or facility landward from the ordinary high water level must be at least twenty feet on a recreational development lake and fifty feet on a natural environment lake;
- (3) the structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
- (4) the roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;
- (5) the structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and

- c. Stairways, Lifts and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

- (1) stairways and lifts must not exceed four feet in width. Wider stairways may be used for public open-space recreational properties;
- (2) landings for stairways and lifts must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for public open-space recreational properties;
- (3) canopies or roofs are not allowed on stairways, lifts or landings;
- (4) stairways, lifts and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
- (5) stairways, lifts and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
- (6) facilities such as ramps, lifts or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of sub-items 1 to 5 are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.

### 3. Height of Structures

All structures in residential districts, except churches and non-residential agricultural structures, must not exceed 35 feet in height.

## E. Shoreland Alterations

Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping and protect fish and wildlife habitat. Best Management Practices are recommended to guide shoreland alteration activities.

### 1. Vegetation Alterations

- a. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Section 308.060 F are exempt from the vegetation

alteration standards that follow. Removal or alteration of vegetation, except for agricultural uses as regulated in Section 308.060 H (2) is allowed, subject to the following standards:

- (1) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed.
- (2) In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs, and cutting, pruning and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas and permitted water-oriented accessory structures or facilities, provided that:
  - a. the screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
  - b. along rivers, existing shading of water surfaces is preserved; and
  - c. the above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased or pose safety hazards.

## 2. Topographic Alterations/Grading and Filling

- a. Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this Section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems and driveways.
- b. Public roads and parking areas are regulated by Section 308.060 F.
- c. Notwithstanding Items a. and b. above, a grading and filling permit will be required for:
  - (1) the movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and

- (2) the movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.

d. The following considerations and conditions in addition to Chapter 306 must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:

1. Grading and filling in any Type 2, 3, 4, 5, 6, 7 or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland \*:
  - a. sediment and pollutant trapping and retention;
  - b. storage of surface runoff to prevent or reduce flood damage;
  - c. fish and wildlife habitat;
  - d. recreational use;
  - e. shoreline or bank stabilization; and
  - f. noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.
- \* This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews or approvals by other local, state or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers. The applicant will be so advised.
2. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;
3. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as grading is complete;

4. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;
5. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;
6. Fill or excavated material must not be placed in a manner that creates an unstable slope;
7. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;
8. Fill or excavated material must not be placed in bluff impact zones;
9. Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner under Minnesota Statutes, Section 103G.245;
10. Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
11. Placement of natural rock rip rap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the rip rap is within ten feet of the ordinary high water level, and the height of the rip rap above the ordinary high water level does not exceed three feet.

- e. Connections to public waters. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons and harbors, must COMPLY with all provisions of this Chapter. Permission for excavations may be given only after the Commissioner has approved the proposed connection to public waters.

F. Placement and Design of Roads, Driveways and Parking Areas

1. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view of public waters. Documentation must be provided by a qualified individual

that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local Soil and Water Conservation District, or other applicable technical materials.

2. Roads, driveways and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If the City Council, at its discretion, determines that no alternative exists, such structures may be placed within these areas and must be designed to minimize adverse impacts.
3. Public and private (intended solely for the use of the property owner) watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones, provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of Section 308.060 E. must be met.

G. Stormwater Management

The following general and specific standards shall apply:

1. General Standards:

- a. Existing natural drainageways, wetlands, and vegetated soil surfaces must be used to convey, store, filter and retain stormwater runoff before discharge to public waters.
- b. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as grading is complete and facilities or methods used to retain sediment on the site.
- c. When development density, topographic features and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways and ponds may be used. Preference must be given to designs using surface drainage, vegetation and infiltration rather than buried pipes and man-made materials and facilities.
- d. Use of fertilizers, pesticides, or animal wastes within shorelands must be done in such a way as to minimize impact on the shore impact zone or public water by proper application.

2. Specific Standards:

- a. Impervious surface coverage of lots must not exceed 6,000 S.F. or 15 percent of the lot area, whichever is larger.
- b. When constructed facilities are used for stormwater management, documentation must be provided by a licensed civil engineer that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.
- c. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

H. Special Provisions for Public/Semi-Public, Agricultural and Forestry

1. Standards for Public and Semi-Public Uses

- a. Surface water-oriented public or semi-public uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:
  - (1) in addition to meeting impervious coverage limits, setbacks and other zoning standards in this ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;
  - (2) uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need;
  - (3) no advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the County Sheriff; and
  - (4) other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

- b. Use without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be setback double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

## 2. Agriculture Use Standards

- a. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management System) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service, as provided by a qualified individual or agency. Best Management Practices of the Minnesota DNR must be used. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.
- b. Animal feedlots, as defined by the Minnesota Pollution Control Agency rules, Chapter 7020.0100 - 7020.1900 for compliance and permits, must meet the following standards:
  - (1) new feed lots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 300 feet from the ordinary high water level of all public water basins; and
  - (2) modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.

## I. Water Supply and Sewage Treatment

- 1. Water Supply. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency. Private wells must be located, constructed, maintained and sealed in accordance with or in a more thorough manner than the Water Well Construction Code of the Minnesota Department of Health.

2. Sewage Treatment. Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:
- a. Publicly-owned sewer systems must be used where available.
  - b. All private sewage treatment systems must meet or exceed Chapter 700 of the City Code or the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled "Individual Sewage Treatment Systems Standards, Chapter 7080", a copy of which is hereby adopted by reference and declared to be a part of this ordinance. In all cases, the more restrictive regulation shall apply.
  - c. On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in Section 308.060 D (1).
  - d. All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in subitems (1) - (4). If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations.

Evaluation Criteria:

- (1) depth to the highest known or calculated groundwater table or bedrock;
  - (2) soil conditions, properties and permeability;
  - (3) slope;
  - (4) the existence of lowlands, local surface depressions and rock outcrops.
- e. Non-conforming sewage treatment systems shall be regulated and upgraded in accordance with Section 308.070 C of this ordinance.
  - f. The discharge of non-treated raw sewage effluent into a lake, wetland or stream is strictly prohibited and any such condition will be required to be ceased immediately; and within a reasonable period (not-to-exceed 30 days) of notice and order to comply by the Zoning Administrator, the property owner shall install a system which complies with Minnesota PCA Chapter 7080 and Chapter 700 of the City Code, whichever is more restrictive.

- g. "Greywater", meaning liquid waste from a dwelling produced by bathing, laundry, culinary operations and floordrains associated with these sources, and specifically excluding toilet waste, must be treated in accordance with Minnesota Pollution Control Agency Chapter 7080. Discharge of greywater directly into a lake, wetland or stream is prohibited and such condition shall cease immediately.
- h. Any discharge of chemically treated water into a lake, wetland or stream, such as an example only, the drainage of a swimming pool, must not be done without first obtaining all required permits from the Minnesota Pollution Control Agency.

J. Conditional Uses

Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established in Chapter 301. The following additional evaluation criteria and conditions apply within shoreland areas:

1. Evaluation Criteria. A thorough evaluation of the waterbody and topographic, vegetation and soils conditions on the site must be made to ensure:
  - a. the prevention of soil erosion or other possible pollution of public waters, both during and after construction;
  - b. the visibility of structures and other facilities as viewed from public waters is limited;
  - c. the site is adequate for water supply and on-site sewage treatment; and
  - d. the types, uses and numbers of watercraft that the project will generate are compatible in relation to the ability of public waters to safely accommodate these watercraft.
2. Conditions Attached to Conditional Use Permits. The City Council, upon consideration of the criteria listed above and the purposes of this ordinance, shall attach such conditions to the issuance of the Conditional Use Permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:
  - a. increased setbacks from the ordinary high water level;
  - b. limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and

- c. special provisions for the location, design and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

## 308.070 NON-CONFORMITIES

All legally established non-conformities as of the date of this ordinance may continue, but they will be managed according to applicable state statutes and other regulations of this community for the subjects of alterations and additions, repair after damage, discontinuance of use and intensification of use; except that the following standards will also apply in shoreland areas:

### A. Construction on Non-Conforming Lots of Record

1. Lots of record in the office of the County Recorder on the date of enactment of this chapter that do not meet the requirements of Section 308.060 B may be allowed as building sites without variances from lot size requirements, provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this ordinance are met.
2. A variance from setback requirements must be obtained before any use, sewage treatment system or building permit is issued for a lot. In evaluating the variance, the board of adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.
3. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Section 308.060 B, the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of Section 308.060 B as much as possible.

