

# **NOTICE OF MEETING**

The City of Lake Elmo
Planning Commission will conduct a meeting on
Monday, May 13, 2013 at7:00 p.m.

# **AGENDA**

- 1. Pledge of Allegiance
- 2. Approve Agenda
- 3. Approve Minutes
  - a. April 22, 2013
- 4. Presentations
  - a. SPEAK YOUR PEACE CAMPAIGN. Mike Reeves will give a brief presentation to the Planning Commission about the Speak Your Peace Campaign.
- 5. Public Hearing
  - a. ZONING TEXT AMENDMENT SPECIFIC DEVELOPMENT STANDARDS. The Planning Commission will hold a public hearing to consider an amendment to the Lake Elmo Zoning Code pertaining to development standards for specific use classifications.
- 6. Business Items
  - a. ZONING TEXT AMENDMENT SIGN ORDINANCE. Staff will present a draft ordinance related to signage regulations as part of an ongoing effort to improve the Lake Elmo Zoning Code in preparation of future sewered growth.
  - b. ZONING TEXT AMENDMENT ADMINISTRATION. Staff will present a draft ordinance related to the administration section of the Lake Elmo Zoning Code. This ordinance is part of an ongoing effort to reorganize the Zoning Code.
  - c. ZONING TEXT AMENDMENT FENCE ORDINANCE. Staff will present a draft ordinance related to fencing regulations as part of an ongoing effort to prepare the Lake Elmo Zoning Code in anticipation of future sewered growth.

## 7. Updates

- a. City Council Updates
  - i. The City Council approved the following items at the meeting on 5/7/13:
    - 1. Minor Comprehensive Plan Amendment Olson Lake Trail Sewer Project
    - 2. Zoning Map Amendment

- 3. Off-Street Parking Ordinance
- 4. Tree Preservation Ordinance, with minor amendment
- b. Staff Updates

  - i. Upcoming Meetings:
     1. Consider moving the May 28<sup>th</sup> Planning Commission meeting to May 29<sup>th</sup>, 2013.
- c. Commission Concerns
- 8. Adjourn



# City of Lake Elmo Planning Commission Meeting Minutes of April 22, 2013

Chairman Williams called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m.

COMMISSIONERS PRESENT: Williams, Kreimer, Larson, Reeves and Morreale;

**COMMMISSIONERS ABSENT:** Haggard; and

**STAFF PRESENT:** Planning Director Klatt and City Planner Johnson

#### Approve Agenda

M/S/P: Reeves/Larson, move to accept the agenda as amended, Vote: 5-0, Motion Carried.

Approval of Minutes: April 8, 2013

Kreimer suggested a change regarding the credit for the planting of coniferous trees.

Williams suggested some minor grammatical changes. Williams also suggested that "at a future Planning Commission meeting" be added in regards to the discussion of the planned land use map. Williams also suggested that the advancing of the open meeting law discussion on the agenda be included.

Larson suggested a minor change regarding the selection of appropriate species for plantings.

M/S/P: Kreimer/Reeves, move to accept minutes as amended, **Vote: 4-0, Motion Carried**, Morreale did not vote.

#### **Election of Officers:**

M/S/P: Kreimer/Morreale move to nominate Mike Reeves as Vice-Chairman of the Planning Commission, **Vote: 5-0, Motion Carried.** 

Before the PC proceeded, Williams asked about the order of holding a public hearing in terms of meeting statutory requirements. Klatt noted that he will consult the City Attorney.

**Public Hearing:** Minor Comp Plan Amendment – Wastewater Facilities

Klatt began his presentation by giving an overview of the Olson Lake Trail sewer project. He noted that the project was initiated by the City of Oakdale via resident petition. Given the opportunity to share costs on a sewer extension, the City of Lake Elmo surveyed adjacent properties to see if they were interested in being connected to sanitary sewer.

Williams asked for the addresses of the Lake Elmo properties that will be connected with the sewer project. Klatt noted that 4 Lake Elmo properties will be connected, from 4575 to 4671 Olson Lake Trail.

Klatt continued on to describe the process and public hearings that were included as part of the sewer extension. He also provided details about project cost. Klatt described how Chapter 6: Wastewater Facilities of the Comprehensive Plan will have to be changed to account for this change in public services. In addition, Klatt noted that the change to the Comp Plan only relates to sanitary sewer, not water, roads or transit service. This is a departure from using the terminology "MUSA" to indicate intended sewer service.

Moving forward, Klatt noted that the wastewater facilities chapter will have to be updated to account for the sewer service related to the Village Land Use Plan. Staff anticipates that this chapter can be updated at the time of the Village Land Use Plan or right after. With this approach, Staff can include the most accurate update to the wastewater facilities chapter. To wrap up the text, Klatt explained some minor changes to the timeframes noted within the wastewater facilities chapter. Finally, Klatt presented the chart showing the projected sewer flows to the W.O.N. E. and Cottage Grove Ravine interceptors. Considering that the properties on Olson Lake Trail are being served via Oakdale, this chart would not be affected by the proposed Comp Plan Amendment. He did note that this chart will have to be updated when Chapter 6 is further updated after the Village Land Use Plan is approved.

Reeves asked for clarity about process, asking if additional steps are required to actually execute a sewer extension to the properties included in the amendment. Klatt noted that the feasibility report and sewer extension for the four original Lake Elmo properties have already been ordered by the City Council. In other words, future extensions would have to be ordered by the City Council. In order to execute the original project, the City has to amend its Comprehensive Plan.

Williams asked if the assessment hearing was for the four original properties, or all of the properties included. Klatt noted that all of the properties were included in the hearing. Williams also asked about project costs.

Reeves asked if any property owners have the option to opt out if they are not interested in sewer. Klatt stated that state law requires that with a localized connection, there is a limited amount of time in which to connect to the service. Klatt believes that time frame is 2 years, which is different than a regional line.

Kreimer asked if any of these units would be counted towards the sewered unit requirements. Klatt noted that they would not because they are being connected to the City of Oakdale's sewer system. In addition, these are not new properties to be connected, but existing homes.

Larson commented that he appreciates collaboration between cities on joint projects. He also asked if there are any drawbacks to these types of collaborations. Klatt noted that if any additional properties wanted to be hooked up, the City would need to obtain the City of Oakdale's approval to add sewer capacity. Overall, projects that involve collaboration are positive.

Public Hearing opened at 7:44pm

Greg McGrath, 1509 15<sup>th</sup> St. Ct., noted that he supports collaborative projects between cities. He also noted that many residents of Lake Elmo support sewer service. He noted that sewer service is superior to septic systems and welcomed in many areas of Lake Elmo.

Public Hearing closed at 7:47pm

Williams started discussion by asking if everyone agrees with the proposed edits that Klatt presented earlier. Kreimer noted that a period was missing in one sentence.

Reeves asked if more passive language would give the City more flexibility in regards to the proposed future sewer extension. More specifically, should the plan read may be served vs. will be served. Klatt stated that the language should be consistent with the rest of the document.

Morreale asked if there are any problems that can occur when residents have to decommission their septic systems on their properties. He shared some experiences that septic system disconnection can have extensive costs. Klatt noted that the City may not have the authority to determine the standards.

M/S/P: Morreale/Reeves, move to recommend approval of the Minor Comprehensive Plan Amendment with the changes noted, **Vote: 5-0, Motion Carried.** 

**Business Item:** Zoning Text Amendment – Specific Development Standards

Johnson reviewed proposed amendments to the Zoning Ordinance that would add specific development standards for the various uses found throughout the new ordinance. The uses that are covered by this section as drafted do not have specific standards in the current ordinance. Johnson noted that the Staff will be adding any existing specific development standards with a later draft of this section.

Kreimer asked if the proposed standards could potentially conflict with other sections of the code that are more specific. Johnson replied that staff will be reviewing other sections for consistency with the code.

Larson asked where exceptions to the general rule would be located. Johnson noted that any exceptions would ideally be located in the specific zoning districts, but that it would be preferable to include it in each section.

Williams asked about language that allows nearby open space to count towards the specific development open space standards. Johnson noted that this provision is intended to address situations in higher density locations, including downtown areas. There was a general discussion concerning when open space should be incorporated into developments. Reeves noted that residents within assisted living buildings with mobility problems may not be able to access green space that is off-site.

Williams asked for clarification concerning where auto repair businesses are allowed. Johnson noted that he would be further reviewing these types of businesses. He also suggested that 154.305, B, 3 be revised to specify that vehicles parked overnight would be regulated.

Reeves questioned whether or not the City should regulate noise from drinking and entertainment and drive-in businesses adjacent to sites other than residential property owners.

Larson asked why other standards, including lighting, were not included in the ordinance. Johnson noted that the City does have a separate lighting ordinance and other regulations that address other standards.

The Planning Commission directed the staff to look at the existing noise, lighting and traffic standards and to propose additional language to accommodate for future sewered development and higher density residential. A public hearing will be scheduled for May 13<sup>th</sup>, 2013.

## **City Council Updates**

At the April 16<sup>th</sup> meeting the City Council tabled the zoning map update, the tree preservation ordinance and the off-street parking ordinance due to work load.

The Lennar EAW was distributed and the 30 day comment period has started. Comments are due by May 23<sup>rd</sup>. The EAW is posted on the website and the Planning Commission will be provided a link to it.

## Staff updates

There is a two week break between meetings. The next Planning Commission meeting is May 13<sup>th</sup>, 2013.

The training session was very helpful. There will be replays of the training session on June 14<sup>th</sup> and June 15<sup>th</sup>. There is a handout for future training sessions open to the Planning Commission.

#### **Commissioner concerns**

The Planning Commission asked about the recruitment of new commissioners. The City has received one application, and another individual has expressed interest and was sent an application. Interviews will be conducted at the next City Council meeting.

Adjourned at 8:37 p.m.



**Planning Commission** 

Date: 5/13/13 Item: 4a

ITEM: Speak Your Peace Resolution Affirmation

SUBMITTED BY: Alyssa MacLeod – Communications Coordinator

REVIEWED BY: Dean Zuleger – City Administrator

\_\_\_\_\_

## **SUMMARY AND ACTION REQUESTED:**

As part of Lake Elmo's Speak Your Peace campaign, the Planning Commission is respectfully requested to affirm the resolution adopted by City Council on April 16, 2013, to incorporate the nine tools of civility as the foundational principles of conducting the business of the commission.

#### **ADDITIONAL INFORMATION:**

Speak Your Peace is a campaign focused on improving civil discourse through raising awareness of nine tools of civility (basic principles of respect). The nine tools of civility are Pay attention; Listen; Be inclusive; Do not gossip; Show respect; Be agreeable; Apologize; Give constructive criticism; and Take responsibility. The purpose of the initiative is to cultivate a community that values civic engagement and is widely recognized for modeling civility, accomplished by providing training, information and tools and to be good role models for civility in our interaction with others.

### **RECCOMENDATION:**

The Planning Commission is respectfully requested to affirm the nine tools of civility (Resolution No. 2013-28, adopted by City Council on April 16, 2013) as the foundational principles to conducting the business of the commission:

#### **ATTACHMENTS:**

1. Speak Your Peace Resolution

## **ORDER OF BUSINESS:**

-	Introduction	Mike Reeves, Commissioner
-	Questions from the Commission	Chair & Commission Members
-	Discussion by the Commission	Chair & Commission Members
_	Action by the Commission	Chair & Commission Members

## CITY OF LAKE ELMO WASHINGTON COUNTY STATE OF MINNESOTA

#### **RESOLUTION NO. 2013-28**

## A RESOLUTION ACCEPTING THE NINE RULES OF CIVILITY

**WHEREAS**, the residents of the city of Lake Elmo place a high value on respect and civility in their lives and they understand that these characteristics are essential to any healthy community; and

**WHEREAS**, the Lake Elmo City Council supports opportunities for civil discourse and discussion in the community and at City Hall; and

**WHEREAS**, the city council sometimes addresses controversial issues about which people often feel passionately, which at times leads to uncivil behavior; and

**WHEREAS**, an atmosphere of incivility and disrespect can have a damaging effect on the proceedings, on the quality of debate, and on the practice of democracy itself;

**NOW, THEREFORE, BE IT RESOLVED**, that the Lake Elmo City Council recognizes nine tools of civility that will provide increased opportunities for civil discourse in order to find positive resolutions to the issues that face our city. These tools include:

- (a) Pay attention;
- (b) Listen;
- (c) Be inclusive;
- (d) Do not gossip;
- (e) Show respect;
- (f) Be agreeable;
- (g) Apologize;
- (h) Give constructive criticism;
- (i) Take responsibility.

**BE IT FURTHER RESOLVED**, that the Lake Elmo City Council shall promote the use and adherence of these tools in conducting the business of the council.

## ADOPTED BY THE LAKE ELMO CITY COUNCIL ON THE SIXTEENTH DAY OF APRIL, 2013.

## CITY OF LAKE ELMO

	Ву:	
	Mike Pearson	
(Seal)	Mayor	
ATTEST:		
	<del></del>	
Adam Bell		
City Clerk		



**Planning Commission** 

Date: 5/13/13 Item: 5a

ITEM: Zoning Text Amendment – Specific Development Standards

SUBMITTED BY: Nick Johnson, City Planner

REVIEWED BY: Kyle Klatt, Planning Director

\_\_\_\_\_

### **SUMMARY AND ACTION REQUESTED:**

The Planning Commission is being asked to hold a public hearing on proposed ordinance updates pertaining to specific development standards for multiple use classifications in the Lake Elmo Zoning Code. This action is part of the ongoing effort to improve and reorganize the Lake Elmo Zoning Code in preparation of future growth in the community. The proposed ordinance was previously reviewed at the Planning Commission Meeting on 4/22/13.

#### **ADDITIONAL INFORMATION:**

The Planning Commission reviewed the proposed ordinance at the meeting on 4/22/13. While conducting the review, the Planning Commission identified the following considerations:

- Public parks and plazas should fulfill the open space requirements for congregate
  housing or nursing and personal care only in special cases. It should be the
  responsibility of the applicant to demonstrate why the open space cannot be located
  on-site.
- Greater consideration pertaining to noise should be included for some use classifications. This issue was specifically raised for drinking and entertainment uses, but could be applicable to other uses.

To address the issue of the green space, Staff is recommending proposed language, redlined in the proposed ordinance. With the proposed language, the applicant would be required to demonstrate why the green space could not be located on-site. Pertaining to the issue of noise, Staff has not made any changes to the proposed ordinance. The City Code already contains multiple ordinances pertaining to noise control and nuisance. These ordinances should be adequate in addressing any major issues or concerns pertaining to noise.

In addition to the previously mentioned changed, Staff also incorporated other additions to the proposed ordinance, highlighted in red. One of the additions, the incorporation of canopy standards, pertains to general best practices. The other additions, related to performance standards for gas stations and drive-through businesses, are selectively carried over from the City's existing ordinances (§154.102 and §154.109). Some of the provisions within the existing ordinances either are already covered by the proposed ordinance, or do not reflect

best practices. As part of this ordinance update, Staff is proposing to strike the remaining language within these existing ordinances, as shown in the attached proposed code revisions. Striking this language is part of the overall effort to reorganize the Zoning Code.

## **RECCOMENDATION:**

Staff recommends that the Planning Commission recommend approval of the zoning text amendment through the following motion:

"Move to recommend approval of the Specific Development Standards Ordinance."

#### **ATTACHMENTS:**

- 1. Specific Development Standards Ord. (§154.300)
- 2. Proposed Code Revisions

#### **ORDER OF BUSINESS:**

-	Introduction	Planning Staff
-	Report by Staff	Planning Staff
-	Open the Public Hearing	Chair
-	Close the Public Hearing	Chair
-	Questions from the Commission	Chair & Commission Members
-	Discussion by the Commission	Chair & Commission Members
-	Action by the Commission	Chair & Commission Members

## ARTICLE 7. SPECIFIC DEVELOPMENT STANDARDS

§154.300	Purpose and Applicability
§154.301	Standards for Residential and Related Uses
§154.302	Standards for Public and Civic Uses
§154.303	Standards for Services
§154.304	Standards for Food Services
§154.305	Standards for Automotive/Vehicular Uses
§154.306	Standards for Outdoor Recreation Uses
§154.307	Standards for Indoor Recreation/Amusement
§154.308	Standards for Industrial and Extractive Uses
§154.309	Standards for Transportation, Utility and Communications Uses
§154.310	Standards for Accessory Uses

## § 154. 300 Purpose and Applicability

Specific development standards are established as supplemental regulations that address the unique characteristics of certain land uses. The standards and conditions listed below apply to both permitted and conditional uses, in addition to all other applicable regulations of this ordinance. Standards shall apply in all zoning districts where the use in question is allowed. Standards for uses that apply only within specific districts are listed within the Articles pertaining to those districts.

#### § 154, 301 Standards for Residential and Related Uses

- A. Group Home. A group home is a specific use type located within a single-family dwelling, and therefore shall meet all zoning standards applicable to single-family dwellings, including setbacks, lot area, lot coverage, and off-street parking. License capacity shall not exceed six (6) persons per facility, plus support staff.
- B. Group Residential Facility, Halfway House.
  - 1. In residential districts, the facility shall occupy a residential building type permitted within the district where it is located, and shall meet all zoning standards applicable to that building type.
  - 2. On-site services shall be for residents of the facility only.
- C. Congregate Housing (Assisted Living)
  - 1. To the extent practical, all new construction or additions to existing buildings shall be compatible with the scale and character of existing building and surrounding neighborhood.
  - 2. The site shall contain a minimum of fifty (50) square feet of green space per resident, consisting of outdoor seating areas, gardens and/or recreational facilities. In cases of unique circumstances, the City may consider Ppublic parks or plazas within three hundred (300) feet of the site may be used to meet this requirement. It is the responsibility of the applicant to demonstrate why the green space cannot be located on-site.
  - 3. An appropriate transition area between the use and adjacent property may be required, to include landscaping, screening and other site improvements consistent with the character of the neighborhood.
- D. Semi-Transient Accommodations (Boarding, Rooming Houses, etc.)
  - 1. The operator shall submit a management plan for the facility and a floor plan showing sleeping areas, emergency exits and bathrooms.
  - 2. All new construction or additions to existing buildings shall be compatible with the scale and character of the existing building and surrounding neighborhood.

3. An appropriate transition area between the use and adjacent property may be required, to include landscaping, screening and other site improvements consistent with the character of the neighborhood.

#### § 154. 303 Standards for Services

- A. *Educational Services*. Except in the industrial districts, all typical activities shall be conducted within an enclosed building.
- B. *Medical Facilities.* The facility shall have access to an arterial or collector street of sufficient capacity to accommodate the traffic that the use will generate. A minimum of two (2) access points shall be provided.
  - 1. Any new hospital or expansion of an existing hospital shall submit a master plan that shall describe proposed physical development for at least a ten (10) year period, and shall include a description of proposed development phases and plans, estimated dates of construction and anticipated interim uses of property.
  - 2. Landing pads for helicopters involved in emergency rescue operations, and helicopter flight paths shall meet all applicable federal and state requirements.
- C. Nursing and Personal Care.
  - To the extent practical, all new construction or additions to existing buildings shall be compatible with the scale and character of the existing building and surrounding neighborhood.
  - 2. The site shall contain a minimum of fifty (50) square feet of green space per resident, consisting of outdoor seating areas, gardens and/or recreational facilities. In cases of unique circumstances, the City may consider Ppublic parks or plazas within three hundred (300) feet of the site may be used to meet this requirement. It is the responsibility of the applicant to demonstrate why the green space cannot be located on-site.
  - 3. An appropriate transition area between the use and adjacent property may be required, to include landscaping, screening and other site improvements consistent with the character of the neighborhood.
- D. Self-Service Storage Facility:
  - No commercial transactions shall be permitted other than the rental or sale of storage units.
  - 2. No more than one (1) unit shall be accessed directly from the public street.
  - 3. Site design shall accommodate a logical and safe vehicle and pedestrian circulation pattern.

## § 154. 304 Standards for Food Services

- A. Restaurant with Drive-Through
  - 1. Drive-through elements shall not be located between the front façade of the principal building and the street. No service shall be rendered, deliveries made or sales conducted within the required front yard, although tables may be provided for customer use.
  - 2. Site design shall accommodate a logical and safe vehicle and pedestrian circulation pattern. Adequate queuing lane space shall be provided, without interfering with on-site parking/circulation.
  - 3. Drive-through canopies and other structures, where present, shall be constructed from the same materials as the primary building, and with a similar level of architectural quality and detailing.

- 4. Sound from any speakers used on the premises shall not be audible above a level of normal conversation at the boundary of any surrounding residential district or on any residential property.
- 5. <u>Each food or beverage drive-through business shall place refuse receptacles at all exits.</u>
- B. Drinking and Entertainment. Music or amplified sounds shall not be audible above a level of normal conversation at the boundary of any surrounding residential district or on any residential property.

#### § 154, 305 Standards for Automotive/Vehicular Uses

#### A. Car Wash.

- 1. The car wash shall be capable of being enclosed when not in operation.
- 2. Any access drive shall be located at least thirty (30) feet from any public street intersection, measured from the interior curb line commencing at the intersection of the street.
- 3. Any car wash line exit shall be at least thirty (30) feet distant from any street line.
- 4. Sound from any speakers used on the premises shall not be audible above a level of normal conversation at the boundary of any surrounding residential district or on any residential property.
- 5. Water from the car wash shall not drain across any sidewalk or into a public right-of-way.

#### B. Gasoline Station

- 1. Lot Size and Access. A gasoline station site shall be a minimum of twenty thousand (20,000) square feet in size and shall have access to a collector or higher classification street.
- 2. Performance Standards. A drainage system subject to the approval of the City Engineer shall be installed. The entire site, with the exception of the area taken up by the structure, landscaping and pump islands, should be surfaced asphalt, concrete or other material approved by the City.
- 3. All vehicle repairs shall be conducted in a building capable of being enclosed when not in use.
- 4. Vehicles. No vehicles other than those utilized by employees or awaiting service shall be parked on the premises overnight. No vehicle shall be parked or awaiting service longer than fifteen (15) days.
- 5. Canopies. Canopies shall be located no closer than twenty (20) feet from any property line.

  Any lighting on the underneath side of the canopy shall be recessed mounted with flush
  lenses and downward directed. Signage on canopies shall comply with §154.212. Canopy
  columns and fascia should reflect the design and/or materials of the principal building.
- 6. Screening of Storage Areas. The storage or display of inoperable or unlicensed vehicles or other equipment, and all trash storage or disposal facilities, shall meet all setback requirements of a structure, and shall be screened from view from adjacent public streets and adjacent residential properties. Screening shall meet the requirements of Article 6, Section 154.258.
- 7. Outdoor Display. Exterior display of items offered for sale shall meet all building setback requirements and shall be located in containers, racks or other structures designed to display merchandise.
- 8. Accessory Uses. The following accessory uses shall require a separate conditional use permit:
  - a. Automatic car and truck wash

- b. Rental of vehicles, equipment or trailers
- c. General retail exceeding two thousand five hundred (2,500) square feet in floor area.

## C. Sales and Storage Lots.

- 1. Size and Location. The site shall be a minimum of twenty thousand (20,000) square feet in size and shall have access to a collector or higher classification street. Vehicular access to the outdoor sales area shall be at least sixty (60) feet from the intersection of any two streets.
- 2. All vehicle repairs shall be conducted in a completely enclosed building.
- 3. A site plan shall be submitted showing the layout of vehicles for sale or rent, employee parking and customer parking.
- 4. Sound from any speakers used on the premises shall not be audible above a level of normal conversation at the boundary of any surrounding residential district or on any residential property.

## § 154. 306 Standards for Outdoor Recreation Uses

#### A. Golf Course.

- 1. Location. The facility shall have access to a collector or higher classification street. A minimum of two (2) entry points to such facilities shall be provided.
- 2. Site Plans. Site plans for such facilities shall indicate all proposed recreation areas, building uses and locations, sanitary facilities, storage areas, parking, circulation and other information needed to assess the impacts of the proposed operation on surrounding properties and the road network.
- 3. Accessory Uses. The following accessory uses are permitted in conjunction with a golf course: A driving range, putting greens, pro shop, club house and locker facilities, maintenance buildings, course shelters, and cart storage facilities. Other accessory uses may require a separate conditional use permit.
- 4. *Resource Protection*. Golf courses shall be designed with consideration of environmental resources, including:
  - a. Water recycling and conservation through on-site storage and use facilities;
  - b. Use of landscaped buffers and other Best Management Practices (BMP's) to minimize fertilizer runoff and other chemicals from entering surface water bodies; and
  - c. Use of landscaping and site layout to preserve and enhance wildlife habitat.
- 5. Buffering. A planted buffer may be required to screen adjacent residential and other uses.
- 6. *Other Conditions*. Other conditions may be imposed to mitigate the potential impacts of the use.

#### B. Outdoor Entertainment, Restricted Recreation.

- 1. Location. The facility shall have access to a collector or higher classification street. A minimum of two entry points to such facilities shall be provided.
- 2. Site Plans. Site plans for such facilities shall indicate all proposed recreation and entertainment areas, sanitary facilities, storage areas, parking, circulation, estimated noise levels, and other information needed to assess the impacts of the proposed operation on surrounding properties and the road network. Conditions may be imposed to mitigate the potential impacts of the use.
- C. Outdoor Recreation Facility. Facilities that would generate substantial traffic, such as playing fields or aquatic centers, shall be located with access to a street of sufficient capacity to

accommodate the traffic that the use will generate. A minimum of two (2) entry points to such facilities shall be provided.

#### § 154. 307 Standards for Indoor Recreation/Amusement

A. Indoor Athletic Facility, Indoor Recreation. Facilities that would generate substantial traffic shall be located with access to a street of sufficient capacity to accommodate the traffic that the use will generate. A minimum of two (2) entry points to such facilities shall be provided.

## § 154. 310 Standards for Accessory Uses

- A. Bed and Breakfast. The facility shall be located in a single-family detached dwelling.
  - 1. The number of lodging rooms in any building shall not exceed five (5) unless in the opinion of the Planning Commission and City Council conditions warrant additional rooms.
  - 2. The facility shall maintain a guest register open to inspection by the City.
  - 3. Guest stay shall be limited to seven (7) days.
  - 4. The applicant shall meet all applicable government regulations.
  - 5. The operator shall carry liability insurance, and shall provide proof of such insurance to the City upon request.

## B. Drive-through Facility

- 1. Drive-through elements shall not be located between the front façade of the principal building and the street.
- 2. Plans for on-site circulation and driveway locations shall be reviewed as part of the conditional use review process. Site design shall accommodate a logical and safe vehicle and pedestrian circulation pattern. Adequate queuing lane space shall be provided, without interfering with on-site parking/circulation.
- 3. Alley access to drive-through lanes is prohibited on any block containing a residential or office-residence district, except for commercial deliveries when approved by the city engineer.
- 4. Drive-through canopies and other structures, where present, shall be constructed from the same materials as the primary building, and with a similar level of architectural quality and detailing.
- 5. Sound from any speakers used on the premises shall not be audible above a level of normal conversation at the boundary of any surrounding residential district or on any residential property.
- 6. An emergency exit lane shall be provided for users queuing through the drive-through lane(s), without interfering with on-site parking/circulation.
- C. Solar Energy Systems. Solar energy systems and solar structures are permitted accessory uses in all districts, provided the system is in compliance with minimum lot requirements and setbacks.
  - 1. A solar structure must comply with all setback, height and lot coverage restrictions unless a variance is granted.
  - 2. Height limitation on adjacent properties. No vegetation or structure shall be placed or allowed to grow so as to cast a shadow on a solar energy system greater than the shadow cast by a hypothetical wall ten (10) feet high located along the boundary line property between the hours of 9:30 a.m. and 2:30 p.m. Central Standard time on December 21.
  - 3. This restriction does not apply to vegetation or structures exceeding this height limit existing at the time of installation of the solar energy system.

affected	f a solar energy area with the ci	ty prior to ins	tallation of th	e system.	

# Specific Development Standards Ordinance Attachment #2: Proposed Code Revisions

₹ 154.102 DRIVE-IN BUSINESS.
(A) Drainage. The entire area of any drive in business shall have a drainage system approved by the City Engineer. See § 150.277 to determine if a Storm Water Management Plan and/or an Erosion and Sediment Control Plan is required.
(B) Surface material. The entire area, other than that occupied by structures or plantings, shall be surfaced with a hard surface material which will control dust and drainage.
(C) Curb. A box curb at least 6 inches above grade shall separate the public walk area from the lot, except as approved entrance or drives.
(D) Fence. A fence or screen of acceptable design not over 6 feet in height nor less than 4 feet shall be constructed along the property line abutting a residential district, and the fence or screen shall be adequately maintained. The fence shall not be required in front of the setback line.
(E) General.
(1) No person shall construct, operate, or maintain a drive in business within the community without first obtaining site and building plan approval.
(2) Any drive in business serving food or beverages may also provide, in addition to vehicular service areas, indoor food and beverage service.
(3) The hours of operation shall be set forth as a condition of any drive in business approval.
(4) Each drive in business serving food may have outside seating.
(5) Each food or beverage drive in business shall place refuse receptacles at all exits as well as 1 refuse receptacle per 10 vehicle parking spaces within the parking areas.
(6) Landscaped planting islands as stipulated in § 154.095(B)(6) shall be required.
— (F) Locations.
(1) No drive in business shall be located within 400 feet of a public or private school, church, public recreation area, or any residential district.
(2) No drive in business shall be located so that it may increase traffic volumes on nearby

(3) No drive in shall be located on any street other than one designated as a thoroughfare or

residential streets.

business service road in the Comprehensive Plan.

— (G) Site plan.
(1) The site plan shall clearly indicate suitable storage containers for all waste material. All commercial refuse containers shall be screened.
(2) A landscaping plan shall be included and shall set forth complete specifications for plant materials and other features.
(3) Adequate area shall be designated for snow storage so that clear visibility shall be maintained from the property to any public street.
(4) The design of any structure shall be compatible with other structures in the surrounding area.
(5) No drive in business shall be located on a lot less than 30,000 square feet.
(6) Electronic devices such as loudspeakers, automobile service order devices, drive in theater car speakers and similar instruments shall not be located within 400 feet of any residentially zoned or used property, nor within 200 feet of any adjacent lot regardless of use or zoning district.
(7) No service shall be rendered, deliveries made, or sales conducted within the required front yard; customers' serviced vehicles shall be parked to the sides and/or rear of the principal structure.
(8) No permanent or temporary signs visible from the public street shall be erected without specific approval in the permit.
(9) No plan shall be approved which will in any way constitute a hazard to vehicular or pedestrian circulation. No access drive shall be within 50 feet of intersecting street curb lines.
— (H) Violation of any applicable law or ordinance in the conditions of the permit shall be cause for permit revocation or suspension (Notice of Violations and Hearings).
— (I) — In the case of a drive-in theater, a solid fence not less than 8 feet in height and extending at least to within 2 feet of the ground shall be constructed around the property.
(J) The lighting shall be designed so as to have no direct source of light visible from the public right of way or adjacent land in residential use.
(1997 Code, § 300.13 Subd. 13) (Am. Ord. 08-024, passed 4-20-2010)

# **₹ 154.109 SERVICE STATIONS.**

(A) Before a permit for a service station is granted, the minimum requirements of the zoning district in which the service station is to be located shall be met.