### B. Additions/Expansions to Non-Conforming Structures

#### 1. Additions/Expansions

All additions or expansions to the outside dimensions of an existing non-conforming structure must meet the setback, height, and other requirements of Section 308.060. Any deviation from these requirements must be authorized by a variance pursuant to Section 308.040 B.

2. Decks

Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary highwater level if all of the following criteria and standards are met:

- a. the structure existed on the date the structure setbacks were established;
- b. a thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
- c. the deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive; and
- d. the deck is constructed primarily of wood and is not roofed or screened.

C. Non-Conforming Sewage Treatment Systems

1. A sewage treatment system not meeting the requirements of Section 308.060 I of this ordinance must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered non-conforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.
2. The City Council of the City of Lake Elmo has notified the DNR Commissioner of its plan to identify nonconforming sewage treatment systems in shoreland areas. The City of Lake Elmo will require upgrading or replacement of any nonconforming system identified by this program within a reasonable period of time, which will not exceed 180 days of notice and order to comply by the Zoning Administrator. Sewage systems installed according to tall applicable local shoreland management standards adopted under Minnesota Statutes, Section 103F.201, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems including cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency's Chapter 7080 for design of off-site sewage treatment systems, shall be considered nonconforming.

308.080 Subdivision / Platting Provisions

A. Land Suitability.

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

B. Platting.

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

C. Consistency with Other Controls.

Subdivisions must conform to all regulations for the City of Lake Elmo. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with Sections 308.060 D and 308.060 I can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of Section 308.060 B and Section 308.060 C, including at least a minimum contiguous vegetative area, that is free of limiting factors sufficient for the construction of two standard sewage treatment systems. Lots that would require use of holding tanks must not be approved.

D. Information Requirements.

Sufficient information must be submitted by the applicant for the community to make a determination of land suitability. The information shall include at least the following:

1. topographic contours at 2-foot intervals or less;
2. the surface water features required in Minnesota Statutes, Section 505.02, Subdivision 1, to be shown on plats obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;
3. adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every

lot from the most current existing sources or from field investigations such as soil borings, percolation tests or other methods.

4. information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;
5. location of 100-year floodplain areas and floodway districts from existing adopted maps or data; and
6. a line or contour representing the ordinary high water level, the "toe" and "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

E. Dedications

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

F. Controlled Access or Recreational Lots

Lots intended as controlled accesses to public waters or for recreational use areas for use by nonriparian lots within a subdivision must meet or exceed the sizing criteria in Section 308.060 B and 308.060 C.

THE LAKE ELMO CITY COUNCIL ORDAINS THAT THE FOLLOWING SECTION OF THE LAKE ELMO MUNICIPAL CODE IS HEREBY REPEALED:

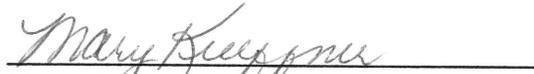
SECTION 307- SHORELAND ORDINANCE

A complete copy of Ordinance 80-85, Shoreland Regulations within the City of Lake Elmo is on file in the office of the city administrator and can be viewed by the public during normal business hours.

Signed

  
Wyn John Mayor

Attest:

  
Mary Kueffner, City Administrator

Published in the Stillwater Gazette the 24th day of February, 1993

CITY OF LAKE ELMO  
WASHINGTON COUNTY, MINNESOTA  
ORDINANCE 8086

AN ORDINANCE AMENDING SECTIONS 212.012, 212.013 AND 212.027  
OF THE LAKE ELMO MUNICIPAL CODE AS IT RELATES TO THE  
HERITAGE PRESERVATION COMMISSION

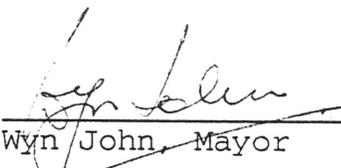
AMENDMENT: The City Council ordains that Sections 212.012, 212.013 and 212.027 of the Lake Elmo Municipal Code shall be amended to read as follows:

212.012 COMPOSITION: The Heritage Preservation Commission (H.P.C.) shall consist of five (5) members, two alternate members, and shall include, if available, a member of the Washington County Historical Society.

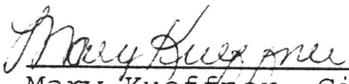
212.013 QUALIFICATIONS: Each commission member must be a person with demonstrated interest and expertise in historic preservation and must reside within the City of Lake Elmo with the exception of ex-officio members.

212.027 POWERS: To actively promote historical preservation within the City. To establish and maintain liaison with civic, church, and other groups for the purpose of promoting historic preservation. To promote gifting of structures, or money to promote the activities involved in historical preservation.

ADOPTED by the City Council of the City of Lake Elmo this 2nd day of March 1993.

  
Wyn John, Mayor

ATTEST:

  
Mary Kueffner, City Administrator

Published in the Stillwater Gazette Extra on the 24th day  
of March, 1993.

CITY OF LAKE ELMO  
WASHINGTON, COUNTY  
SUMMARY OF ORDINANCE 8085  
RELATING TO SHORELAND REGULATIONS

On February 16, 1993 the Lake Elmo City Council adopted Ordinance 80-85 relating to Shoreland Regulations in the City of Lake Elmo.

On February 16, 1993, the Lake Elmo City Council received a summary of Ordinance 8085 and by 5 affirmative votes, approved the publication of a summary of this ordinance, to wit:

THE LAKE ELMO CITY COUNCIL ORDAINS THAT THE FOLLOWING SECTION OF THE LAKE ELMO MUNICIPAL IS HEREBY ADOPTED:

SECTION 308 - SHORELAND REGULATIONS

Section 308	Shoreland District
Section 308.020	Intent
Section 308.030	Definitions
Section 308.040	Administration
	A. Permits Required
	B. Variances
	C. Notifications to the DNR
Section 308.050	Shoreland Classification System
	A. Classifications
	B. Land Use Regulations
Section 308.060	Shoreland Standards
	A. General Provisions
	B. Lot Area - No Sewer
	C. Lot Width - No Sewer
	D. Placement, Design and Height of Structures
	E. Shoreland Alterations
	F. Placement and Design of Roads, Driveways and Parking Areas
	G. Stormwater Management
	H. Specific Provisions for Public/Semi-Public Agricultural
	I. Water Supply and Sewage Treatment
	J. Conditional Uses.
Section 308.070	Nonconformities
Section 308.080	Subdivision/Platting Provisions

CITY OF LAKE ELMO  
WASHINGTON COUNTY, MINNESOTA  
ORDINANCE 8086

AN ORDINANCE AMENDING SECTIONS 212.012, 212.013 AND 212.027  
OF THE LAKE ELMO MUNICIPAL CODE AS IT RELATES TO THE  
HERITAGE PRESERVATION COMMISSION

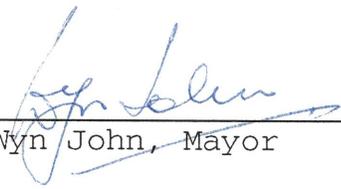
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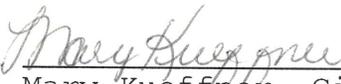
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ADOPTED by the City Council of the City of Lake Elmo this 2nd day of March 1993.

  
\_\_\_\_\_  
Wyn John, Mayor

ATTEST:

  
\_\_\_\_\_  
Mary Kueffner, City Administrator

Published in the Stillwater Gazette Extra on the 24th day  
of March, 1993.

STATE OF MINNESOTA  
COUNTY OF WASHINGTON  
CITY OF LAKE ELMO

ORDINANCE NO. 80-87

OR ORDINANCE RELATING TO STORM SHELTERS IN MANUFACTURED HOME PARKS.

Lake Elmo City Council ordains that Section 302.180 and its subdivisions are hereby added to the City Code to read as follows:

302.180 Storm Shelters. 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 Lake Elmo City Administrator, the Lake Elmo Civil Defense Director, the Fire Chief of the Lake Elmo Volunteer Fire Department, and the Washington County Sheriff's Department. The regulations shall address the following minimum concerns:

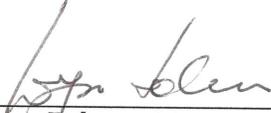
- A. Maintenance of Shelters. The regulations shall include a routine maintenance schedule in order to control vandalism and maintain the shelters in a sanitary and safe manner. During the storm season, shelters shall be checked at least once during each business day by a representative of the Manufactured Home Park Owners. As used herein, storm season means the period between April 1st and September 15th of each year.
- B. 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:
  - 1. A copy shall be delivered to each Manufactured Home Owner within the Park.
  - 2. A copy shall be included with the Park "move-in" information packets for each new tenant.
  - 3. Copies shall be posted on any Manufactured Home Park community bulletin board.
  - 4. A copy shall be posted in the club house of the golf facility at the Manufactured Home Park.
  - 5. A copy shall be available at the Manufactured Home Park office.
- C. 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 of the Lake Elmo Volunteer

Fire Department shall be given 72 hours advance notice of any proposed storm shelter drill. The Manufactured Home Park Owner shall include within their regulations relating to storm shelter drills any recommendations of the Lake Elmo Civil Defense Director and/or the Fire Chief of the Lake Elmo Volunteer Fire Department.