— (B) A drainage system subject to approval by the City Engineer shall be installed. The
entire site, other than that taken up by a structure or planting, shall be surfaced with concrete or
other material approved by the Council. Pump islands shall not be placed in the required yards.
The area around the pump island shall be a distance of 8 feet on each side, shall be concrete. A
box curb not less than 6 inches above grade shall separate the public right-of-way from the motor
vehicle service areas, except at approved entrances and exits. No driveways at a property line
shall be less than 50 feet from the intersection of 2 street right of way lines. Each service station
shall have at least 2 driveways with a minimum distance of 170 feet between center lines when
located on the same street.
located on the same street.
— (C) No vehicles shall be parked on the premises other than those utilized by employees or
awaiting service. No vehicle shall be parked or be awaiting service longer than 15 days.
Existing service stations shall comply with this requirement within 45 days of the effective date
of this chapter.
(D) Exterior storage beside vehicles shall be limited to service equipment and items offered
for sale on pump islands; exterior storage of items offered for sale shall be within yard setback
requirements and shall be located in containers such as the racks, metal trays, and similar
structures designed to display merchandise.
— (E) All areas utilized for the storage, disposal, or burning of trash, debris, discarded parts,
and similar items shall be fully screened. All structures and grounds shall be maintained in an
orderly, clean, and safe manner.
— (F) Business activities not listed in the definition of service stations in this chapter are not
permitted on the premises of a service station unless a permit is obtained specifically for the
business. The activities include but are not limited to the following:
——————————————————————————————————————
(2) Rental of vehicles, equipment, or trailers; and
— (3) General retail sales.
(1997 Code, § 300.13 Subd. 20)



**Planning Commission** 

Date: 5/13/13 Item: 6a

ITEM: Zoning Text Amendment – Sign Ordinance

SUBMITTED BY: Nick Johnson, City Planner

REVIEWED BY: Kyle Klatt, Planning Director

Dean Zuleger, City Administrator

\_\_\_\_\_

## SUMMARY AND ACTION REQUESTED:

The Planning Commission is being asked to review a proposed Sign Ordinance to incorporate best practices pertaining to signage in advance of future development. This action is part of the ongoing effort to improve and reorganize the Lake Elmo Zoning Code.

#### **ADDITIONAL INFORMATION:**

Continuing the theme of improving and reorganizing the Zoning Code, Staff has drafted a proposed Sign Ordinance in anticipation of increased demand of signage associated with sewered growth in Lake Elmo. As new and different use classifications, such as commercial and mixed-use development, are sited in Lake Elmo, these uses will include different considerations and needs for signage than is currently addressed in the City's existing Sign Ordinance. In addition, the existing Sign Ordinance is poorly organized, including specific or general standards for different sign typed intermixed with provisions related to administrations. The lack of organization makes the existing ordinance difficult to administer.

Given these factors, Staff determined that regulations pertaining to signs must be updated to reflect better organization, ease of administration and recent best practices. In order to draft a comprehensive and effective ordinance, Staff used an ordinance from the City of Middleton, WI as a model. The community of Middleton, WI is a beautiful community that does an excellent job of balancing businesses' needs for signage while maintaining a thoughtful and attractive streetscape. This model ordinance is extremely comprehensive, addressing a multitude of different signage types are more up-to-date in terms of current best practices. In addition, the ordinance, while longer in length, is easier to navigate, allowing for better administration. For these reasons, Staff recommends that the future Sign Ordinance follow this model.

It is important to note that there are distinct differences between he proposed ordinance and the existing Sign Ordinance. Overall, the proposed ordinance is less restrictive than the existing ordinance. As Staff presents the draft ordinance at the meeting, greater detail will be provided in terms of all of the differences between the proposed and existing ordinances. However, some of the major differences include the following:

- The existing ordinance does not address signage needs, whether wall, projecting or
  portable signs, for properties that have a zero lot-line or no setback. This will be an
  important consideration as development and redevelopment occurs in the downtown
  in the Village Mixed-Use District, which allows for zero lot-line development.
- The existing ordinance currently exempts any signage under 6 square feet. While it is appropriate to be less concerned with smaller signage, there are certain sign types that, although smaller in size, should be regulated to ensure that these signs are not impacting traffic circulation or safety. These signs could include directional signage, portable signage, or other signs that impact the movement of vehicles or pedestrians. In this light, the signs exempt from permit in the proposed ordinance should address smaller signs that do not need to be regulated.
- The existing ordinance currently includes two specific sign districts: the I-94 District and the Old Village District. Through the regulation of signage through zoning or use classification, Staff feels that the specific sign districts may not be necessary. If the City determines that a special sign district is appropriate for the downtown, than Staff would suggest that it apply to Lake Elmo Avenue and the areas surrounding. The reason for this recommendation is that business along HWY-5 have different signage needs that businesses in the downtown, due to the vast differences in the size of the right-of-ways and the different streetscape characteristics.
- The proposed ordinance allows electronic variable message signs, which are currently not allowed in the existing ordinance. Electronic variable message signs are changeable copy signs that are changed electronically as opposed to physically changing the message. It is important to note that the proposed ordinance does not allow for any type of motion or flashing/blinking lights as part of any sign, as these are the sign characteristics that are more distractive to drivers. For these reasons, electronic variable message signs are only allowed due to the restrictions placed on those sign types in this ordinance.

This report only highlights some of the differences between the existing Sign Ordinance and the proposed ordinance. Overall, the proposed ordinance is better organized and more comprehensive. While greater in length, the structure of the ordinance will allow for greater ease of administration. In addition, the proposed ordinance is located under Article 5 – General Regulations (§154.212). Locating the ordinance in the Zoning Code (Chapter 154) is more appropriate than the current location of the ordinance (Chapter 151: Building Regulations). Considering the amount of material in the ordinance, Staff anticipates that there will be some questions about the ordinance. After presenting the ordinance, Staff will address any questions posed by the Planning Commission.

#### **RECCOMENDATION:**

No formal action is required at this time. If appropriate, Staff will publish a public hearing notice for the next Planning Commission meeting in relation to the Sign Ordinance.

#### **ATTACHMENTS:**

- 1. Proposed Sign Ordinance (§154.212)
- 2. Existing Sign Ordinance (§151.115)

#### **ORDER OF BUSINESS:**

-	Introduction	Planning Staff
-	Report by Staff	Planning Staff
-	Questions from the Commission	Chair & Commission Members
-	Discussion by the Commission	Chair & Commission Members
-	Action by the Commission	Chair & Commission Members

## §154.212 Sign Regulations

### §154.212 Sign Regulations

- A. Purpose and Intent. The purpose of this Ordinance is to provide standards to safeguard life, health, and property and to promote the public welfare by regulating the design, area, number, construction, location, and installation of all signs referred to hereunder. The City Council and Planning Commission of the City of Lake Elmo find that the visual environment has an effect on the welfare of the citizens of Lake Elmo and that careful control of signage can protect and enhance the community. To carry out this general purpose, the regulations set forth herein are intended to:
  - 1. Protect the public from hazards that result from signs which are structurally unsafe, obscure the vision of motorists and/or compete or conflict with necessary traffic signals and warning signs.
  - 2. Preserve the land value of private property by assuring the compatibility of signs with nearby land uses.
  - 3. Foster high quality commercial and industrial development and to enhance economic development of existing businesses and industries by promoting reasonable, orderly, attractive and effective sign that meet the need for business identification, advertising and communication.
  - 4. Encourage creative and well-designed signs that contribute in a positive way to the community's visual environment, express local character and help develop a distinctive image in the city.
  - 5. Recognize that signs area a necessary form of communication and provide flexibility within the sign review and approval process to allow for unique circumstances.
  - 6. Provide applicants with clear and consistent rules and regulations.
- B. *Definitions*. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Abandoned Sign. Any sign remaining in place which for a period of ninety (90) consecutive days or more no longer advertises or identifies an ongoing business, product, service, idea, or commercial activity located on the site or has not been properly maintained in accordance with the requirements of this Ordinance.

Ancillary Sign. A wall sign separate from and subordinate in area to the principal sign, identifying generic services, goods or departments in the building, such as pharmacy, optical, auto repair, or garden center, but not including the identification of brand names.

Attention-Attracting Object. Any streamer, pinwheel, pennant, flag, propeller, inflatable sign, statuary, tethered balloon, bunting, beacon, or other artificial device, figure, shape, color, sound, light or exhibit, whether live, animated, or still, that is intended to attract attention to the use or business being conducted on the site. Attention-attracting object does not include the flag of any governmental entity.

Awning. A roof-like cover consisting of fabric, plastic or structural protective cover that projects from the wall of a building which generally serves the purpose of shielding a doorway, entrance, window, or outdoor service area from the elements or to provide decorative distinction.

Banner. A suspended sign made of a flexible material such as canvas, sailcloth, plastic, paper, or fabric of any kind, and intended to be displayed on a temporary basis. A decorative banner is a banner containing no message or logo that is displayed for the purpose of adding color or interest to the surroundings or to the building to which it is attached. A flag or canopy shall not be considered a banner.

Beacon. A stationary or revolving light that flashes or projects illumination, single color or multicolored, in any manner that is intended to attract or divert attention.

Business Opening Sign. A temporary sign displayed prior or in addition to permitted permanent signs to promote the opening of a new business, a change of name or change of ownership.

*Canopy.* A detachable, roof-like cover, supported from the ground or deck, floor or walls of a structure, for protection from the sun or weather.

Changeable Copy Sign. A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged manually without altering the face or the surface of the sign and on which the message changes less than eight times a day and less than once per hour. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall not be considered a changeable copy sign.

Commercial Message. A message that directs attention to or acts as advertising for a business, commodity, product, service or form of entertainment or tends to encourage the occurrence of a commercial transaction related thereto.

Comprehensive Sign Plan. A complete signage plan for a building or lot that has been approved by the City.

Construction Sign. A sign identifying individuals or companies involved in design, construction, wrecking, financing, or development of a building or lot upon which the sign sits and/or identifying the future use of the building or lot upon which the sign sits.

*Copy.* Words, letters, numbers, figures, designs, or other symbolic representations incorporated into a sign.

Directional Sign, On-Premise. A sign without commercial message erected for the purpose of indicating the required or preferred direction of vehicular, bicycle, or pedestrian traffic on private property including, but not limited to "no parking," "entrance," "exit only," "loading only," and other similar signage.

Directional Sign, Off-Premise. Any sign without commercial message that is displayed for the purpose of informing people of or guiding people to a particular place for a specified event, including, but not limited to, an open house, garage sale, estate sale or other similar event.

Directly Illuminated Sign. Any sign designed to give any artificial light directly through any transparent or translucent material from a source of light originating within or on such sign.

*Directory Sign.* A sign which serves as a common or collective identification for a group of persons or businesses operating on the same lot. Such a sign commonly lists the tenants, occupants, floor plan, addresses or suite numbers of an office complex, shopping center or residential building complex.

*Election Campaign Period.* A period prior to a general election starting on August 1 until 10 days following the general election, or a period prior to a special election starting 13 weeks prior to the special election until 10 days following the special election.

*Electronic Variable Message Sign.* A changeable copy sign or portion thereof which can be electronically changed or rearranged without altering the face or the surface of the sign, not including signage or portions thereof displaying time and temperature.

*Façade*. Any separate face or surface of a building, including parapet walls, and roof surfaces or any part of a building which encloses or covers usable space. Where separate facades are oriented in the same direction, or where the inside angle at the intersection of two surfaces is

greater than one-hundred and thirty-five (135) degrees, they are to be considered as part of a single facade.

Flag. A device generally made of flexible material, such as cloth, paper, or plastic, and displayed from a pole, cable or rope. It may or may not include copy.

Frontage. The boundary of a lot that abuts a public street.

Garage Sale Sign. A sign advertising the sale of personal property including estate sales, yard sales or rummage sales used to dispose of personal household possessions.

Government Sign. Any sign erected by the City of Lake Elmo or any other governmental entity in the exercise of official government business and authority.

Ground Sign. Any free-standing sign that is supported by structures or supports in or upon the ground and independent of support from any building. A single sign structure having two identical or nearly identical faces back to back shall constitute a single sign. For the purposes of this definition, a ground sign is intended to refer to a primary, permanent, ground-mounted sign, not a temporary sign or sign that is ancillary to the primary sign, such as a directional sign or portable sign.

Hanging Sign. A sign that is suspended from the underside of a surface and is supported by such surface.

Indirectly Illuminated Sign. A sign that is illuminated from a source outside of the actual sign.

*Inflatable Sign.* A freestanding or moored sign expanded or inflated with air or another gas, like a balloon, and which may rise and float above the ground.

Legal Non-Conforming Sign. Any sign which was lawfully erected and displayed on [City Clerk to insert effective date], but which does not conform to the requirements and limitations herein, or any sign which was lawfully erected and displayed on the effective date of any amendment to this Section, but which does not conform to such amendment.

Logo. A symbol or trademark commonly used to identify a business or organization.

Memorial Sign. A sign or tablet memorializing a person, event, place or structure.

*Menu Sign*. A permanent changeable copy sign associated with restaurants with drive-through windows, car washes, or other businesses with drive-up services which gives a detailed list of food or services available.

Monument Sign. A ground sign having a monolithic base or support structure of any material measuring no less than one-third (1/3) of the greatest width of the sign at any point.

Noncommercial Message. A message intended to direct attention to a political, social, community or public service issue or an idea, aim viewpoint, aspiration or purpose and not intended to produce any commercial benefit or tend to encourage a commercial transaction.

Off-Premise Sign. A sign which displays any message directing attention to a business, product, service, profession, commodity, activity, event, person, institution or any other commercial message, which is generally conducted, sold, manufactured, produced, offered or occurs elsewhere than on the lot where such sign is located.

On-Premise Sign. A sign which displays any message directing attention to a business, product, service, profession, commodity, activity, event, person, institution or any other commercial message, which is generally conducted, sold, manufactured, produced, offered or occurs on the same lot as the sign.

Pennant. A tapered or dove-tailed banner or flag.

*Permanent.* When used in reference to a sign, means that the sign is constructed of durable materials and intended to exist for an indefinite period of time or the duration of the time that the use or occupant is located on the premises and is generally, but not necessarily, affixed to

the ground or structure. Unless the context clearly dictates otherwise, the term "permanent" in this Ordinance is not intended to mean literal permanence, but rather it is meant to distinguish such signs from more transient or temporary signage.

*Pole Sign.* A ground sign mounted upon a pole or pylon, or multiple poles or pylons, not meeting the definition of monument sign.

Portable Sign. A type of temporary sign that is not permanently attached to the ground or a building or not designed to be permanently attached to the ground or a building, including but not limited to, trailers or other vehicles that are used principally as a sign, posters, "sandwich boards" or other freestanding signboards, regardless of whether such signs are attached to the ground or to a building or structure.

*Projecting Sign.* A sign that is attached to the wall of a building and projects more than fifteen (15) inches beyond such wall.