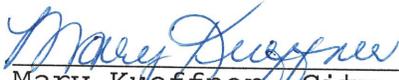
- D. Periodic Review. On an annual basis, Manufactured Home Park Owners shall solicit comments from Manufactured Home Park residents and the Lake Elmo City Administrator regarding the effectiveness of current storm shelter regulations or proposals for changes to such regulations.

Effective Date. This ordinance shall be effective the day following its publication.

Adoption Date. Passed by the City Council of the City of Lake Elmo the 17th day of August, 1993.

  
\_\_\_\_\_  
Wyn John, Mayor

ATTEST:

  
\_\_\_\_\_  
Mary Kueffner, City Administrator

Publication Date. This Ordinance or an approved Summary thereof was published on the 8th of September, 1993. in the Stillwater Gazette Extra.

b\ord\LEORD.13  
8/18/93

STATE OF MINNESOTA  
COUNTY OF WASHINGTON  
CITY OF LAKE ELMO

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Adoption Date. Passed by the City Council of the City of Lake Elmo the 17th day of August, 1993.

  
\_\_\_\_\_  
Wyn John, Mayor

ATTEST:

  
\_\_\_\_\_  
Mary Kueffner, City Administrator

Publication Date. This Ordinance or an approved Summary thereof was published on the 8th of September, 1993. in the Stillwater Gazette Extra.

b\ord\LEORD.13  
8/18/93

STATE OF MINNESOTA  
COUNTY OF WASHINGTON  
CITY OF LAKE ELMO

ORDINANCE NO. 80-88

AN ORDINANCE RELATING TO THE MOVING OF BUILDINGS.

The Lake Elmo City Council ordains that Sections 502.070A, 502.070B, and 502.070C of the Lake Elmo City Code are hereby amended; and Section 502.070D is hereby added to the Lake Elmo City Code to read as follows:

Section 502.070A. Application. Prior to moving a building or structure which will be located or relocated within the City of Lake Elmo, a moving permit must be obtained from the Lake Elmo City Council. The application for a moving permit shall include the following information:

1. A performance bond in the amount of \$100,000 or such other amount as may be required in writing by the City's Building Inspector.
2. A certificate of insurance which indicates that the applicant has obtained liability coverage in the amount of \$200,000 or more; and property damage coverage in the amount of \$20,000 or more.
3. Photos of all sides of the building or structure.
4. A complete description of the building or structure including its age and physical condition.
5. A site plan.
6. A percolation test for the site in Lake Elmo on which the building will be located or relocated.
7. An application fee of \$500.
8. A written approval from utility companies.
9. Proof of ownership of site in Lake Elmo on which the building will be located or relocated.

Section 502.070B. Inspection. The City Building Inspector shall inspect the building or structure for which the permit is requested before and after it is moved. Applicant shall reimburse the City for expenses incurred by the City's Building Official in order to inspect a building or structure located beyond the borders of the City of Lake Elmo. The expense reimbursement shall be made before issuance of the moving permit.

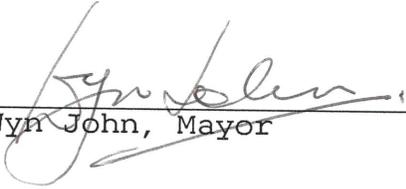
Section 502.070C. Standards. All improvements required to render the building or structure safe and suitable for occupancy shall be completed prior to occupancy. Additional improvements necessary to insure that the building or structure complies with the City's Building Code and with the site grading requirements or landscaping requirements for the zone in which the structure will be located, shall be completed within twelve months of the date of issuance of the moving permit. The building or structure as improved shall not materially depreciate surrounding property values.

Section 502.070D. Review Procedure. The completed application shall be submitted to the Planning Commission along with recommendations of the City Building Official. The Planning Commission shall conduct a hearing on the application preceded by at least ten days mailed notice to all property owners within 350 feet of the building location site. The Planning Commission shall make its recommendation to the City Council within forty days after the completed application has been referred to the Planning Commission or if the Planning Commission recommendation is not received within the required time, the City Council may take action without the Planning Commission's report.

The City Council may grant or deny the application or table it in order to obtain additional data necessary to make a reasonable decision. The City Council may require that the applicant post a performance bond, letter of credit, or a cash deposit, in a reasonable amount in order to insure that applicant completes those improvements which are required to be completed within twelve months of the date of the issuance of the moving permit.

Effective Date. This ordinance shall be effective the day following its publication.

Adoption Date. Passed by the City Council of the City of Lake Elmo the 17th day of August, 1993.

  
\_\_\_\_\_  
Wyn John, Mayor

ATTEST:

  
\_\_\_\_\_  
Mary Kueffner, City Administrator

Publication Date. This Ordinance or an approved Summary thereof was published on the 8th of September, 1993. in the Stillwater Gazette Extra.

b\ord\LEORD.14  
8/18/93

STATE OF MINNESOTA  
COUNTY OF WASHINGTON  
CITY OF LAKE ELMO

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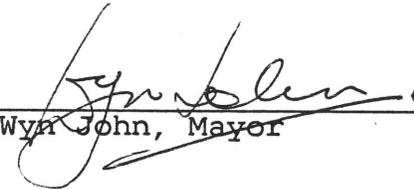
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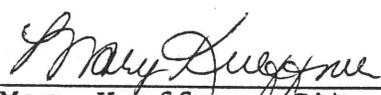
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Effective Date. This ordinance shall be effective the day following its publication.

Adoption Date. Passed by the City Council of the City of Lake Elmo the 17th day of August, 1993.

  
Wyn John, Mayor

ATTEST:

  
Mary Kueffner, City Administrator

Publication Date. This Ordinance or an approved Summary thereof was published on the 8th of September, 1993. in the Stillwater Gazette Extra.

b\ord\LEORD.14  
8/18/93

CITY OF LAKE ELMO  
WASHINGTON COUNTY, MINNESOTA

ORDINANCE 8089

AN ORDINANCE RELATING TO RECORDING STUDIOS

The City Council of the city of Lake Elmo ordains that Section 301.040 117.1 and Section 301.070 D.1.b.(6) are hereby added to the Lake Elmo City Code to read as follows::

**Section 301.040.117.1 Recording Studio:** The premises owned or leased by a production organization for the purpose of recording sound and/or video. Recording shall mean capturing the original "live" performance of musicians and/or actors onto disc, tape, solid state device or whatever medium is dictated by the state of the art. The function of a recording studio shall also include post-production in which sound and/or pictures are combined/edited and processed into a final form for broadcast, compact disc or whatever media is currently in vogue.

**Section 301.070 D.1.b.(6). Uses Permitted by Conditional Use Permit**

(6) Recording Studios

**EFFECTIVE DATE:** This ordinance shall become effective the day following its publication.

**ADOPTION DATE:** Passed by the City Council of the City of Lake Elmo the 17th day of August, 1993.

  
Wyn John, Mayor

ATTEST:

  
Mary Kueffner, City Administrator

Published in the Stillwater Gazette on the 23<sup>rd</sup> day of September, 1993

The Lake Elmo City Council ordains that Section 401.042(A) 2, is hereby amended and Section 401.042(A) 3, is hereby added to the Lake Elmo Municipal Code to read as follows:  
2. In those cases where the City Council determines that it is not reasonably possible for each such resultant parcel to comply with the provisions of Section 401.042(A) (1), each resultant parcel when combined with an abutting parcel through an approved lot consolidation procedure shall at least cause a currently non-conforming lot to become less nonconforming or;  
3. Agricultural or Rural Residential zoning districts, where the City Council determines that it is not reasonably possible for one of the resultant parcels to have a 300 foot frontage on a publicly improved right-of-way; provided that such parcel shall be served by a restrictive access which is protected by a restrictive access which is protected by a restrictive covenant which includes the city as a beneficiary.  
EFFECTIVE DATE: This ordinance shall be effective the day following its publication.  
ADOPTED DATE: Passed by the City Council of the City of Lake Elmo the 19th day of January, 1993.

Wyn John, Mayor

ATTEST:

Mary Kueffner, City Administrator  
Publication Date: This ordinance or an approved summary, thereof, was published on the 10th day of February, 1993.