Real Estate Sign. A real estate sign advertises only the sale, rental or lease of the premises upon which the sign is located.

*Sign*. Any display of lettering, logos, colors, lights, or illuminated neon tubes visible to the public from outside of a building or from a traveled way, that either conveys a message to the public, or intends to advertise, direct, invite, announce or draw attention to any event, goods, products, services, facilities, persons, property interest or business.

Street Frontage. The distance for which a lot boundary adjoins a single public street.

Temporary Sign. Any sign that is not a permanent sign.

Wall Sign. A sign that is attached to a wall of a building and is affixed parallel to the wall at a distance of not more than fifteen (15) inches from the surface of the wall.

Window Sign. Any sign located completely within an enclosed building and visible from a public way or placed upon a window. Merchandise within the premises and visible from the exterior shall not be considered a window sign under this definition.

- C. Applicability. The Sign Ordinance shall apply to any sign placed, erected, altered, maintained or relocated within the city that is plainly visible, although not necessarily legible, from any public right-of-way or any lot in ownership separate from the lot upon which the sign is located.
- D. Sign Permits and Fees
  - 1. Permit Required. Except as provided in this Section, it shall be unlawful for any person to place, erect, alter or relocate within the city, any sign without first obtaining a permit from the Planning Director and making payment of all fees as required by the City's Fee Schedule. This subsection shall not be interpreted to require a permit for a change of copy on a changeable copy sign, changing occupant sign panels on a directory sign, repainting, cleaning, or other normal maintenance and repair of any existing sign or its structure as long as the sign copy does not change.
  - 2. Application for Sign Permit. All applications for sign permits shall be filed on a form supplied by the City. Such application shall be submitted with all required information provided and shall contain or have attached thereto the following information:
    - a. Date of Application.
    - b. Name, address, telephone number, and, if available, fax and email address, of the Applicant as well as of the person, firm, corporation, or association erecting the sign.
    - c. The written consent of the owner or lessee of the premises upon which the sign is to be erected, or the sworn statement of the applicant that the applicant is authorized by the owner, lessee or other authorized occupant of the premises to erect the proposed sign.

- d. A scale drawing showing the existing and proposed location and dimensions of all buildings, structures, and signs on the subject property. For a ground sign, the drawing shall also indicate the following:
  - i. Distance of the sign from either the face of curb or sidewalk as well as its location relative to other ground signs, driveways, fire hydrants, and any other features of a site that could be obscured by the sign.
  - ii. A landscaping plan around the base of all ground signs.
- e. The configuration of the proposed sign listing the height, width, total square footage, proposed copy, method of construction and attachment, method of illumination and description of all electrical equipment, sign materials and colors, and at least one image showing the location of the proposed sign and its relationship to either the building to which it is to be mounted or the surrounding lot if it is a ground sign.
- f. The total area and number of all signs by type on the subject property both before and after the installation of the proposed sign.
- g. For temporary signs, applications must be accompanied by a signed, written statement acknowledging the ordinance requirements governing the duration of time during which the sign may be displayed.
- h. Such other information as the City may require to ensure compliance with this Sign Ordinance and any other applicable laws.
- 3. Application Process and Review Procedure. It shall be the duty of the Planning Director, upon the filing of an application for a sign permit, to examine the application for compliance with the requirements of this Section and, if deemed necessary by the Planning Director, to inspect the premises upon which the proposed sign is to be erected. If the application is complete and the proposed sign is in compliance with all the requirements of this Ordinance, and any other applicable laws, the following actions shall be taken:
  - a. If the application is for a permanent sign that conforms to an approved Comprehensive Sign Plan that applies to the property upon which it is to be located, or for a permanent or temporary sign that adheres to the requirements of this Code, the Planning Director may issue a permit.
  - b. If an application for approval of a Comprehensive Sign Plan pursuant to §154.212.1 is submitted with a development application subject to Planning Commission review and City Council approval, the Planning Director shall review the application and make a recommendation to the Planning Commission prior to issuing a permit.
  - c. Except for applications for approval of a Comprehensive Sign Plan, applications shall be approved or denied within thirty (30) days of the filing of a complete application or be deemed approved unless an extension of time for review is granted, in writing by the applicant. Any decision of the Planning Director may be appealed to the Board of Adjustment and Appeals.
  - d. In the event that a permit is issued but the sign authorized by the permit is not placed, erected, altered or relocated within six (6) months after the issuance of the permit, the permit shall expire and be null and void.
  - e. Fees. A fee shall be charged for the permit in the amount set forth in the City's Fee Schedule.
- E. Design Review Criteria. Signs shall meet the following criteria:
  - 1. Any signage affixed to a building shall be dimensioned and located in such a manner that it fits the building's architectural features and proportions.
  - 2. All signs shall be designed to fit the zoning and character of the surrounding area. Special consideration should be made where proposed signage is located on or adjacent to locally

identified historic structures or publicly owned recreation and conservancy areas. Signage in Planned Unit Development, or in developments seeking Comprehensive Sign Plans, shall conform to the planned or existing dominant architectural theme of the area. Signage in or abutting residential properties should be designed and located so as not to create a nuisance.

- 3. Signs illuminated by lights shall be positioned in such a manner that none of the light spills over onto an adjoining property or glares or shines into the eyes of motorists or pedestrians. All signs must conform to the Sign Illumination standards in §154.212.F.7 and §150.035 (Lighting, Glare Control and Exterior Lighting Standards).
- 4. The number of colors and materials of the sign should be kept to a minimum.
- 5. Landscape features shall be incorporated around the base of all permanent ground signs. Landscape plantings or other landscape materials shall not be considered as part of the allowable signage.
- F. General Sign Regulations. This section pertains to all signs erected in the city of Lake Elmo. Additional regulations may apply based on sign type and zoning district in which the sign is to be displayed. Wherever regulations conflict anywhere within this Section or with any other applicable rule or regulation, unless expressly stated otherwise, the more restrictive provision shall control.
  - 1. Surface Area Calculation. The sign surface area shall be calculated based on the area within the smallest single continuous rectilinear perimeter of not more than eight (8) straight lines encompassing all elements of the actual sign face including any writing, representation, emblems or any figure or similar character together with any material forming an integral part of the display or forming the backing surface or background on which the message or symbols are displayed, but excluding any support structure. For a sign painted on or applied to a building, the area shall be considered to include all lettering, wording and accompanying design or symbols, together with any background of a different color than the natural color, or finish material of the building. Area of signs displaying copy on two parallel, back-to-back faces not separated by more than twelve (12) inches shall be calculated with reference to a single face only.
  - 2. Sign Location, Placement and Setback Requirements. Except as provided elsewhere in this Section, all signs shall be subject to the following requirements:
    - a. Limitations Based on Building Setbacks:
      - i. Except as provided in subparagraph (b), no part of any permanent or temporary sign shall extend over a property line.
      - ii. Where buildings are lawfully permitted to exist on the property line, a permanent sign attached to a building may project not more than six (6) feet over the abutting public sidewalk or right of way provided that the bottom of the sign components are located no less than eight (8) feet above the ground immediately beneath such sign. No sign may project over adjacent private property. Any ground sign shall be located on the premises unless it is an authorized temporary sign for which a valid permit is in effect.
    - b. Signs on Public Property. No sign shall be located within or across any public right-of-way, or on any public property, easement, or utility pole, except for:
      - i. A sign erected by, or required by, a government agency or temporarily erected to protect the health and safety of the general public; or
      - ii. A sign erected in conformity with subparagraph (a.ii) of this subsection.
    - c. Safety of Motorists and Non-motorists

- i. No sign shall be erected or maintained at any location where by reason of its position, wording, illumination, size, shape, or color it may obstruct, impair, obscure the vision of road users, or otherwise obstruct, interfere with the view of, or be confused with, any authorized traffic control sign, signal or device.
- ii. No sign may be placed within 10 feet of a fire hydrant, within 15 feet of a crosswalk, or within 15 feet of the intersection of any circulation lane, driveway or alley.
- iii. No sign exceeding a height of thirty (30) inches may be placed within the vision triangle as defined in §11.01.
- iv. No sign or structural components shall obstruct passage on a sidewalk or walkway.
- d. Additional Regulations Pertaining to Placement of All Signs. Except for a sign erected by, or required by, a government agency or temporarily erected to protect the health and safety of the general public:
  - i. No sign shall be attached to a fence, tree, shrubbery, utility pole or like items on either public or private property, and no sign shall obstruct or obscure primary signs on adjacent premises.
  - ii. No sign shall extend beyond the perimeter of a permanent structure or obstruct any window, door, fire escape, ventilation shaft or other area that is required to remain unobstructed by an applicable building code.
  - iii. No sign shall be mounted upon any roof of any building or structure.
- e. Americans with Disabilities Compliance. Sign placement shall meet all Americans with Disabilities Act (ADA) requirements.
- 3. Construction and Structural Requirements. Every sign and its framework, braces, anchors and other supports shall be constructed of such material and with such workmanship as to be safe. Every sign shall be designed and constructed in conformity with the applicable provisions of the Minnesota State Building Code and shall be free of any exposed extra bracing, angle iron, guy-wire or cables. The base or support of all permanent ground signs shall be securely anchored to an appropriately designed concrete base or footing per the State Building Code.
- 4. Load Requirements. All signs and other advertising structures shall be designed and constructed to meet all load requirements according to all applicable regulations in the Minnesota State Building Code.
- 5. Installation. All signs shall be properly secured, supported and braced. No sign or any part thereof, or anchor, brace, or guy-wire shall be attached, fastened or anchored to any fire escape, fire ladder or standpipe, and no sign or any part thereof, or anchor, brace or guy-wire shall be erected or maintained which may cover or obstruct any door, doorway, or window of any building or which may hinder or prevent ingress or egress through such door, doorway or window, or which may hinder or prevent the raising or placing of ladders against such building in the event of fire. All signs or attention-attracting devices shall be free of projections that could cause injury to a pedestrian and shall be installed in such a manner to avoid obstruction of a public sidewalk or street or portion thereof.
- 6. *Maintenance*. All signs, including nonconforming signs, and sign structures shall be maintained to preserve the appearance and structural integrity substantially identical to the new condition of the sign.
- 7. Sign Illumination. All illuminated signs shall comply with Section 150.035 (Lighting, Glare Control and Exterior Lighting Standards) and the following requirements:
  - a. *Electrical Permit*. All signs in which electrical wiring and connections to be used shall comply with all applicable provisions of the State Electrical Code. No permit for the

- erection of a sign shall be granted prior to approval and issuance of a valid electrical permit for that sign.
- b. Voltage Displayed. The voltage of any electrical apparatus used in conjunction with a sign shall be conspicuously noted on that apparatus. In addition, all electrical signs shall bear the label of approval of a recognized testing laboratory and be equipped with a watertight safety switch that is located where the electrical supply enters the sign.
- c. External Illumination. All external lighting fixtures shall be steady, stationary, fully-shielded and directed solely onto the sign, and shall use lighting designed to minimize light spill and glare. Lighting sources shall not be directly visible or cause glare to adjacent public rights-of-way or adjacent private property.
- d. Internal Illumination. Internally illuminated signs shall permit light to shine fully through only the lettering and graphic elements of the sign. The background for such lettering and graphics shall be opaque or translucent and shall transmit light at a level substantially less than that transmitted through the lettering and graphics. If the contrast between the lettering or graphic elements and background does not permit adequate legibility, a translucent white border of up to one (1) inch in width may be placed around said lettering or graphic elements.
- e. *Brightness Limitation*. Except for daytime displays on electronic variable message signs, in no instance shall the lighting intensity of any illuminated sign exceed:
  - i. Three (3) foot candles at the front lot line and one (1) foot candle at all other lot lines, measured three (3) feet above the surface of the ground.
  - ii. Fifty (50) foot candles measured perpendicular to the face of the sign from a distance equal to the narrowest dimension of the sign.
- f. Glare. All artificial illumination shall be so designed, located, shielded and directed so as to prevent the casting of glare or direct light upon adjacent public right-of-way or surrounding property.
- g. Gooseneck and similar reflectors and lights shall be permitted on ground and wall signs provided, however, the reflectors and lights shall concentrate the illumination upon the area of the sign so as to prevent glare upon the street or adjacent property. It shall be unlawful to maintain any sign which is wholly or partially illuminated by floodlights or spotlights, unless such lights are completely concealed from view from the public right-of-way.
- 8. Motion as a Component of a Sign. No sign shall have any flashing, scintillating, moving or blinking lights or rotating beacons, whether operated by electronic or mechanical means or wind driven, nor shall any floodlight, spotlight, or beacon utilize such actions to illuminate a sign. In addition, no beam of light shall be projected through a mechanism which periodically changes the color of the light reaching the sign.
- 9. Attention-Attracting Objects. The use of any attention-attracting object, as defined in this code, shall be allowed only as a temporary sign in conjunction with a special event permit, not to exceed ten (10) days per issuance. No permit shall be granted for any premises more than four (4) times in any calendar year; or more than once in any three month period.
- 10. Lots Having Multiple Street Frontages. Businesses occupying corner lots, or multiple frontages adjacent to more than one public right-of-way, may display up to one additional ground or building-mounted sign for each additional frontage provided that such additional sign may not exceed 50% of the area allowed by the primary frontage and is oriented toward the additional frontage. For purposes of this code, the primary frontage shall be presumed to be the frontage upon which the main entrance to the building is located. The

- applicant, however, may identify a different frontage as the primary frontage to maximize the effectiveness of the signage.
- 11. Resemblance to Traffic Signs. No Sign shall contain or resemble any sign resembling in size, shape, message, or color any traffic control devices compliant with the Minnesota State Manual on Uniform Traffic Control Devices.
- G. Limitations According to the Type of Land Use. Unless exempt under §154.212.K or as expressly provided elsewhere, no permanent or temporary signs shall be displayed except in conformity with the following regulations as they correspond to the type of land use and districts in which the sign is to be displayed.
  - 1. Residential Uses in Residential Districts.
    - a. A single sign which is limited in content to the name, address and legal home occupation of the owner or occupant of the premises, and which does not exceed two (2) square feet in area. Signs under this paragraph shall be wall signs only.
    - b. A residential condominium or multi-family apartment complex may display signs identifying the name of the condominium or apartment complex if the total acreage of the lot is one (1) acre or more and the condominium or apartment includes eight (8) or more units. One (1) wall sign and one (1) ground sign per street frontage may be displayed, with a maximum of two (2) wall signs and two (2) ground signs per lot. No identification sign shall exceed twelve (12) square feet in area, and the maximum height is one (1) story or twelve (12) feet above curb level, whichever is lower. For purposes of this paragraph, the term "lot," when used in reference to a condominium means all property within a common interest community.
    - c. A subdivision identification sign as approved by the City.
  - 2. Institutional Uses in Residential Districts. Nonresidential uses located in residential districts such as churches, government buildings, hospitals, and schools located in residential districts may erect signs as follows:
    - a. Wall and Ground Signs
      - i. Area and Number: One (1) wall sign and one (1) ground sign per street frontage may be displayed, identifying the entity, with a maximum of two (2) wall signs and two (2) ground signs per lot. Additional wall or ground signs for wayfinding purposes may be permitted when the size of the lot, number of vehicular or pedestrian entrances, and layout of the buildings require additional signs in order to promote traffic and pedestrian safety. Signs under this paragraph, whether displayed on a wall or on the ground, shall not exceed twelve (12) square feet in area, except such signs may be increased in area by one (1) square foot for each additional foot that the sign is set back more than twelve (12) feet from a lot line. No sign under this section shall exceed thirty-two (32) square feet in area.
      - ii. *Height.* No identification sign shall project higher than one story, or ten (10) feet above curb level, whichever is lower.
    - b. Temporary Signs
  - 3. Commercial, Mixed-Use and Industrial Districts
    - a. Ground Signs
    - b. Directory Signs
    - c. Awning and Canopy Signs
    - d. Wall Signs
    - e. Projecting Signs