X2/10

**Affidavit of Publication**

**STILLWATER EVENING GAZETTE**

STATE OF MINNESOTA )  
 )ss.  
COUNTY OF WASHINGTON )

Mike Mahoney, being duly sworn, on oath says that he is the publisher or authorized agent and employee of the publisher of the newspaper known as Stillwater Evening Gazette, and has full knowledge of the facts which are stated below.

(A) The newspaper has complied with all of the requirements constituting qualification as a qualified newspaper, as provided by Minnesota Statute 331A.02, 331A.07, and other applicable laws, as amended.

(B) The printed Ordinance No. 8078

which is attached was cut from the columns of said newspaper, and was printed and published once each week, for 1 successive ~~day~~ weeks; it was first published on Wed., the 10th day of February, 19 93, and was thereafter printed and published on every Wed. to and including the 10th day of February, 19 93; and printed below is a copy of the lower case alphabet from A to Z, both inclusive, which is hereby acknowledged as being the size

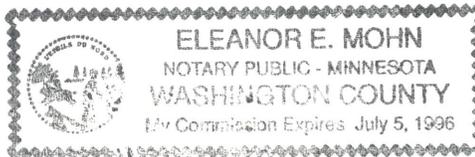
kind of type used in the composition and publication of the notice:

a b c d e f g h i j k l m n o p q r s t u v w x y z

BY: [Signature]  
TITLE: Publisher

Subscribed and sworn to before me on this 11th day of February, 19 93

[Signature]  
Notary Public



**RATE INFORMATION**

- (1) Lowest classified rate paid by commercial users for comparable space \$ 17.00  
(Line, word, or inch rate)
- (2) Maximum rate allowed by law for the above matter \$ \_\_\_\_\_  
(Line, word, or inch rate)
- (3) Rate actually charged for the above matter \$ 17.00  
(Line, word, or inch rate)

Received Payment \_\_\_\_\_, 19 \_\_\_\_\_

**STILLWATER EVENING GAZETTE**

By \_\_\_\_\_

**Affidavit of Publication**  
**STILLWATER EVENING GAZETTE**

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 ) ss.  
 COUNTY OF WASHINGTON )

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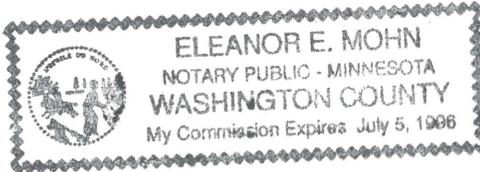
(B) The printed Ordinance No. 8079  
 \_\_\_\_\_  
 \_\_\_\_\_

which is attached was cut from the columns of said newspaper, and was printed and published once each week, for 1 successive ~~days~~ weeks; it was first published on Wed., the 17th day of February, 1993, and was thereafter printed and published on every Wed. to and including the 17th day of February, 1993 and printed below is a copy of the lower case alphabet from A to Z, both inclusive, which is hereby acknowledged as being the size and of type used in the composition and publication of the notice:

a b c d e f g h i j k l m n o p q r s t u v w x y z

BY: *Mike Mahoney*  
 TITLE: Publisher

Subscribed and sworn to before me on this  
17th day of February, 1993  
*Eleanor E. Mohn*  
 Notary Public



**RATE INFORMATION**

(1) Lowest classified rate paid by commercial users for comparable space	\$ <u>14.00</u> (Line, word, or inch rate)
(2) Maximum rate allowed by law for the above matter	\$ <u>- - -</u> (Line, word, or inch rate)
(3) Rate actually charged for the above matter	\$ <u>14.00</u> (Line, word, or inch rate)

Received Payment \_\_\_\_\_, 19\_\_\_\_

**STILLWATER EVENING GAZETTE**

By \_\_\_\_\_

Gazette Extra, Feb. 17, 1993  
 STATE OF MINNESOTA  
 COUNTY OF WASHINGTON  
 CITY OF LAKE ELMO  
 ORDINANCE NO. 8079

**AN ORDINANCE AMENDING SECTION 301.070C OF THE 1979 LAKE ELMO MUNICIPAL CODE AS IT RELATES TO THE ZONING DISTRICT MAP**

The Lake Elmo City Council hereby ordains:  
**SECTION 1. AMENDMENT:** Section 301.070C of the Lake Elmo Municipal Code is hereby amended to change the zoning from Agricultural (A) to Rural Residential (RR) the following described parcel:  
 That part of the North Half of the North Half of the Southwest Quarter of Section 2, Township 29 North, Range 21 West, City of Lake Elmo, Washington County, Minnesota.

**SECTION 2. EFFECTIVE DATE:** This ordinance shall become effective the day following its publication.  
 ADOPTED by the City Council of the City of Lake Elmo this 2nd day of February, 1993.  
 /s/ Wyn John  
 Wyn John, Mayor

Attest:  
 /s/ Mary Kueffner  
 Mary Kueffner, City Administrator  
 Published in the Stillwater Gazette on the 17th day of February, 1993.

X2/17

CITY OF LAKE ELMO  
WASHINGTON COUNTY, MINNESOTA  
ORDINANCE 80-80

AN ORDINANCE AMENDING SECTION  
1042.020 OF THE 1979 LAKE ELMO MUNI-  
CIPAL CODE AS IT RELATES TO THE AN-  
NUAL LICENSING DATE FOR DOGS

The City Council of the City of Lake Elmo or-  
dains:

**SECTION 1. AMENDMENT:** Section  
1402.020 of the 1979 Municipal Code of the  
City of Lake Elmo is hereby amended to  
change the date for the annual licensing of  
dogs in the City of Lake Elmo, and Section  
1402.020 will read as follows:

**1402.020 Dog Licensing Required:** No per-  
son shall own, keep or harbor any dog over  
the age of four months, within the City of Lake  
Elmo, unless a dog license therefor has first  
been secured. Dog Licenses shall be issued  
by the Administrator for a fee set by Resolu-  
tion of the City Council. It shall be the duty of  
each person owning, keeping, or harboring a  
dog to pay the license fee imposed by this  
Section to the Administrator on or before the  
first day of January each year, or upon estab-  
lishing residence in the City, to forthwith pay  
such license fee. The Administrator may  
cause a notice of the necessity of such license  
fee to be printed in the official newspaper in  
December prior to each license year.

**SECTION 2. EFFECTIVE DATE:** This ordi-  
nance shall become effective the day following  
its publication.

Adopted by the City Council of the City of Lake  
Elmo this 2nd day of February, 1993.

/s/ Wyn John, Mayor

Wyn John, Mayor

Attest:

/s/ Mary Kueffner

Mary Kueffner, City Administrator

Published in the Stillwater Gazette on the 17th  
day of February, 1993.

X2/17

**Affidavit of Publication**

**STILLWATER EVENING GAZETTE**

STATE OF MINNESOTA )  
 )ss.  
COUNTY OF WASHINGTON )

Mike Mahoney, being duly sworn, on oath says that he is the publisher or authorized agent and employee of the publisher of the newspaper known as Stillwater Evening Gazette, and has full knowledge of the facts which are stated below.

(A) The newspaper has complied with all of the requirements constituting qualification as a qualified newspaper, as provided by Minnesota Statute 331A.02, 331A.07, and other applicable laws, as amended.

(B) The printed Ordinance No. 80-80

which is attached was cut from the columns of said newspaper, and was printed and published once each week, for 1 successive ~~days~~ weeks; it was first published on Wed., the 17th day of February, 19 93, and was

thereafter printed and published on every Wed. to and including the 17th day of February, 19 93, and printed below is a copy of

the lower case alphabet from A to Z, both inclusive, which is hereby acknowledged as being the size and of type used in the composition and publication of the notice:

abcdefghijklmnopqrstuvwxyz

BY: *Mike Mahoney*

TITLE: Publisher

Subscribed and sworn to before me on this 17th day of February, 19 93

*Eleanor E. Mohn*

Notary Public



**RATE INFORMATION**

(1) Lowest classified rate paid by commercial users for comparable space \$ 19.00  
(Line, word, or inch rate)

(2) Maximum rate allowed by law for the above matter \$ - - -  
(Line, word, or inch rate)

(3) Rate actually charged for the above matter \$ 19.00  
(Line, word, or inch rate)

Received Payment \_\_\_\_\_, 19 \_\_\_\_\_

STILLWATER EVENING GAZETTE

By \_\_\_\_\_

Gazette Extra, Feb. 17, 1993  
**CITY OF LAKE ELMO**  
**WASHINGTON COUNTY, MINNESOTA**  
**ORDINANCE 80-81**  
**AN ORDINANCE AMENDING SECTION**  
**204.018 OF THE 1979 LAKE ELMO MUNICI-**  
**PAL CODE AS IT RELATES TO THE**  
**STARTING TIME OF THE REGULAR MEET-**  
**INGS OF THE LAKE ELMO PLANNING**  
**COMMISSION**

The City Council of the City of Lake Elmo ordains:

**SECTION 1. AMENDMENT:** Section 204.018 of the 1979 Municipal Code of the City of Lake Elmo is hereby amended to change the regular meeting times of the Lake Elmo Planning Commission, and will read as follows:

**204.018 Regular Meetings:** Regular meetings shall be held in the City Hall at 7:00 p.m. on the second and fourth Mondays of each month. No action shall be taken in the absence of a quorum except to adjourn the meeting to a subsequent date. A regular meeting may be cancelled or rescheduled by the Commission at a prior meeting or if there are no scheduled agenda items on the Thursday prior to the meeting. All action taken by the Commission shall be by the affirmative vote of a majority of the members present.

**SECTION 2. EFFECTIVE DATE.** This ordinance shall become effective the day following its publication.

Adopted by the City Council of the City of Lake Elmo this 2nd day of February, 1993.

/s/ Lyn John

Wyn John, Mayor

Attest:

/s/ Mary Kueffner

Mary Kueffner, City Administrator

Published in the Stillwater Gazette on the 17th day of February, 1993.

X2/17

**Affidavit of Publication**

**STILLWATER EVENING GAZETTE**

STATE OF MINNESOTA )  
 )ss.  
 COUNTY OF WASHINGTON )

Mike Mahoney, being duly sworn, on oath says that he is the publisher or authorized agent and employee of the publisher of the newspaper known as Stillwater Evening Gazette, and has full knowledge of the facts which are stated below.

(A) The newspaper has complied with all of the requirements constituting qualification as a qualified newspaper, as provided by Minnesota Statute 331A.02, 331A.07, and other applicable laws, as amended.

(B) The printed Ordinance No. 80-81

which is attached was cut from the columns of said newspaper, and was printed and published once each week, for 1 successive ~~days~~ weeks; it was first published on Wed., the 17th day of February, 19 93, and was thereafter printed and published on every Wed. to and including the 17th day of February, 19 93; and printed below is a copy of the lower case alphabet from A to Z, both inclusive, which is hereby acknowledged as being the size

and of type used in the composition and publication of the notice:

abcdefghijklmnopqrstuvwxyz

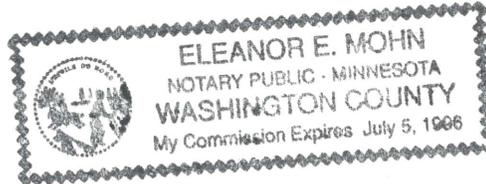
BY: *Mike Mahoney*

TITLE: Publisher

Subscribed and sworn to before me on this 17th day of February, 19 93

*Eleanor E. Mohn*

Notary Public



**RATE INFORMATION**

- (1) Lowest classified rate paid by commercial users for comparable space \$ 18.00  
(Line, word, or inch rate)
- (2) Maximum rate allowed by law for the above matter \$ - - -  
(Line, word, or inch rate)
- (3) Rate actually charged for the above matter \$ 18.00  
(Line, word, or inch rate)

Received Payment \_\_\_\_\_, 19 \_\_\_\_

**STILLWATER EVENING GAZETTE**

By \_\_\_\_\_



Gazette Extra, Feb. 24, 1993  
CITY OF LAKE ELMO  
WASHINGTON COUNTY, MINNESOTA  
ORDINANCE 80-82  
AN ORDINANCE RELATING  
TO DANGEROUS ANIMALS

The City Council ordains that Section 1402.220 and its subdivisions shall be added to the 1979 Lake Elmo Municipal Code to read as follows:

1402.220 Dangerous Animals Prohibited: No person shall harbor, maintain or control any dangerous animal within the City of Lake Elmo. A dangerous animal is one which is capable of inflicting severe bodily harm to humans, and shall include but not be limited to the following species.

1402.220 A. Class Mammalia

African buffalo (Syncerus caffer)  
Hippopotamus (Hippopotamus amphibious)  
Wolves, dingoes, jackals, all species except foxes (Family Canidae)  
Hyenas, all species except aardwolves (Proteles cristatus) (Family Hyaenidae)

Wolverine (Gulo gulo)  
Honey badger or ratel (Mellivora campestis)  
Old World badger (Meles meles)  
Bears (Family Ursidae)  
Lions, jaguars, leopards, tigers (Genus Panthera)  
Clouded leopard (Neofelis nebulosa)  
Cheetah (Acinonyx jubatus)  
Cougar or mountain lion (Felis concolor)  
Elephants (Family Elephantidae)  
Rhinoceroses (Family Rhinocerotidae)  
Gibbons, siamangs (Family Hylobatidae)  
Orangutans, chimpanzees, gorillas (Family Pongidae)  
Baboons, drills, mandrills (Genus Papio)  
Macaques (Genus Macaca)  
Gelada baboon (Theropithecus gelada)

1402.220 B. Class Reptilia

Gavials (Family Gavialidae)  
Crocodiles (Family Crocodylidae)  
Alligators, caimans (Family Alligatoridae)  
Cobras, coral snakes (Family Elapidae)  
Sea snakes (Family Hydrophidae)  
Adders, vipers (Family Viperidae)  
Pit Vipers (Family Crotalidae)  
All venomous rear-fanged species (Family Colubridae)

The following species of constricting snakes over eight(8) feet in length:

Boa constrictor (Boa constrictor), all subspecies  
Anaconda (Eunectes murinus)  
Indian python (Python molurus)  
Reticulate python (Python reticulatus)  
Rock python (Python sebae)  
Gila monsters and beaded lizards (Family Helodermatidae)  
Komodo dragon (Varanus komodoensis)

Effective Date: This ordinance shall be effective the day following its publication.

Adoption Date: Passed by the City Council of the City of Lake Elmo the 2nd day of February, 1993.

/s/ Lyn John  
Wyn John, Mayor

Attest:

/s/ Mary Kueffner  
Mary Kueffner, City Administrator  
Publication Date: Published on the 24th of February, 1993 in the Stillwater Gazette.

X2/24

**Affidavit of Publication**  
**STILLWATER EVENING GAZETTE**

STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF WASHINGTON )

Mike Mahoney, being duly sworn, on oath says that he is the publisher or authorized agent and employee of the publisher of the newspaper known as Stillwater Evening Gazette, and has full knowledge of the facts which are stated below.

(A) The newspaper has complied with all of the requirements constituting qualification as a qualified newspaper, as provided by Minnesota Statute 331A.02, 331A.07, and other applicable laws, as amended.

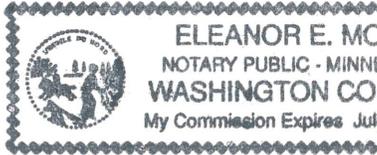
(B) The printed Ordinance No. 8083

which is attached was cut from the columns of said newspaper, and was printed and published once each week, for 1 successive ~~days~~<sup>xx</sup> weeks; it was first published on Wed., the 24th day of February, 1993 and was thereafter printed and published on every Wed. to and including the 24th day of February, 1993; and printed below is a copy of the lower case alphabet from A to Z, both inclusive, which is hereby acknowledged as being the size

of kind of type used in the composition and publication of the notice:  
abcdefghijklmnopqrstuvwxyz

BY: *Dwight Mahoney*  
TITLE: Publisher

Subscribed and sworn to before me on this 24th day of February, 1993



*Eleanor E. Mohr*  
Notary Public

**RATE INFORMATION**

- (1) Lowest classified rate paid by commercial users for comparable space \$ 37.00  
(Line, word, or inch rate)
- (2) Maximum rate allowed by law for the above matter \$ - - -  
(Line, word, or inch rate)
- (3) Rate actually charged for the above matter \$ 37.00  
(Line, word, or inch rate)

Received Payment \_\_\_\_\_, 19\_\_

**STILLWATER EVENING GAZETTE**

By \_\_\_\_\_

Gazette Extra, Feb. 24, 1993  
CITY OF LAKE ELMO, MINNESOTA  
ORDINANCE NO. 8083  
AN ORDINANCE REPEALING SECTIONS 401.500 THROUGH 401.530 AND THEIR SUBDIVISIONS FROM THE LAKE ELMO MUNICIPAL CODE AND ADDING SECTION 401.505 AND ITS SUBDIVISIONS TO THE LAKE ELMO MUNICIPAL CODE RELATING TO IMPROVEMENTS WITHIN SUBDIVISIONS.