- f. Hanging Signs
- g. Window Signs
- h. Directional and Informational Signs
- i. Corporate Flags and Decorative Banners
- j. Temporary Signs
- 4. Planned Development Districts. No permanent sign shall be displayed except a sign authorized by the City and included in the Comprehensive Sign Plan pertaining to the site. Temporary signs are permitted for commercial, institutional or industrial uses unless prohibited by the Comprehensive Sign Plan.
- 5. Conservancies and Parks. No sign shall be permitted except those installed by direction of the Public Works Director.
- 6. Agricultural Sales Businesses. Signage related to agricultural sales business may be erected as follows:
  - a. On-Premises Signs, Agricultural Sales Businesses. One (1) or more on-premises signs may be erected on a property in conjunction with an operating agricultural sales business subject to the following requirements and restrictions:
    - i. Agricultural sales businesses utilizing less than 10 acres of land specifically for the growing of agricultural crops for the business are allowed 1 on-premises sign not to exceed 32 gross square feet of advertising surface.
    - ii. Agricultural sales businesses utilizing more than 10 acres of land but less than 40 acres of land specifically for the growing of agricultural crops for the business are allowed 1 or 2 on-premises signs not to exceed 48 gross square feet of advertising surface, with no sign surface exceeding 32 square feet in size.
    - iii. Agricultural sales businesses utilizing more than 40 acres of land specifically for the growing of agricultural crops for the business are allowed 1, 2 or 3 on-premises signs not to exceed 64 gross square feet of advertising surface, with no sign surface exceeding 32 square feet in size.
    - iv. Any illuminated sign shall be consistent with §154.212.F.7 and illuminated only during those hours when business is open to the public for conducting business.
  - b. Temporary Off-Premises Signs, Agricultural Sales Businesses. Independent of the total allowable sign area for an individual property anywhere within the city, a temporary off-premises sign may be erected on a property in conjunction with an operating agricultural sales business subject to the following requirements and restrictions:
    - Maximum Number. Every agricultural sales business shall have no more than 2 offpremises signs at any given time to direct the public to the location of the business.
    - ii. *Time Frame of Use*. Temporary off-premises signs may be erected for 45-day time periods no more than 4 times in any given calendar year. The required temporary sign permit shall stipulate the range of dates for each of the 4 allowable time periods in any given calendar year.
    - iii. Size and Height. An off-site agricultural sales advertising sign shall not exceed 50 square feet in area and shall not be taller than 10 feet in height.
    - iv. *Setbacks.* Off-premises signs shall be a minimum of 25 feet from all side property lines, and a minimum of 50 feet from other off-premises advertising signs.
    - v. *Permission Required*. Applicants for off-premises signs shall acquire permission from the property owner upon whose land the sign is to be erected.

H. Regulations Pertaining to Specific Sign Type. Except as expressly provided elsewhere, signs shall meet the following regulations according to sign type:

## 1. Wall Signs

- a. *Number*. No building occupant shall display more than one (1) wall sign per street frontage except as provided below:
  - i. One additional wall sign may be displayed on a building with no front setback provided that such sign is a flat sign that is either painted upon the building or does not extend outward more than six (6) inches.
  - ii. Up to three (3) ancillary wall signs may be displayed on buildings measuring at least 100 feet in length along the front lot line. Any ancillary sign displayed under this paragraph shall not exceed 50% of the net area or 50% of the height of the largest permitted wall sign displayed on that façade, nor shall the aggregate area of the ancillary signs exceed 50% of the net area of such wall sign.
- b. Surface Area. The total permitted sign surface area of all wall signs on a façade shall not exceed one (1) square foot of signage for each lineal foot of building frontage that is coterminous with the occupancy to which the sign refers, unless a different amount allocated to the building occupant is identified in an approved Comprehensive Sign Plan pursuant to §154.212.1. In addition, no individual wall sign shall exceed one hundred (100) square feet in area.
- c. Location. Wall signs shall be mounted parallel to building walls and only on a portion of an exterior wall that is coterminous with the occupancy to which the sign refers, unless a different location is identified in an approved Comprehensive Sign Plan pursuant to §154.212.I. No wall sign shall extend above or beyond the wall to which it is attached.
- d. Installation Requirements. No wall sign shall cover or interrupt significant architectural elements such as columns, column caps, friezes, door or window heads, embellishments, adornments, fenestration, or ornamental detailing on any building. All mounting brackets and other hardware used to affix a sign to a wall as well as all electrical service hardware and equipment shall be concealed by architectural elements of the building or the sign itself.

#### 2. Ground Signs

- a. Number. There shall be no more than one (1) ground sign for each street on which the lot has frontage, except one additional ground sign per lot frontage may be allowed for any lot frontage over one thousand (1,000) linear feet. On lots occupied by two (2) or more occupants, or where a second ground sign is permitted, three (3) or more occupants, a directory sign shall be used in lieu of multiple ground signs. No single business or building occupant shall be allowed signage on both an individual ground sign and a ground directory sign on the same street frontage. On premises having no principal building, there shall be no more than one (1) ground sign for the premises.
- b. Surface Area. No ground sign shall exceed the size listed in Table 5-3.
- c. Type of sign. Any permanent ground sign shall be erected as a monument sign. Pole signs are prohibited unless the pole portion of the sign is enclosed in a shroud that causes the sign to appear to have a monolithic base or support structure of any material measuring no less than one-third (1/3) of the greatest width of the sign at any point or unless the height is no greater than three (3) feet. The base of the monument sign shall not exceed the width of the widest portion of the sign face by more than twenty-five percent (25%).
- d. Location. Ground signs shall be placed with consideration for visibility, access, maintenance, and safety, consistent with the provisions of Section 154.212.F.2. Grounds signs shall be located beyond required setbacks a distance equal to or greater

DRAFT 5/13/13 5-11 Sign Regulations

than the height of the sign. If this is not possible, ground signs shall be located as far from required setback lines as possible. In no case shall a ground sign, as defined in this Ordinance, extend beyond a lot line of a property. A ground sign larger than 6 sq. ft. shall be located no closer than 100 feet of another ground sign or the furthest distance possible from another ground sign, whichever distance is shorter.

#### e. Height

- i. The height of a ground sign shall be measured from the approved grade at the base of the sign or the elevation of the street upon which the sign faces, whichever is lower, to the top of the highest attached component of the sign.
- ii. A ground sign shall be mounted on a base not to exceed four (4) feet in height.
- iii. Allowable height of a ground sign shall be as set forth in Table 5-3.
- iv. No ground sign shall be taller than the principal building on the premises to which it pertains.
- f. Landscaping. Perennial plantings and other landscaping features shall be incorporated around the base of all ground signs.
- g. Exempt or Special Purpose Ground Signs. The location of and maximum height and surface area of any other exempt or special-purpose ground sign expressly authorized by another section of this ordinance, shall be as set forth in such other section.

### Table 5-3 Ground Signs

Table 5-3 describes the zoning districts in which ground signs may be displayed, and the maximum height and area of the signs, as determined by the speed limit on the adjacent roadway. For ground signs on zoning lots with more than one street frontage, use the miles per hour on the street with the faster speed limit to determine the maximum height and area allowed.

Ground Signs					
Zoning District		A <sup>a</sup> , LDR, OP, RE, RS, RR <sup>a</sup> , RT <sup>a</sup>	MDR, HDR	BP, C, CC, GB, LC, VMX	
No. of Traffic Lanes	Speed Limit (MPH)	Max Height/ Area (Sq. Ft.)	Max Height/ Area (Sq. Ft.)	Max Height/ Area (Sq. Ft.)	
1-3	0-34	-	6′/32	10′/32	
	35-44	-	6′/32	10′/50	
	45+	-	6′/32	10′/72	
4-5	0-34	-	6′/32	10′/40	
	35-44	-	6′/32	10′/64	
	45+	-	6′/32	12′/80	

Notes to Table 5-3:

a. Ground signs are only permitted in the A, RR and RT districts in conjunction with agricultural sales business.

### 3. Window Signs

- a. Location: All window signs must be located inside an exterior window unless the sign is weatherproof and does not pose a danger from falling or being blown by the wind. Lettering or graphic elements that are directly mounted on a window shall not encroach upon the frame, mullions, or other supporting features of the glass.
- b. Permanent Signs. When a sign is painted on or otherwise attached or applied to the window area in a permanent manner, then such sign shall be included in the total allowable wall sign area for the building and shall not exceed twenty (20) percent of the total ground-floor window area of the building, excluding the door windows. All permanent window signs which have their lettering or graphic elements directly on the glazing shall be painted, metal leafed, vinyl transferred, or in some other manner permanently applied to the interior side of the glass of an exterior building window or door. No application using a temporary adhesive shall be permitted unless the Planning Director determines the application to be reasonably safe.
- c. Temporary Signs. Signs advertising sales and specials shall not exceed thirty (30) percent of the total ground-floor window area of any building, excluding the door windows. Such signs must be displayed in conformance with the temporary sign regulations listed in §154.212.J.
- d. Under no circumstances shall any combination of permanent or temporary window signage cover more than fifty percent (50%) of the total ground window area of any building.

## 4. Changeable Copy Signs

- a. Changeable copy signs are not an additional permitted sign type, but any permitted sign type may be a changeable copy sign, provided that the total surface area of the entire sign does not exceed the maximum allowed for the type and location of sign upon which the changeable copy is displayed.
- b. Electronic Variable Message Signs: Any sign type may be an electronic variable message sign subject to the following regulations:
  - i. Surface Area. The areas of electronic variable message signs capable of displaying copy shall not exceed forty (40) square feet and shall be included within the maximum aggregate sign surface area allowed for the type and location of sign upon which the changeable copy is displayed.
  - ii. Length of Cycle. The electronic changeable copy or images shall not alternate, change, fade in, fade out, or otherwise change more frequently than once every ten (10) seconds. Electronic variable message sign signs may not display scrolling, racing, pixelating or moving characters or images, or similar actions that convey motion.
  - iii. *Color*. All copy, characters or other changeable images shall be of one (1) color only, with light copy on a dark background.
  - iv. Brightness Adjustment. An electronic variable message sign shall be equipped with photosensitive equipment which automatically adjusts the brightness and contrast of the sign in direct relation to the ambient outdoor illumination such that the light level does not exceed three (3) foot candles at the front lot line and one (1) foot candle at all other lot lines, measured three (3) feet above the surface of the ground.
  - v. *Maintenance*. Any electronic variable message sign shall be maintained so as to be able to display messages in a complete and legible manner.

DRAFT 5/13/13 5-13 Sign Regulations

- 5. Canopy and Awning Signs. The use of canopy and awning signs reduces the maximum area of any allowed wall sign by half. Canopy and awning signs are subject to the following provisions:
  - a. Surface Area. The sign surface area of a canopy or awning sign shall not exceed fifteen (15) percent of the area of the vertical section of the canopies and awnings. The area of the vertical section of the canopies and awnings is calculated as the difference between the highest and lowest point on the canopy or awning multiplied by the length of the canopy or awning measured parallel to the façade upon which it is attached.

#### b. Location

- i. Canopies and awnings shall be constructed and erected so that the lowest portion of the projecting frame thereof shall be not less than nine (9) feet, and the lowest portion of the descending skirt shall be not less than eight (8) feet above the level of the sidewalk or public thoroughfare.
- ii. No portion of the canopy or awning sign shall extend above or beyond the canopy or awning upon which it is attached. However, a sign may be hung beneath a canopy parallel to the building frontage so long as it and its structural components are no less than eight (8) feet above the ground immediately beneath the sign.
- iii. Awnings shall not project more than thirty-six (36) inches out from the building upon which they are attached, nor extend out from the building beyond the extension of the awnings on adjoining buildings.
- c. Installation Requirements. To preserve the architectural integrity of a building, no canopy or awning, and no canopy or awning sign, shall cover or interrupt significant architectural elements such as columns, column caps, friezes, door or window heads, embellishments, adornments, fenestrations or ornamental detailing.
- d. *Illumination*. Awnings and canopies may be illuminated where the following conditions are maintained:
  - i. Both interior type strip lighting and exterior type goose neck lighting is permitted, not exceeding a maximum light level of 18 foot candles measured three (3) feet from the perpendicular to the light source.
  - ii. The bottom of any illuminated awning or canopy shall be enclosed.
  - iii. The provisions of §154.212.F.7 are satisfied.
- e. *Materials*. Canopy and awning signs shall be made of either the material with which the canopy or awning is covered or other water proof materials affixed flush to the face of the canopy or awning, or be painted directly on the awning or canopy material with weather-resistant paint.
- 6. Hanging Signs. One sign up to six (6) square feet in area may be suspended above a walkway near a primary building entrance so long as it and its structural components are no less than eight (8) feet above the ground immediately beneath the sign.
- 7. Projecting Signs. A projecting sign may be displayed in lieu of a wall sign and subject to the following restrictions:
  - a. *Maximum Projection*. The maximum distance a projecting sign may project is not more than twenty-four inches (24") into the right-of-way. Subject to zoning setback limitations, a projecting sign may project no more than six feet (6') from the building face.
  - b. *Location*. A building may have one (1) projecting sign facing a street or on a corner of the building.

DRAFT 5/13/13 5-14 Sign Regulations

- c. *Surface Area*. The permitted area of a projecting sign shall not exceed the square footage for the amount that would otherwise be allowed for a wall sign on the building.
- d. Height. A projecting sign must vertically clear any pedestrian area by at least eight (8) feet and vehicular ways by at least fourteen (14) feet. A projecting sign may extend to the juncture of the roof with the building wall or to the top of any parapet, but no projecting sign may extend above a third story.
- 8. Directional Signs. On-premise directional signs may be placed on private property near driveway entrances, at building entrances, and in parking lots and loading areas where reasonably necessary. Each such sign shall be located on-premise and shall adhere to the regulations pertaining to vision triangles and other setbacks as defined in §154.212.F.2. Such signage shall be considered exempt from the total signage calculation for the premises as long as all the following standards are met:
  - a. Such signage does not serve an additional advertising purpose.
  - b. There are no more than three (3) directional signs per lot, not including a maximum of one (1) directional sign allowed per driveway entrance/exit.
  - c. Surface area per sign does not exceed four (4) square feet.
  - d. Logos do not exceed two (2) square feet in area per sign.
  - e. Sign height does not exceed five (5) feet above ground elevation at base of sign.
- 9. Flags and Decorative Banners. The following regulations apply to all flags and decorative banners:
  - a. A minimum clearance of eight feet (8') over pedestrian ways and fourteen (14') feet over vehicular areas.
  - b. Maximum number of flagpoles for any lot is three (3).
  - c. Maximum height of any flagpole is fifty (50) feet.
  - d. Maximum number of flags per lot is four (4).
  - e. Maximum area of any flag shall be forty (40) square feet.
  - f. Flags representing a private entity, including corporate or business flags, shall be included within the maximum sign area total for the site, as applied to the allowance for a ground sign, and shall require a sign permit.