The City Council ordains that Sections 401.500 through 401.530 be deleted from the Municipal Code.

The City Council ordains that Section 401.505 is hereby added to the Lake Elmo Municipal Code to read as follows:

**401.505 REQUIRED IMPROVEMENTS/FINANCIAL ARRANGEMENTS**

- A. Prior to the acceptance of the Final Plat, the Developer shall enter into a Developer's Agreement with the City of Lake Elmo. In conjunction with this contract, the Developer shall deposit with the City Administrator either a cash deposit or a letter of credit, approved as to form by the City Attorney, in an amount equal to 1.25 times the City Engineer's estimated cost of the improvements and administrative fees.
- B. Upon execution of the Developer's Agreement, the Developer shall deliver to the City Engineer the Final Grading Plan and the Final Plat. The City Engineer shall prepare construction plans and specifications. The City of Lake Elmo shall advertise for bids and award a construction contract for improvements within the subdivision. The City Engineer shall stake, inspect and manage construction of the improvements. Upon completion of the improvements, the City Engineer shall prepare record drawings.
- C. Upon execution of the Developer's Agreement, the Developer shall construct site and street grading within the subdivision. All streets shall be graded to within +/- 0.20 feet of subgrade elevation. All unsuitable material within the street shall be removed by the Developer. Topsoil shall be spread over all disturbed areas. All disturbed areas outside the street right-of-way shall be seeded or sodded by the Developer within 10 days. The Developer is responsible for installing and maintaining erosion control devices outside the street right-of-way until turf is fully established throughout the site.
- D. The Developer shall pay all construction, engineering, legal and administrative fees associated with the improvements.
- E. The Developer shall have all property corners and street radius points staked for the City to use in construction of the improvements.
- F. The Developer shall arrange for the installation of underground utilities after the first lift of bituminous pavement has been placed, but before the final lift is placed.

Passed by the City Council of the City of Lake Elmo, this 2nd day of FEBRUARY, 1993. The provisions of this Ordinance shall become effective on the 25th day of February, 1993. Published on the 24th day of February, 1993.

/s/ Wyn John  
Wyn John, Mayor  
ATTEST:  
/s/ Mary Kueffner  
Mary Kueffner, City Administrator

**AN ORDINANCE ADDING SECTION 303.020 C.3. AND SECTION 303.100 B, AND AMENDING SECTION 303.050 E.2. AND SECTION 303.080 C. OF THE 1979 LAKE ELMO MUNICIPAL CODE AS IT RELATES TO FLOODPLAIN REGULATIONS**

The City Council of the City of Lake Elmo ordains:

**SECTION 1. AMENDMENT:** Section 303.020 C.3. and Section 303.100 B. are hereby added to the 1979 Municipal Code of the City of Lake Elmo; and Section 303.050 E.2. and Section 303.080 C. hereby amended the 1979 Municipal Code of the City of Lake Elmo all relating to Floodplain Regulations, and will read as follows: Section 303.020 C.3. Permitted and conditional uses allowed in the floodplain shall be limited to those only listed in Section 303.050, and only under the standards and conditions which are also stated herein. Where it is alleged that there is an error in any order, requirement, decision or determination made by the Zoning Administrator, an appeal may be made to the Board of Adjustment and Appeals who shall follow the rules and procedures of Section 303.080 in making their final decision.

**Section 303.050 E.2.** Commercial Uses - accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the Regulatory Flood Protection Elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than four feet per second upon occurrence of the regional flood.

**Section 303.080 C. Decisions:** A Board decision and their findings shall be made according to Section 301.060 C.4. and 5. In granting a Variance the Board may prescribe appropriate conditions and safeguards which are in conformity with the purposes of the Floodplain Regulation. Violations of such conditions and safeguards, when made part of the terms under which the Variance is granted, shall be deemed a violation of the Floodplain Regulation punishable under Section 303.110. No Variance shall allow in any district a use prohibited in that district or permit a lower degree of flood protection than the Regulatory Flood Protection Elevation. Variances may be used to modify permissible methods of flood protection.

**Section 303.100 B.** The cost of all structural alterations or additions both inside and outside of a structure to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of structural alterations and additions and additions constructed since the

adoption of Lake Elmo's initial flood plain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50 percent of the current market value of the structure, then the structure must meet the standards of Section 303.050.

**SECTION 2. EFFECTIVE DATE:** This ordinance shall become effective the day following its publication.

Adopted by the City Council of the City of Lake Elmo this 16th day of February, 1993.

/s/ Wyn John, Mayor

Attest:  
Mary Kueffner, City Administrator

X2/24

**Affidavit of Publication**

**STILLWATER EVENING GAZETTE**

STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF WASHINGTON )

Mike Mahoney, being duly sworn, on oath says that he is the publisher or authorized agent and employee of the publisher of the newspaper known as Stillwater Evening Gazette, and has full knowledge of the facts which are stated below.

(A) The newspaper has complied with all of the requirements constituting qualification as a qualified newspaper, as provided by Minnesota Statute 331A.02, 331A.07, and other applicable laws, as amended.

(B) The printed Ordinance No. 80-84

which is attached was cut from the columns of said newspaper, and was printed and published once each week, for 1 successive days/weeks; it was first published on Wed., the 24th day of February, 1993, and was thereafter printed and published on every Wed. to and including the 24th day of February, 1993 and printed below is a copy of the lower case alphabet from A to Z, both inclusive, which is hereby acknowledged as being the size

kind of type used in the composition and publication of the notice:

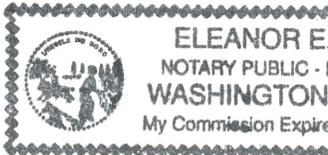
abcdefghijklmnopqrstuvwxyz

BY: *Mike Mahoney*  
TITLE: Publisher

Subscribed and sworn to before me on this 24th day of February, 1993

*Eleanor E. Moh*

Notary Public



**RATE INFORMATION**

- (1) Lowest classified rate paid by commercial users for comparable space \$ 36.00  
(Line, word, or inch rate)
- (2) Maximum rate allowed by law for the above matter \$ - - -  
(Line, word, or inch rate)
- (3) Rate actually charged for the above matter \$ 36.00  
(Line, word, or inch rate)

Received Payment \_\_\_\_\_, 19\_\_

STILLWATER EVENING GAZETTE

By \_\_\_\_\_

10  
10  
10

**Affidavit of Publication**  
**STILLWATER EVENING GAZETTE**

STATE OF MINNESOTA            )  
  )ss.  
COUNTY OF WASHINGTON        )

Mike Mahoney, being duly sworn, on oath says that he is the publisher or authorized agent and employee of the publisher of the newspaper known as Stillwater Evening Gazette, and has full knowledge of the facts which are stated below.

(A) The newspaper has complied with all of the requirements constituting qualification as a qualified newspaper, as provided by Minnesota Statute 331A.02, 331A.07, and other applicable laws, as amended.

(B) The printed Summary of Ordinance No. 80-85

\_\_\_\_\_

\_\_\_\_\_

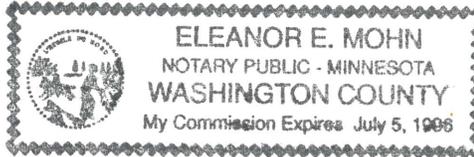
which is attached was cut from the columns of said newspaper, and was printed and published once each week, for 1 successive ~~days~~ weeks; it was first published on Wed., the 24th day of February, 19 93, and was thereafter printed and published on every Wed. to and including the 24th day of February, 19 93 and printed below is a copy of the lower case alphabet from A to Z, both inclusive, which is hereby acknowledged as being the size

and of type used in the composition and publication of the notice:  
abcdefghijklmnopqrstuvwxyz

BY: *Mike Mahoney*  
TITLE: Publisher

Subscribed and sworn to before me on this 24th day of February, 19 93

*Eleanor E. Mohr*  
Notary Public



**RATE INFORMATION**

- (1) Lowest classified rate paid by commercial users for comparable space   \$ 36.00  
(Line, word, or inch rate)
- (2) Maximum rate allowed by law for the above matter                   \$ - - -  
(Line, word, or inch rate)
- (3) Rate actually charged for the above matter                           \$ 36.00  
(Line, word, or inch rate)

Received Payment \_\_\_\_\_, 19 \_\_\_\_\_

**STILLWATER EVENING GAZETTE**

By \_\_\_\_\_

WASHINGTON COUNTY  
SUMMARY OF ORDINANCE 80-85  
RELATING TO SHORELAND REGULATIONS

On February 16, 1993 the Lake Elmo City Council adopted Ordinance 80-85 relating to Shoreland Regulations in the City of Lake Elmo.