### I. Comprehensive Sign Plans

- 1. Purpose. Multi-tenant developments such as shopping malls, due to the varying occupant's need for signage and the potential for unique architecture and placement of different occupancies as they relate to street frontages, can create challenges to the applicability of sign regulations and the fair distribution of permitted square footage for occupants. This section is intended to define how signage permitted under this code will be distributed among the different occupancies available in the development. The Comprehensive Sign Plan shall create visual harmony between the signs, building(s), and building site through unique and exceptional use of materials, design, color, and lighting, and other design elements; and shall result in signs of appropriate scale and character to the uses and building(s) on the lot as well as adjacent buildings, structures and uses.
- 2. Applicability. A Comprehensive Sign Plan shall be required of an applicant for all planned developments and commercial or industrial multi-tenant developments where different occupancies will compete for permitted square footage on a single lot.
- 3. Submission Requirements. An application for Comprehensive Sign Plan approval shall be submitted to the Planning Director and shall include:

- a. A site plan, dimensioned, showing the location of the building(s), structure(s), parking area(s), driveway(s), and landscaped areas on the lot upon which the proposed sign is to be attached or erected.
- b. A table or tables containing:
  - i. Computation of the maximum total sign area.
  - ii. Maximum area for individual signs.
  - iii. Height and number of ground signs.
  - iv. Statement of the maximum total sign area and maximum number of signs permitted on the site by this Ordinance.
- c. An accurate indication on the site plan of the location and orientation of each sign for which a permit is currently being requested, the anticipated location of future signs requiring a permit, and the location of all reasonably anticipated temporary signs.
- d. A description and illustration of the following may be required:
  - i. Colors and materials to be used in sign construction.
  - ii. Style of lettering for all signs.
  - iii. Appearance/location of logos or icons.
  - iv. Location of each sign on the building(s), with building elevations if necessary.
  - v. All sign proportions.
  - vi. Types of illumination.
- 4. Amendment. A Comprehensive Sign Plan may be amended by filing a new Comprehensive Sign Plan, in conformance with the requirements of the Sign Ordinance in effect at that time.

# 5. Binding Effect

- a. After approval of a Comprehensive Sign Plan, no permanent sign shall be erected, placed, painted or maintained by the property owner or any buyer, tenant, subtenant, assignee, employee, agent or other party in use of the subject property except in conformance with such plan without obtaining a sign permit and in conformance with the Comprehensive Sign Plan.
- b. If the City Council has approved a Comprehensive Sign Plan with flexible criteria, the Planning Director is authorized to approve, through the standard sign permit approval process, sign applications in conformance with the comprehensive sign plan, but only to the extent that the application is in conformance with the Comprehensive Sign Plan.
- c. The terms and conditions of an approved Comprehensive Sign Plan shall have the same force and effect and be enforced in the same manner as any other provision of this Section.

## J. Temporary Signs

- 1. General Requirements. Temporary signs shall conform to the following standards:
  - a. *Permit Required*. No temporary sign may be displayed without a valid temporary sign permit or portable sign permit.
  - b. Sign Type. Temporary signs may include any sign type permitted by this Section.
  - c. Number. No more than two (2) temporary signs may be displayed on a lot at any time.
  - d. Surface Area. The maximum area of all temporary signs displayed shall be a combined total of nine (9) square-feet if displayed for ten (10) days or longer.

- e. Location. Temporary signs shall be located only upon the premises to which the special, unique, or limited activity, service product, sale, or event is to occur. No temporary sign may be placed off-premise except as otherwise provided elsewhere in this Section.
- f. Duration. No temporary sign permit shall be issued to erect or maintain any temporary signage for a period exceeding twenty-one (21) days, or to be displayed three (3) days after termination of the activity, service, project, sale, or event to which the sign pertains, whichever comes first. A permit for a temporary sign or signs shall be granted no more than four (4) times in any calendar year and only once every three (3) months.
- g. Installation Requirements. All temporary signs shall be constructed, anchored and supported in a manner which reasonably prevents the possibility of such signs becoming hazards to the public health and safety as determined by the Planning Director.
- 2. Business Opening Signs. Business opening signs may be displayed on lots having commercial or industrial occupancies subject to the following provisions:
  - a. *Permit Required.* A permit shall be issued before a business opening sign may be erected. The permit may not be renewed.
  - b. Type of Sign and Location. A business opening sign may be a wall sign, projecting sign, or ground sign. A business opening sign may be displayed in addition to, in lieu of, or affixed to a permanent sign as described above. A banner may be used as a business opening sign.
  - c. Size. The size of a business opening sign shall be determined by the type of sign chosen, and shall be limited to the maximum size allowed for a permanent sign of that type at that location.
  - d. Illumination. A business opening sign may be illuminated subject to §154.212.F.7.
  - e. *Duration*. A business opening sign may be displayed for a period not to exceed thirty (30) days from the date the business opened, changed names, or changed ownership.
- 3. *Portable Signs.* In addition to the general requirements pertaining to temporary signs, the following standards pertain to portable signs:
  - a. *Permit Required*. A sign permit shall be issued on an annual basis before a stationary portable sign may be erected. Such permit shall only be valid during the calendar year during which it is issued.
  - b. *Construction*. A sign shall be manufactured to a professional standard of construction, finish and graphics. A portable sign shall be free-standing, self-supported and constructed of substantial materials such as wood, metal or plastic such that the sign will reasonably withstand the elements.
  - c. Size and Design Regulations:
    - i. A portable sign shall not exceed six (6) square feet in surface area per side, with a maximum of two (2) signable sides or faces.
    - ii. Sign shall be no more than three (3) feet in height.
    - iii. The sign shall not exceed two (2) feet measured at the widest point of the sign face.
    - iv. No appendages to such sign and its structure are permitted, including but not limited to balloons, streamers, pennants, etc.
    - v. Any portion of the sign's face used for a chalk or dry-erase board shall not exceed fifty percent (50%) of the total sign face surface area.

- d. *Number*. One portable sign may be displayed per business or occupant in any commercial or industrial area or Planned Unit Development.
- e. *Location*. A portable sign is restricted to the lot of the business establishment to which a permit has been issued, except such a sign may be located in the public right-of-way in front of the premises only where no front setback is required.
- f. Placement: A portable sign shall:
  - i. Be placed only along sidewalks where a minimum five (5) foot wide clear sidewalk is maintained. In no event shall a portable sign be placed on any bicycle path. The placement of a portable sign shall not obstruct access to any crosswalk, mailbox, curb cut, fire hydrant, fire escape, fire door, building entrance, public parking space or any other public property, nor shall a sign obstruct the ability of persons to exit/enter vehicles parked along the curb;
  - ii. Not be attached, chained or in any manner affixed to public property including street trees, utility poles or sign posts;
  - iii. Not obstruct the clear view of any traffic signal, regulatory sign or street sign;
  - iv. Not be located closer than 10 feet to any other portable sign;
  - v. Not be located directly adjacent to a bus stop or transit vehicle, shall not obstruct sight lines of road users, nor be placed less than twenty-five (25) feet from a street intersection or fifteen (15) feet from a crosswalk;
  - vi. Not be placed in such a way as to interfere with snowplowing of the streets;
  - vii. Be maintained free of snow, be placed on solid ground at all times and shall not be placed on top of snow banks.
- g. Illumination. A portable sign shall not be illuminated.
- h. *Time Limitations and Removal*. A portable sign may be displayed only during business hours. Such sign must be removed and safely stored out of view during times when the business is not open to the public. Trailers or other vehicles that are not used principally as a sign may be parked on the lot when the business is not open to the public, as long as they are not parked in substantially the same location for more than twenty-four (24) hours.
- i. Enforcement. Portable signs located within the public right-of-way are a privilege and not a right. The City in permitting placement of such signs in the public right of way reserves the right to require their removal at any time because of anticipated or unanticipated problems or conflicts. To the extent possible, the permittee shall be given prior notice of any time period during which, or location at which, the placement of portable signs is prohibited. Furthermore, the sign permit may be revoked by the Planning Director following notice to the permittee. The permit may be revoked if one or more conditions outlined in this section have been violated, or if the sign is determined to constitute a public nuisance not specifically outlined in this section. Following the revocation of the sign permit, no application for the same site shall be filed within one hundred eighty (180) days from the date of revocation. The permittee has a right to appeal the decision of the Planning Director within thirty (30) days of issuance of a revocation notice pursuant to §154.212.N.2.
- j. Indemnification. Where a temporary, portable sign is permitted in the public right-of-way, the owner, lessee or lessor of the business to which a permit has been issued and the property owner shall agree in writing to fully indemnify and hold the City harmless for any personal injury or property damage resulting from the existence or operation of said sign, and shall furnish evidence of general liability insurance in the amount of fifty thousand dollars (\$50,000.00) with the City as additional named insured or provide other security to the satisfaction of the City Administrator.

DRAFT 5/13/13 5-18 Sign Regulations

- k. *Permit Renewal*. The permit for a portable sign must be renewed annually prior to January 1 of each year.
- K. Signs Exempt from Permit. Consistent with the purpose and scope of this ordinance, the City recognizes that certain temporary, necessary, or limited-purpose signs should be lawfully displayed without the need to obtain a permit and should not count as part of the specific sign area allowed to be displayed on a particular property. All signs exempt from permit requirements must, nonetheless, adhere to all other applicable sections of this ordinance and all other applicable State and Federal regulations. The City finds that the following signs may be displayed without a permit because they serve an immediate or temporary traffic safety or wayfinding function:
  - Address and Nameplates. Address and name plates not exceeding three (3) square feet in area.
  - 2. Athletic Field Signage. Signs, banners, and scoreboards designed solely for view from spectator areas and displayed on interior walls, fences, or other structures located inside an enclosed athletic field at a school, park, or other public or private athletic complex. Approval of the Park Commission shall be required to display a sign, banner, or scoreboard under this paragraph at a City park.
  - 3. Awning Signage. Signs displayed on awnings located on commercial or industrial buildings provided that the signs are displayed on the lowest twelve inches (12") of the principal face or side panels of awnings and provided that they do not exceed six inches (6") in height.
  - 4. City Signs on City Property. City signs on City property not exceeding thirty-two (32) square feet in area.
  - 5. Construction Signs. Such signs may only be placed on the property where work is in progress, shall not be erected prior to the beginning of work for which a valid building permit has been issued, and shall be removed within ten (10) days of completion of work or the expiration of the building permit, whichever is sooner. Construction signs on parcels in residential or park uses shall not exceed thirty-two (32) square feet per street frontage. Construction sign area for commercial, industrial, multi-family, or planned development uses on parcels less than 100,000 square feet shall not exceed sixty four (64) square feet per street frontage; and on parcels greater than 100,000 square feet shall not exceed ninety six (96) square feet per street frontage. Square footage may be divided.
  - 6. Flags. Flags that comply with the provisions of §154.212.H.9.
  - 7. Garage Sale and Estate Sale Signs. Signs advertising a garage sale shall not exceed four (4) square feet in area, shall not be displayed for a period of time more than seventy-two (72) consecutive hours and may be displayed no more than twice in any one calendar year. Up to three (3) residential garage sale signs may be displayed per event, two (2) of which may be displayed off-premises, but not in the public right-of-way. Any such sign placed on private property must have the consent of the property owner on whose property such sign is displayed.
  - 8. Government Signs, Including Traffic or Official Public Hearing Notice Signs. Such signs are placed, authorized, or required by the City or other authorized governmental agency. The requirements for maximum area, height, setback, or other size, materials or physical specifications shall be as required by law or the authorizing agency.
  - 9. Holiday and Temporary Decorations. Holiday or temporary decorations when located on private property, or with the approval of the City if on public property. In addition, any sign in the nature of a decoration, identification or direction, incidentally and customarily associated with any national or religious holiday or any civic festival, fair or similar gathering, held during a period of ten (10) days or less in any year, provided such sign shall not differ substantially from the requirements set forth in this Section. Such decorations

DRAFT 5/13/13 5-19 Sign Regulations

- may not contain any commercial message or logo or depict any commercial symbol or character.
- 10. Home Occupation Signs. Signs identifying only the name and occupation of the resident. Home occupation signs shall be non-illuminated, flush-mounted to a wall of the residence, and shall not exceed two (2) square feet in area.
- 11. *Memorial Signs*. Any non-commercial sign in the nature of a cornerstone, commemorative, or historical tablet or landmark designation plaque.
- 12. Menu Board Signs. Menu boards up to fifty-five (55) square feet in area and six (6) feet in height, provided they are located within fifteen (15) feet of a commercial building and in a manner such that the copy is not readily viewable from the public right-of-way or a residential occupancy on an adjacent lot.
- 13. Non-Commercial Messages. One sign per parcel per street frontage carrying any lawful non-commercial message not exceeding twelve (12) square feet in area. Any other permitted commercial sign may be substituted for a noncommercial message but will count toward the total signage type and area for the parcel upon which it is located. Hand-held signs carrying noncommercial messages are not subject to any size limitation so long as they are held by and under the physical control of a person during all times they are on display.
- 14. Parking Lot Regulation Signs. Parking signs not exceeding nine (9) square feet and having a minimum setback of ten (10) feet.
- 15. Parking Lot Directional Signs. Signs must comply with the provisions of §154.212.H.8.
- 16. Parking Lot Traffic Signs, as required by law.
- 17. Political and Election Campaign Signs. Signs containing a political message and displayed during an election campaign period may not exceed twelve (12) square feet in area. Such signs are allowed in addition to the noncommercial message sign under subsection (14) during the election campaign period, however, after ten (10) days has passed from the election date such sign may continue to be displayed, but will count as the allowed noncommercial message sign under subsection (14). Political and election campaign signs may also substitute for any commercial message sign in the same manner. Unless substituted for another permitted sign, such signs shall not have any electrical component. Such signs shall not have a mechanical or audio auxiliary component, and shall not be attached to or placed on utility poles, trees, traffic devices, or within the public right-of-way.
- 18. Real Estate Signs Advertising Residential Properties. Signs located on premise may not be placed above the top of the lowest level of the building. All signs authorized under this subsection shall be removed within ten (10) days of the sale or rental of the residential units being advertised.
  - a. For lots containing less than four (4) dwelling units within one residential structure, one non-illuminated real estate sign up to six (6) square feet per unit may be displayed to advertise the sale or rental of the premises or any part thereof.
  - b. For lots where at least four (4) but less than sixteen (16) dwelling units are contained within one residential structure, one non-illuminated real estate sign up to twelve (12) square feet may be displayed to advertise the sale or rental of the premises or any part thereof.
  - c. For lots where sixteen (16) or more dwelling units are contained within one residential structure, one non-illuminated real estate sign up to thirty-two (32) square feet may be displayed to advertise the sale or rental of the premises or any part thereof.
  - d. Up to two (2) signs directing traffic to "open houses", each sign no more than six (6) square feet in area, may be installed off property after obtaining the consent of the property owner on whose property such sign is to be displayed, or they may be

DRAFT 5/13/13 5-20 Sign Regulations

- displayed in the public right-of-way consistent with §154.212.F.2.c. The City reserves the right to remove such signs from the right-of-way at any time. These off property directional signs may be displayed only during the hours that the advertised activity is to take place, and they must be a self-supporting type sign.
- 19. Real Estate Signs Advertising Single Occupant Commercial Property. For lots less than five (5) acres, one non-illuminated real estate sign up to twelve (12) square feet in area may be displayed. For larger lots, one non-illuminated real estate sign up to thirty-two (32) square feet in area may be displayed. All signs authorized under this subsection shall be removed within ten (10) days of the sale or rental of the commercial unit being advertised.
- 20. Real Estate Signs Advertising Non-Residential Grouped Development or Multi-Tenant Buildings. For each group development or multi-tenant building containing nonresidential land uses, a maximum of two (2) signs, one per each nonresidential street frontage, may be displayed up to a maximum of thirty-two (32) square feet in area.
- 21. Real Estate Subdivision Signs. For each real estate subdivision that has been approved in accordance with the City of Lake Elmo subdivision regulations, a maximum of two (2) temporary development project identification signs may be located on some portion of the subject subdivision. Each such sign shall be not more than thirty-two (32) square feet in area. One additional similar sign shall be permitted for each one hundred (100) lots in the subdivision in excess of one hundred (100) lots. These signs may be displayed until a time at which building permits have been issued for eighty percent (80%) of the lots in the subdivision. Signs advertising sale or lease after such time shall conform to the requirements of subsection (18) of this section.
- 22. *Temporary Notices*. Leaflet-type notices flat-mounted to kiosks or public information boards.
- 23. *Utility Company Signs*. Signs that serve as an aid to public safety or that show the location of facilities such as public telephones and underground cables only to the extent necessary to accomplish those goals.
- 24. Window Signs, Temporary. Signs and displays that are of a temporary nature such as for advertising sales and specials and that do not cover more than thirty (30) percent of the total ground-floor window area of any building, excluding the door windows. Merchandise and pictures or models of products or services incorporated in a window display are not considered signs. Any sign placed on the outside of a window requires a sign permit unless the sign is weatherproof and does not pose a danger from falling or being blown by the wind.
- 25. Window or Wall Signs Not Readable Off-Premises. Window or wall signs not exceeding two (2) square feet in area with lettering not exceeding three (3) inches high designed to provide information to persons on the premises such as hours of operation, or sample restaurant menu. Where no front yard setback exists, such signs as would generally be unreadable off premises where minimum setback regulations apply shall qualify for this exemption notwithstanding that such signs are readable from the public right of way. Such signs shall not be counted toward total permitted signage.
- L. Prohibited Signs. The following signs are expressly prohibited in the City of Lake Elmo:
  - 1. Abandoned Signs
  - 2. Off-Premise Signs, except as expressly allowed under this Section.
  - 3. Inflatable Signs
    - a. Rationale. Inflatable signs shall be prohibited because they are generally more distracting and hazardous to pedestrian and traffic safety, tend to have an anchoring device that is less reliable under wind pressure, and out of scale and less compatible with surrounding structures and signs.

- b. The following inflatable devices shall not be considered a sign:
  - *i.* Registered hot air balloons in use and momentarily moored but not being used primarily as a sign.
  - ii. Novelty-type balloons less than two (2) feet in diameter and less than three (3) feet in any dimension tethered or moored no more than ten (10) feet above the ground.
  - *iii.* Inflatable holiday or other decorations displayed temporarily on private property, that do not contain any commercial message or logo or depict any commercial symbol or character, and that does not exceed fifteen (15) feet in height.
- 4. Signs attached to any public utility pole or structure, street tree, fence, fire hydrant, bridge, curb, sidewalk, park bench, or other location on public property except as otherwise expressly permitted under this Section.
- 5. Beacons, unless authorized for use by the City of Lake Elmo or any other governmental entity in the exercise of official government business and authority.
- M. Legal Non-Conforming Signs. Any legal non-conforming sign may continue to be displayed but may not be replaced unless it is damaged suddenly by fire, flood, explosion, earthquake, war, riot, or act of God. A legal, non-conforming sign that has deteriorated due to lack of regular maintenance to the point where it has lost fifty (50) percent or more of its replacement cost shall lose its legal non-conforming status.

# N. Variances and Appeals

- 1. Variances. It is recognized that circumstances may exist from time to time where strict application of the size, location and type of sign standards hereinafter specified for the various zoning districts may be unreasonable or where literal enforcement of the regulations may work an unnecessary hardship on the applicant. Variations from the standards are, therefore, permitted by issuance of a variance by the City Council upon recommendation of the Planning Commission that such extenuating circumstances exist. Variances shall be considered according to the provisions of §154.017.
- 2. Appeals. An applicant may appeal any decision of the Planning Director to the Board of Adjustment and Appeals according to the provisions of §31.10.

### Violations

- 1. It shall be unlawful and a violation of this ordinance for any person to maintain any prohibited sign, to perform or order the performance of any act prohibited by this ordinance, or to fail to perform any act which is required by the provisions of this Section. In the case of any such violation, each twenty four (24) hour period in which such violation exists shall constitute a separate violation.
- 2. Any and all signs, erected, altered, or maintained in violation of this Section, or any of the clauses provisions of the same, or in violation of any of the laws or ordinances of the City and/or the State of Minnesota, are, and each of them is declared to be a public nuisance and subject to enforcement. Any such signs so erected, altered or maintained contrary to law shall be abated as a common nuisance by the Planning Director.
- P. Penalty. Any person who shall fail to comply with any of the provisions of this Section shall be subject to a penalty as prescribed by §10.99 of this Code.

# Q. Enforcement

1. If the Planning Director or Building Official finds that any sign has been erected, altered, or is being maintained in violation of this section, or is in an unsafe condition as to be a menace to the safety, health, or welfare of the public, he or she shall give written notice to the owner thereof of the person entitled to possession of the sign and the owner of the real estate upon which the sign is located. No notice shall be required for permitted

DRAFT 5/13/13 5-22 Sign Regulations

- temporary signs displayed in violation of time limitations prior to taking enforcement action.
- 2. Said letter shall notify the owner, or person entitled to possession of the sign, of the specific violation or violations and direct that alterations, repairs or removal, whichever may be applicable, be made to bring said violations in conformance with the terms and conditions of this Section.
- 3. In the event the person so notified fails or neglects to comply with or conform to the requirements of such notice, the Planning Director or Building Official may file an appropriate citation or complaint in an appropriate court of law or take whatever other legal action may be necessary to cause such sign to be altered or removed. If a sign is considered abandoned, the City, after notice, may remove such sign at the cost of the owner of the property upon which the sign sits. An invoice for such costs shall be sent to the property owner and, if not paid, shall be placed on the tax roll as a special charge pursuant to M.S. §429.061.

# R. Severability and Conflict

- Severability. The provisions of this ordinance are severable. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.
- 2. Conflict. If any part of this ordinance is found to be in conflict with any other ordinance or with any other part of this ordinance, the most restrictive or highest standard shall prevail. If any part of this ordinance is explicitly prohibited by federal or state stature that part shall not be enforced.

DRAFT 5/13/13 5-23 Sign Regulations

## Lake Elmo, MN Code of Ordinances

#### SIGNS

### § 151.115 PURPOSE.

- (A) Purpose and findings.
  - (1) Purpose.
- (a) The Lake Elmo sign regulations are intended to establish a comprehensive and balanced system of sign control that accommodates the need for a well-maintained, safe, and attractive community, and the business community's need for effective communication and identification. It is not the purpose or intent of these regulations to favor commercial messages or speech over non-commercial messages or speech or to discriminate between types of non-commercial speech or the viewpoints represented therein. It is the intent of these regulations to promote the health, safety, general welfare, and desirable rural community image through the regulation of signs with the following objectives in mind:
  - 1. Signs shall demonstrate a high standard of aesthetic character and encourage the use of monument and individual letter-style signs;
- 2. Permit large enough copy/graphic area to effectively convey the intended message but not so large as to unduly distract the reader and insist on lettering large enough to be easily read to encourage simple, uncluttered messages;
  - 3. Signs shall be proportioned to the size of, and architecturally compatible with, the structures and other signs on the premises;
  - 4. Permanent signs shall only advertise on-premise businesses, services, facilities, and the like;
- 5. Allow temporary business signs for grand openings and occasional sales events; allow temporary signs to advise the public of the seasonal sale of agricultural and horticultural products in keeping with the city's rural image; and to allow temporary directional signs permitting the public to more easily locate land conservation developments which enhance the city's rural image, without creating continuous visual clutter or traffic hazards along streets or at intersections; and
  - 6. Signs shall be properly maintained.
- 7. Dynamic signs that distract drivers, cyclists and pedestrians shall not be permitted. Studies conducted by public and private agencies have identified that dynamic signs, including multi-vision signs, electronic signs and video displays can be highly distracting to drivers, pedestrians, and cyclists and that distraction is a significant underlying cause of traffic accidents. With respect to electronic signs, including video display signs, the City finds that they are highly visible from long distances and at very wide viewing angles both day and night and are designed to catch the eye of persons in their vicinity and hold it for extended periods of time. If left uncontrolled, electronic signs, including video display signs, constitute a serious traffic safety threat. Studies conducted by the Federal Highway Administration (FHWA), Research Review of Potential Safety Effects of Electronic Billboards on Driver Attention and Distraction, September 11, 2001, and The Role of Driver Inattention in Crashes: New Statistics from 1995; the University of North Carolina Highway Safety Research Center, Distractions in Everyday Driving, May 2003 and The Role of Driver Distraction in Traffic Crashes, May 2001; the Wisconsin Department of Transportation, Synthesis Report of Electronic Billboards and Highway Safety, June 10, 2003; the Municipal Research and Services Center of Washington, Sign Control Provisions, Jan. 2006; the Veridan Group, Video Signs in Seattle, Gerald Wachtel, May 2001, reveal that electronic signs are highly distracting to drivers and that driver distraction continues to be a significant underlying cause of traffic accidents.
- (2) *Findings*. The City of Lake Elmo hereby finds that regulation of the construction type, location, size, and maintenance of signs is necessary to accomplish the above referenced objectives, because:
  - (a) The presence of permanent and temporary signage affects the rural image of the City of Lake Elmo;
- (b) Properly regulated signage can create an atmosphere of prosperity, stimulate commercial activity, and consequently, lead to increased employment and a healthier tax base;
- (c) The safety of motorists, cyclists, and pedestrians can be threatened by signage that interferes with necessary sight-distances and/or unduly diverts the attention of such persons;
- (d) Signs that are too bright, overly illuminated, flash, blink, scroll, twirl, change messages or color, or imitate movement, including video displays, can distract drivers, cyclists and pedestrians and impact traffic safety.

(B) Severability. If any section, subsection, sentence, clause, or phrase in §§ 151.115 through 151.119 are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the sign ordinance. The City Council hereby declares that it would have adopted the Sign Ordinance in each section, subsection, sentence, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

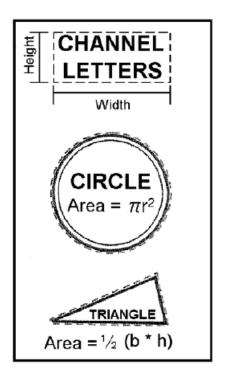
(Ord. 08-015, passed 7-21-2009)

### § 151.116 ADMINISTRATION AND ENFORCEMENT.

- (A) Permit required. No sign shall be erected, altered, reconstructed, maintained or moved in the city without first securing a permit from the city. The content of the message or speech displayed on the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit.
  - (1) Permanent signs. To apply for a permanent sign permit, a complete application shall be submitted to the City containing the following:
    - (a) Names and addresses of the applicant, owners of the sign, and lot;
    - (b) The address at which the sign(s) are to be erected;
    - (c) The legal description of the property on which the sign(s) are to be erected and the street on which they are to front;
- (d) A complete set of scaled plans showing the sign dimensions, area, height, ground elevations, applicable setbacks, and other details to fully and clearly represent the safe construction and placement of the proposed signs);
  - (e) Type of sign(s) being requested (i.e. wall sign, monument sign, and the like);
  - (f) The permit fee; and
  - (g) The following if applicable:
    - 1. Written authorization from the property owner upon who's land the sign is to be erected;
    - 2. A permit from either MnDOT or Washington County if the proposed sign is along a state highway or county road;
    - 3. A sign plan showing signs for all businesses if the sign is located on a building with more than one business;
- 4. Photographs of the building face and the building faces of both adjacent buildings if the sign is being placed on an existing structure; and
- 5. If replacing a historical sign, pictorial proof or other information that the sign is of historical significance or is a reproduction of a historic sign.
- (2) *Temporary signs*. To apply for a permit to allow a temporary sign, a complete application shall be submitted to the city containing the following:
  - (a) Names and addresses of the applicant, owners of the sign, and lot;
  - (b) The address at which the sign(s) are to be erected;
  - (c) A generalized plan set showing the sign dimensions and height, and a notation of the materials to be used;
  - (d) A scaled site plan which clearly represents the placement of the proposed sign(s) on the applicable property;
  - (e) The proposed time frame(s) over which the sign(s) will be posted;
  - (f) The permit fee; and
  - (g) The following if applicable:
    - 1. Written authorization from the property owner upon who's land the sign is to be erected; and
    - 2. A permit from either MnDOT or Washington County if the proposed sign is along a state highway or county road.
- (3) *Temporary sign renewal*. A temporary sign permit issued by the city may be renewed provided the sign design, size, location, or other previously approved details are not proposed to change. A sign renewal application shall include the following:

- (a) Names and addresses of the applicant, owners of the sign, and lot;
- (b) The address at which the sign(s) are to be erected;
- (c) The date of issuance of the permit being renewed;
- (d) The proposed time frame(s) over which the sign(s) will be posted;
- (e) Written authorization from the property owner upon who's land the sign is to be erected (if applicable); and
- (f) The permit renewal fee.
- (4) Review. The planning department shall approve or deny complete sign permit applications upon receipt of a complete application. If the permit is denied, the planning department will send a written notice of denial to the applicant. The written notice will indicate the reason(s) for denial and a description of the applicant's appeal rights.
- (B) *Exemptions*. The following signs shall not require a permit, but shall still comply with all provisions of this subchapter or any other law or ordinance regulating signs.
  - (1) The changing of the display surface on a previously approved sign.
  - (2) Signs 6 square feet or less in size, per surface if double sided.
  - (3) Window signage that does not cover more than 1/3 of the total area of the window in which the sign is displayed.
  - (4) Governmental signage.
  - (C) Fees. The fee for a sign permit is established yearly in the city's adopted fee schedule as indicated in § 11.02.
  - (D) Computations.
- (1) Sign area measurement. The area of a sign shall be computed by means of the smallest circle, rectangle or triangle that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the building facade against which it is placed. When a sign has two back-to-back sign faces containing sign copy, the sign area for both faces are counted toward the total allowed sign area. Poles, bases, and other supports shall not be included in the sign area calculation.

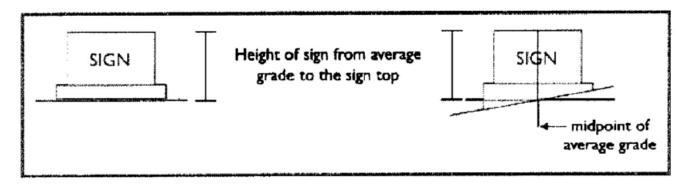
Figure 1: Sign Area Measurement



(2) Sign height measurement. The height of the sign shall be computed as the vertical distance measured from the average grade at the base

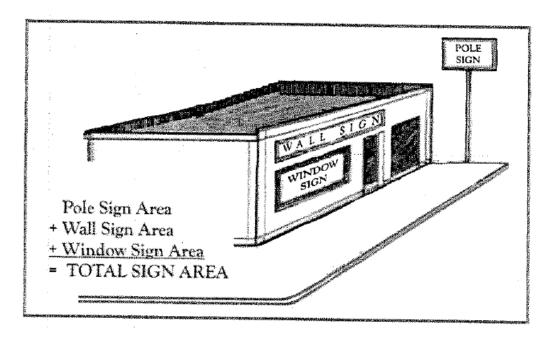
of the sign to the top of the highest attached component of the sign.