On February 16, 1993, the Lake Elmo City Council received a summary of Ordinance 80-85 and by 5 affirmative votes, approved the publication of a summary of this ordinance, to-wit:

THE LAKE ELMO CITY COUNCIL ORDAINS THAT THE FOLLOWING SECTION OF THE LAKE ELMO MUNICIPAL CODE IS HEREBY ADOPTED:

SECTION 308 - SHORELAND REGULATIONS

- |                 |   |
|-----------------|---|
| Section 38      | Shoreland District  |
| Section 308.020 | Intent  |
| Section 308.030 | Definitions   |
| Section 308.040 | Administration  |
|                 | A. Permits Required   |
|                 | B. Variances  |
|                 | C. Notifications of the DNR                                   |
| Section 308.050 | Shoreland Classification System                               |
|                 | A. Classifications  |
|                 | B. Land Use Regulations                                       |
| Section 308.060 | Shoreland Standards   |
|                 | A. General Provisions   |
|                 | B. Lot Area - No Sewer  |
|                 | C. Lot Width - No Sewer                                       |
|                 | D. Placement, Design and Height of Structures                 |
|                 | E. Shoreland Alterations                                      |
|                 | F. Placement and Design of Roads, Driveways and Parking areas |
|                 | G. Stormwater Management                                      |
|                 | H. Specific Provisions of Public/Semi-Public Agricultural     |
|                 | I. Water Supply and Sewage Treatment                          |
|                 | J. Conditional Uses.  |
| Section 308.070 | Nonconformities   |
| Section 38.080  | Subdivision/Platting Provisions                               |

The City Council further ordains that Chapter 307 of the Lake Elmo Municipal Code is hereby repealed.

Effective Date: This ordinance shall be effective the day following its publication.

Adoption Date: Passed by the City Council of the City of Lake Elmo the 16 day of February, 1993.

/s/ Wyn John, Mayor

Attest:

Mary Kueffner, City Administrator

**Affidavit of Publication  
STILLWATER EVENING GAZETTE**

STATE OF MINNESOTA )  
 )ss.  
COUNTY OF WASHINGTON )

Mike Mahoney, being duly sworn, on oath says that he is the publisher or authorized agent and employee of the publisher of the newspaper known as Stillwater Evening Gazette, and has full knowledge of the facts which are stated below.

(A) The newspaper has complied with all of the requirements constituting qualification as a qualified newspaper, as provided by Minnesota Statute 331A.02, 331A.07, and other applicable laws, as amended.

(B) The printed Ordinance No. 8086

which is attached was cut from the columns of said newspaper, and was printed and published once each week, for 1 successive ~~days~~ <sup>xy</sup> weeks; it was first published on Wed., the 24th day of March, 19 93 and was thereafter printed and published on every Wed. to and including the 24th day of March, 19 93; and printed below is a copy of the lower case alphabet from A to Z, both inclusive, which is hereby acknowledged as being the size

nd of type used in the composition and publication of the notice:

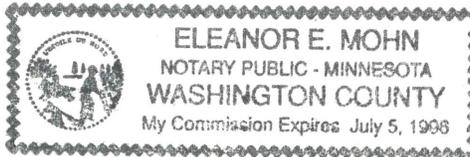
abcdefghijklmnopqrstuvwxyz

BY: *Mike Mahoney*  
TITLE: Publisher

Subscribed and sworn to before me on this 24th day of March, 19 93

*Eleanor E. Mohn*

Notary Public



**RATE INFORMATION**

- (1) Lowest classified rate paid by commercial users for comparable space \$ 19.00  
(Line, word, or inch rate)
- (2) Maximum rate allowed by law for the above matter \$ - - -  
(Line, word, or inch rate)
- (3) Rate actually charged for the above matter \$ 19.00  
(Line, word, or inch rate)

Received Payment \_\_\_\_\_, 19 \_\_\_\_\_

**STILLWATER EVENING GAZETTE**

By \_\_\_\_\_

**Gazette Extra, Mar. 24, 1993  
CITY OF LAKE ELMO  
WASHINGTON COUNTY, MINNESOTA  
ORDINANCE 8086**

**AN ORDINANCE AMENDING SECTIONS 212.012, 212.013 AND 212.027 OF THE LAKE ELMO MUNICIPAL CODE AS IT RELATES TO THE HERITAGE PRESERVATION COMMISSION**

**AMENDMENT:** The City Council ordains that Sections 212.012, 212.013 and 212.027 of the Lake Elmo Municipal Code shall be amended to read as follows:

**212.012 COMPOSITION:** The Heritage Preservation Commission (H.P.C.) shall consist of five (5) members, two alternate members, and shall include, if available, a member of the Washington County Historical Society.

**212.013 QUALIFICATIONS:** Each commission member must be a person with demonstrated interest and expertise in historic preservation and must reside within the City of Lake Elmo with the exception of ex-officio members.

**212.027 POWERS:** To actively promote historical preservation within the City. To establish and maintain liaison with civic, church, and other groups for the purpose of promoting historic preservation. To promote gifting of structures, or money or promote the activities involved in historical preservation.

ADOPTED by the City Council of the City of Lake Elmo this 2nd day of March 1993.  
/s/ Wyn John  
Wyn John, Mayor

ATTEST:  
/s/ Mary Kueffner  
Mary Kueffner, City Administrator  
Published in the Stillwater Gazette Extra on the 24th day of March, 1993.

**X3/24**

Gazette Extra, Sept. 8, 1993  
COUNTY OF WASHINGTON  
CITY OF LAKE ELMO  
ORDINANCE NO. 80-87  
AN ORDINANCE RELATING TO STORM  
SHELTERS IN MANUFACTURED

HOME PARKS.

Lake Elmo City Council ordains that Section 302.180 and its subdivisions are hereby added to the City Code to read as follows:

302.180 Storm Shelters. 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 Lake Elmo City Administrator, the Lake Elmo Civil Defense Director, the Fire Chief of the Lake Elmo Volunteer Fire Department, and the Washington County Sheriff's Department. The regulations shall address the following minimum concerns:

- A. 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 1st and September 15th of each year.
- B. 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:
  - 1. A copy shall be delivered to each Manufactured Home Owner within the Park.
  - 2. A copy shall be included with the Park "move-in" information packets for each new tenant.
  - 3. Copies shall be posted on any Manufactured Home Park community bulletin board.
  - 4. A copy shall be posted in the club house of the golf facility at the Manufactured Home Park.
  - 5. A copy shall be available at the Manufactured Home Park office.
- C. 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 of the Lake Elmo Volunteer Fire Department shall be given 72 hours advance notice of any proposed storm shelter drill. The Manufactured Home Park Owner shall include within their regulations relating to storm shelter drills any recommendations of the Lake Elmo Civil Defense Director and/or the Fire Chief of the Lake Elmo Volunteer Fire Department.
- D. Periodic Review. On an annual basis, Manufactured Home Park Owners shall solicit comments from Manufactured Home Park residents and the Lake Elmo City Administrator regarding the effectiveness of current storm shelter regulations or proposals for changes to such regulations.

**Effective Date.** This ordinance shall be effective the day following its publication.  
**Adoption Date.** Passed by the City Council of the City of Lake Elmo the 17th day of August, 1993.

/s/ Wyn John  
Wyn John, Mayor

ATTEST:  
/s/ Mary Kueffner  
Mary Kueffner, City Administrator  
**Publication Date.** This Ordinance or an approved Summary thereof was published on the 8th of September, 1993, in the Stillwater Gazette Extra.

**Affidavit of Publication**

**STILLWATER EVENING GAZETTE**

STATE OF MINNESOTA )  
 )ss.  
COUNTY OF WASHINGTON )

Mike Mahoney, being duly sworn, on oath says that he is the publisher or authorized agent and employee of the publisher of the newspaper known as Stillwater Evening Gazette, and has full knowledge of the facts which are stated below.

(A) The newspaper has complied with all of the requirements constituting qualification as a qualified newspaper, as provided by Minnesota Statute 331A.02, 331A.07, and other applicable laws, as amended.

(B) The printed Ordinance No. 80-87

which is attached was cut from the columns of said newspaper, and was printed and published once each week, for 1 successive days/weeks; it was first published on Wed., the 8th day of September, 1993, and was thereafter printed and published on every Wed. to and including the 8th day of September, 1993; and printed below is a copy of the lower case alphabet from A to Z, both inclusive, which is hereby acknowledged as being the size

nd of type used in the composition and publication of the notice:

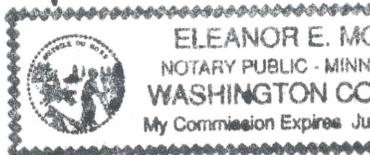
abcdefghijklmnopqrstuvwxyz

BY: *Mike Mahoney*  
TITLE: Publisher

Subscribed and sworn to before me on this 9th day of September, 1993.

*Eleanor E. Mohr*

Notary Public



**RATE INFORMATION**

- (1) Lowest classified rate paid by commercial users for comparable space \$ 39.00  
(Line, word, or inch rate)
- (2) Maximum rate allowed by law for the above matter \$ - - -  
(Line, word, or inch rate)
- (3) Rate actually charged for the above matter \$ 39.00  
(Line, word, or inch rate)

Received Payment \_\_\_\_\_, 19 \_\_\_\_\_

STILLWATER EVENING GAZETTE

By \_\_\_\_\_

CITY OF  
Lake Elmo

Gazette Extra, Sept. 8, 1993  
STATE OF MINNESOTA  
COUNTY OF WASHINGTON  
CITY OF LAKE ELMO  
ORDINANCE NO. 80-88

AN ORDINANCE RELATING TO THE  
MOVING OF BUILDINGS.

The Lake Elmo City Council ordains that Sections 502.070A, 502.070B, and 502.070C of the Lake Elmo City Code are hereby amended; and Section 502.070D is hereby added to the Lake Elmo City Code to read as follows:

Section 502.070A. Application. Prior to moving a building or structure which will be located or relocated within the City of Lake Elmo, a moving permit must be obtained from the Lake Elmo City Council. The application for a moving permit shall include the following information:

1. A performance bond in the amount of \$100,000 or such other amount as may be required in writing by the City's Building Inspector.
2. A certificate of insurance which indicates that the applicant has obtained liability coverage in the amount of \$200,000 or more; and property damage coverage in the amount of \$20,000 or more.
3. Photos of all sides of the building or structure.
4. A complete description of the building or structure including its age and physical condition.
5. A site plan.
6. A percolation test for the site in Lake Elmo on which the building will be located or relocated.
7. An application fee of \$500.
8. A written approval from utility companies.
9. Proof of ownership of site in Lake Elmo on which the building will be located or relocated.

Section 502.070B. Inspection. The City Building Inspector shall inspect the building or structure for which the permit is requested before and after it is moved. Applicant shall reimburse the City for expenses incurred by the City's Building Official in order to inspect a building or structure located beyond the borders of the City of Lake Elmo. The expense reimbursement shall be made before issuance of the moving permit.

Section 502.070C. Standards. All improvements required to render the building or structure safe and suitable for occupancy shall be completed prior to occupancy. Additional improvements necessary to insure that the building or structure complies with the City's Building Code and with the site grading requirements or landscaping requirements for the zone in which the structure will be located, shall be completed within twelve months of the date of issuance of the moving permit. The building or structure as improved shall not materially depreciate surrounding property values.

Section 502.070D. Review Procedure. The completed application shall be submitted to the Planning Commission along with recommendations of the City Building Official. The Planning Commission shall conduct a hearing on the application preceded by at least ten days mailed notice to all property owners within 350 feet of the building location site. The Planning Commission shall make its recommendation to the City Council within forty days after the completed application has been referred to the Planning Commission or if the Planning Commission recommendation is not received within the required time, the City

Affidavit of Publication

STILLWATER EVENING GAZETTE

STATE OF MINNESOTA )  
 )ss.  
COUNTY OF WASHINGTON )

Mike Mahoney, being duly sworn, on oath says that he is the publisher or authorized agent and employee of the publisher of the newspaper known as Stillwater Evening Gazette, and has full knowledge of the facts which are stated below.

(A) The newspaper has complied with all of the requirements constituting qualification as a qualified newspaper, as provided by Minnesota Statute 331A.02, 331A.07, and other applicable laws, as amended.

(B) The printed Ordinance No. 80-88

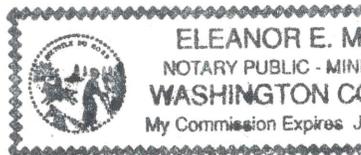
which is attached was cut from the columns of said newspaper, and was printed and published once each week, for 1 successive ~~days~~ weeks; it was first published on Wed., the 8th day of September, 1993, and was thereafter printed and published on every Wed. to and including the 8th day of September, 1993; and printed below is a copy of the lower case alphabet from A to Z, both inclusive, which is hereby acknowledged as being the size and of type used in the composition and publication of the notice:

abcdefghijklmnopqrstuvwxyz

BY: Mike Mahoney  
TITLE: Publisher

Subscribed and sworn to before me on this 9th day of September, 1993.

Eleanor E. Mohr  
Notary Public



RATE INFORMATION

- (1) Lowest classified rate paid by commercial users for comparable space \$ 48.00  
(Line, word, or inch rate)
- (2) Maximum rate allowed by law for the above matter \$ - - -  
(Line, word, or inch rate)
- (3) Rate actually charged for the above matter \$ 48.00  
(Line, word, or inch rate)

Received Payment \_\_\_\_\_, 19\_\_

STILLWATER EVENING GAZETTE

By \_\_\_\_\_

CITY OF  
Lake Elmo

Evening Gazette, Sept. 23, 1993  
CITY OF LAKE ELMO  
WASHINGTON COUNTY, MINNESOTA  
ORDINANCE 8089  
AN ORDINANCE RELATING TO  
RECORDING STUDIOS

The City Council of the city of Lake Elmo ordains that Section 301.040 117.1 and Section 301.070 D.1.b.(6) are hereby added to the Lake Elmo City Code to read as follows:

**Section 301.040.117.1 Recording Studio:**  
The premises owned or leased by a production organization for the purpose of recording sound and/or video. Recording shall mean capturing the original "live" performance of musicians and/or actors onto disc, tape, solid state device or whatever medium is dictated by the state of the art. The function of a recording studio shall also include post-production in which sound and/or pictures are combined/edited and processed into a final form for broadcast, compact disc or whatever media is currently in vogue.

**Section 301.070 D.1.b.(6). Uses Permitted by Conditional Use Permit**

(6) Recording Studios  
**EFFECTIVE DATE:** This ordinance shall become effective the day following its publication.

**ADOPTION DATE:** Passed by the City Council of the City of Lake Elmo the 17th day of August, 1993.

/s/ Wyn John  
Wyn John, Mayor

**ATTEST:**  
/s/ Mary Kueffner  
Mary Kueffner, City Administrator  
Published in the Stillwater Gazette on the 23rd day of September, 1993

9/23

**Affidavit of Publication**

**STILLWATER EVENING GAZETTE**

STATE OF MINNESOTA )  
 )ss.  
COUNTY OF WASHINGTON )

Mike Mahoney, being duly sworn, on oath says that he is the publisher or authorized agent and employee of the publisher of the newspaper known as Stillwater Evening Gazette, and has full knowledge of the facts which are stated below.

(A) The newspaper has complied with all of the requirements constituting qualification as a qualified newspaper, as provided by Minnesota Statute 331A.02, 331A.07, and other applicable laws, as amended.

(B) The printed Ordinance No. 8089  
Recording studios

which is attached was cut from the columns of said newspaper, and was printed and published once each week, for 1 successive ~~days~~ weeks; it was first published on Thurs., the 23rd day of September, 19 93, and was thereafter printed and published on every Thurs. to and including the 23rd day of September, 19 93; and printed below is a copy of the lower case alphabet from A to Z, both inclusive, which is hereby acknowledged as being the size

and kind of type used in the composition and publication of the notice:

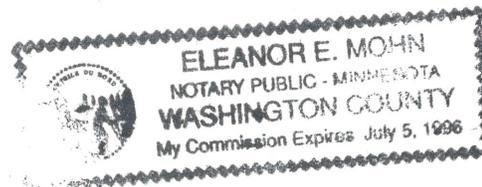
.acdefghijklmnopqrstuvwxyz

BY: [Signature]  
TITLE: Publisher

Subscribed and sworn to before me on this  
24th day of September, 19 93.

[Signature]

Notary Public



**RATE INFORMATION**

- (1) Lowest classified rate paid by commercial users for comparable space \$ 18.00  
(Line, word, or inch rate)
- (2) Maximum rate allowed by law for the above matter \$ - - -  
(Line, word, or inch rate)
- (3) Rate actually charged for the above matter \$ 18.00  
(Line, word, or inch rate)

Received Payment \_\_\_\_\_, 19 \_\_\_\_\_

**STILLWATER EVENING GAZETTE**

By \_\_\_\_\_