Figure 2: Sign Height Measurement



(3) *Total sign area calculation*. The total square footage of all sign surfaces shall be computed by adding together the sign areas of all signs on a property.

Figure 3: Total Sign Area Measurement Example



- (E) Construction, maintenance and repairs.
- (1) The construction of all signs, unless otherwise stated herein, shall be in conformance with the provisions of the Uniform Sign Code published by the International Conference of Building Officials, 1997 Edition, as may be amended, which is hereby adopted by reference and made a part of this subchapter.
- (2) All signs and structures shall be properly maintained and shall be constructed of sufficiently permanent material so that they shall not succumb to deterioration from weathering.
- (3) Any existing sign or sign structure which is rotted, unsafe, deteriorated, defaced, or otherwise altered, shall be repaired, replaced, or removed if repair is not feasible. Sign maintenance shall be the responsibility of the underlying fee owner.
- (F) Abatement. If the city finds that any sign has been erected without the necessary approvals or any sign is being maintained in violation of any zoning provision, the city may give written notice of such violation to the installer of the sign; to the permit holder; and/or to the owner, lessee or manager of the property. If after receiving said notice such person fails to remove or alter the sign so as to comply with the provisions of the zoning ordinance, the sign shall be deemed to be a nuisance and may be abated by the city under M.S. Ch. 429. The cost of such abatement, including administrative expenses and reasonable attorneys' fees, may be levied as a special assessment against the property upon which the sign is located.

(Ord. 08-015, passed 7-21-2009)

### § 151.117 GENERAL STANDARDS.

- (A) Abandoned signs. Abandoned signs shall be removed.
- (B) Building identification. A building address, date of construction, commemorative tablet, and the like; shall not count towards the overall permitted signage on a building or parcel. All forms of building identification, except for the building address, shall be cut into a masonry surface or be constructed of bronze or other incombustible material.
- (C) Building official review. No sign shall be attached to or be allowed to hang from any building until all necessary wall and roof attachments have been approved by the City Building Official.
- (D) Changeable copy signs. A changeable copy sign, such as a reader board, may he integrated into an allowable sign subject to the following restrictions:
  - (1) The message conveyed by the sign face shall not blink, flash, scroll or be so animated as to be deemed a distraction to passing motorists;
- (2) Copy on the sign shall not change more than once per day on average (except for time, temperature, and price information which must change when necessary for accuracy);
  - (3) Characters and backgrounds depicted on a changeable copy sign shall not use florescent coloring; and
- (4) All changeable copy sign faces shall be limited to a maximum of 25 square feet in sign area, or the maximum size of the type of sign on which the face is placed, whichever is less.
  - (E) Flags. No more than 3 flags may be displayed on any given parcel. Individual flags shall not exceed 50 square feet in size per surface.
  - (F) Illumination.
    - (1) Illumination of signs shall comply with Chapter 150 code requirements governing lighting, glare control, and exterior lighting standards.
- (2) Indirect illumination for signs shall be so constructed and maintained that the source of light (i.e. the bulb; not the fixture) is not visible from the public right-of-way or residential property.
  - (3) Back-lit awnings are prohibited.
- (G) *Ingress or egress*. No sign or structure shall be erected or maintained if it prevents free ingress or egress from any door, window, or fire escape. No sign or sign structure shall be attached to a standpipe or fire escape.
- (H) Landscaping. Sign owners shall be required to maintain the appearance of the ground around all signs detached from buildings and to landscape where possible.
- (I) Master sign program. A master sign program shall be reviewed and approved for all multi-tenant commercial buildings and for all business park development to coordinate all signage for current and future tenants. The master sign program shall be reviewed as a permanent sign permit, but shall only authorize the general locations and sizes of signs to be erected within a development or on a multi-tenant building. Individual permanent sign permits shall still be needed for the placement of permanent signs in accordance with an approved master sign program. Master sign programs shall be subject to the following requirements:
- (1) A Master sign program shall include a to-scale site plan which identifies the overall sign types, sizes, and locations for all proposed signage on the site(s). The site plan shall not contain the names of any current or future tenants or occupants of the center or overall development;
- (2) The master sign program shall include a calculation of allowable sign square footage for the site(s) based on applicable zoning requirements and lot characteristics:
- (3) The master sign program shall include square footage calculations for individual signs proposed for the site(s), along with a total sign square footage area calculation;
  - (4) All signs within a master sign program shall be visually consistent in location, design, and scale; and
- (5) The master sign program may be reviewed concurrently with, a separate permanent sign permit for the individual sign(s) identified in the master sign program. The separate permanent sign permit shall include all information required by § 151.116(A)(1), and may only be approved if the master sign program is approved.
  - (J) Multi-tenant buildings.
    - (1) Multi-tenant buildings are herein considered a single commercial establishment, and shall be limited to 1 freestanding sign amongst all

planned/allowed signage subject to the following requirements:

- (a) If the multi-tenant commercial building has a floor area of 40,000 square feet or less, the sign shall not exceed 40 square feet (per side) and shall not exceed 8 feet in height;
- (b) If a multiple tenant commercial building has a floor area greater than 40,000 square feet but less than 100,000 square feet, the sign shall not exceed 75 square feet (per side) and shall not exceed 9 feet in height; and
- (c) If a multiple tenant commercial building has a floor area of greater than 100,000 square feet, the sign shall not exceed 120 square feet (per side) and shall not exceed 15 feet in height.
- (2) Where a building, group of attached buildings on the same block, or center contains more than one business, the allowable sign area for any single business may be its portion of the gross square footage of the building or center applied as a percentage to the allowable sign area of the entire building or center, subject to size limitations for specific signs within an approved master sign program.
- (K) *Neighborhood identification signs.* Independent of the total allowable sign area for individual residences within a residential zoning district, 2 ground signs for a unified residential area with 6 or more lots may be allowed consistent with the following provisions:

### (1) New subdivisions:

- (a) Neighborhood identification sign(s) shall be approved as a component of a preliminary and final plat to be included as part of a new subdivision;
- (b) Each sign shall be single sided, not exceed a total of 24 square feet in sign area, and not exceed a total of 48 square feet inclusive of poles, bases, and other supports;
- (c) Signs are to be located on outlots of sufficient size and area to accommodate them or within a dedicated permanent sign easement. A homeowners or neighborhood association is required for the area identified by the signs which shall own and be responsible for the upkeep, perpetual maintenance, taxes, insurance, utilities, and other costs associated with the sign(s) and their property. The association rules or by-laws shall specify how the aforementioned sign responsibilities will be delegated and paid for. City staff shall review the proposed bylaws to ensure that they specify the aforementioned responsibilities;
- (d) Outlots or easements for signs are to be considered and planned for at the time of preliminary plat application and shall be included in the final plat. A developers agreement shall specify the designated use of the outlot or easements, its ownership, and the respective home owners association responsibilities regarding the proposed improvements;
- (e) Only indirect lighting of neighborhood identification may be approved. The electric costs and maintenance of such lighting shall be the responsibility of the homeowners association or neighborhood association of the area identified by the sign(s) and shall be clearly noted in the association's rules or bylaws;
- (f) The area around the sign is to be landscaped and maintained in such a manner to accent and enhance the sign while remaining sensitive to the natural features of the site. Detailed site and landscape plans shall be included with each sign permit application and shall be subject to review by the Planning Commission and City Council at the time of preliminary plat;
- (g) The design and construction of neighborhood area identification signs shall be done with the highest quality materials and workmanship to keep maintenance and upkeep costs to a minimum and to minimize the potential for vandalism. Neighborhood area identification signs are to be aesthetically pleasing when designed and constructed. The signs shall be compatible with nearby or potential homes and other structures in the area. Detailed construction plans and a materials list shall be included with the preliminary plat application; and
- (h) The city reserves the right to require the removal, at the owner's expense, of any sign when the requirements of this section and this subchapter are not completely followed and adhered to or if the sign is not properly maintained or falls into a state of disrepair. The city shall not have any obligation or liability to replace any sign or nearby landscaping when removed by the city.
- (2) Existing unified residential areas: A neighborhood identification sign may be allowed by conditional use permit for existing unified residential areas. If no outlots or easements were originally designated for signs, the plat may be amended to provide for such a proposal and shall meet the same criteria and requirements as set forth for new subdivisions.
- (L) Non-commercial speech signs. Notwithstanding any other provisions of this subchapter, all signs of any size containing non-commercial speech may be posted from August 1 in any general election year until 10 days following the general election and 13 weeks prior to any special election until 10 days following the special election.
- (M) Private on-premises directional signs. Signs located on, above or beside entrances or exits to buildings or driveways which direct pedestrians or vehicles (e.g. "employees entrance," "exit only," "rest rooms," and the like) shall not count towards the overall permitted signage on a site provided such signs are no more than 4 square feet in area.

- (N) Prohibited signs. The following signs are prohibited in all zoning districts.
- (1) Signs obstructing vision. Any sign which obstructs the vision of drivers or pedestrians or detracts from the visibility of any official traffic-control device. This includes indoor signs that are visible from public streets.
- (2) Unofficial traffic signs or signals. Any sign which contains or imitates an official traffic sign or signal, except for private, on-premises directional signs which do not interfere with traffic flows on public roads.
  - (3) Off-premises advertising signs. Off-premises advertising signs except as specifically allowed.
- (4) Signs with moving parts, moving lighting or animation. No sign shall display any moving parts, be illuminated with any flashing or intermittent lights, use changing light intensity, utilize spotlights giving off an intermittent or rotating beam existing as a collection or concentration of rays of light (including but not limited to revolving beacons, beamed lights, or similar devices), or be animated. The only exceptions to this provision include allowable changeable copy signs; barbershop poles; and static time, temperature, and price information changing only when necessary (which shall be allowed provided the message depicted is reasonably accurate).
  - (5) Roof signs.
- (6) Banners, pennants, ribbons, streamers. No sign which contains or consists of banners, pennants, ribbons, streamers, string of light bulbs, spinners, or similar devices; except when used for non-commercial purposes, as a governmental sign, or as part of an approved master sign program or special event temporary sign permit.
- (7) Portable signs. Including but not limited to signs with wheels removed, attached temporarily or permanently to the ground, structure or other signs, mounted on a vehicle for advertising purposes, parked and visible from the public right-of-way, hot air or gas filled balloons or semitruck umbrellas used for advertising. This prohibition shall not include business vehicle identification signs when the vehicle is being used for the normal day-to-day operations of a permitted business.
  - (8) Signs supported by a guy wire.
  - (9) Billboards.
  - (10) Electronic variable message signs.
- (11) Signs on natural surfaces. No sign shall be painted, attached or in any other manner affixed to trees, rocks, or similar naturally occurring surfaces within the City of Lake Elmo. This shall not prohibit the use of natural building materials (e.g. boulders) in the construction of a legally permitted sign.
  - (12) Snipe signs.
- (O) Public lands and rights-of-way. No signs other than governmental signs shall be erected or temporarily placed within any street right-of-way or upon public lands or easements or rights-of-ways without Council approval.
  - (P) Regulations for specific sign types.
    - (1) Wall signs.
- (a) A wall sign shall be located on the outermost wall of any principal building but shall not project more than 16 inches from the wall to which the sign is to be affixed.
  - (b) A wall sign shall not project higher than the parapet line of the wall to which the sign is to be affixed.
- (c) Wall signs authorized by a master sign program shall not exceed 25 square feet per business, and all signs shall be visually consistent in location, design, and scale.
- (d) Wall signs may be placed on not more than three walls of rectangular shaped structures or not more than 75% of the major walls on non-rectangular shaped buildings.
  - (2) Mural sign.
- (a) Mural signs shall not be limited in size, but any commercial or noncommercial language incorporated into the mural sign shall be limited in size by the restrictions established for the applicable zoning district.
  - (b) In addition to the standard conditional use criteria in § 154.018, mural signs shall also be subject to the following:
    - 1. The location for the proposed mural sign shall be viewable by the public and be accessible;

- 2. The scale and suitability of the mural sign shall be appropriate in the context of the surrounding properties;
- 3. The artist(s) commissioned to complete the mural must provide documentation of demonstrated craftsmanship on similar projects:
- 4. The applicant shall provide sureties to the city guaranteeing completion of the project within the proposed timeframe;
- 5. The applicant shall demonstrate that the necessary funds are available for the proposed project; and
- 6. The applicant must be able to show the final mural will last a minimum of 5 years and be reasonably resistant to vandalism and weather.
  - (3) Projecting, awning, and canopy signs.
    - (a) Projecting signs and awning signs shall be located on street level.
    - (b) If lighted, projecting, awning, and canopy signs shall use indirect illumination.
    - (c) Awning or canopy signs shall not project higher than the top of the awning or canopy or below the awning or canopy.
- (d) Clearance. The bottom of a projecting sign or awning shall be a minimum of 8 feet above the ground surface when projecting over a private or public walkway.
  - (4) Freestanding signs. Freestanding signs shall not be erected or maintained any closer than 3 feet to any building.
- (Q) Separation angle. So as not to create a double exposure or increase sign size limitations, there shall be a maximum separation angle of 45 degrees for signs which are back to back. In all residential districts, double-faced signs shall be parallel.
- (R) Signs needing electricity. Signs needing electricity shall be subject to all applicable electrical codes as may be amended. Overhead wiring for such signs is prohibited.
- (S) Special sign districts. All general sign regulations shall apply to signs within each of the special sign districts except as specifically noted herein.
  - (1) Old Village.
- (a) Boundary. The boundary of the Old Village Sign District is depicted on the city's official sign district map. Modifications to the district boundary may be completed using the zoning map amendment process.
- (b) *Illumination*. Indirect illumination or reverse lit letters shall be the permitted techniques for lighting all signs within the Old Village Sign District. Other forms of direct illumination are prohibited.
  - (c) Wall signs.
- 1. Wall signs in the Old Village Sign District shall not project higher than the parapet line of the wall to which the sign is to be affixed or 15 feet as measured from the base of the building wall to which the sign is affixed, whichever is lower.
- 2. Wall signs in the Old Village Sign District authorized by a master sign program shall not exceed 20 square feet per business, and all signs shall be visually consistent in location, design, and scale.
  - (d) Freestanding signs.
    - 1. The area of a freestanding sign in the Old Village Sign District shall not exceed 30 square feet.
- 2. Freestanding signs in the Old Village Sign District shall not project higher than 6 feet, as measured from the average grade at the base of the sign or grade of the nearest roadway, whichever is lower.
  - (2) Agricultural Sales District.
    - (a) Boundary. The Agricultural Sales District shall include all properties zoned agricultural or rural residential.
- (b) On-premises sign(s). Independent of the total allowable sign area for an individual property within the agricultural sales district, one or more additional on-premises signs may be erected on a property in conjunction with an operating agricultural sales business subject to the following requirements and restrictions:
- 1. Agricultural sales businesses utilizing less than 10 acres of land specifically for the growing of agricultural crops for the business are allowed 1 on-premises sign not to exceed 32 gross square feet of advertising surface;

- 2. Agricultural sales businesses utilizing more than 10 acres of land but less than 40 acres of land specifically for the growing of agricultural crops for the business are allowed 1 or 2 on-premises signs not to exceed 48 gross square feet of advertising surface (with no sign surface exceeding 32 square feet in size);
- 3. Agricultural sales businesses utilizing more than 40 acres of land specifically for the growing of agricultural crops for the business are allowed 1, 2 or 3 on-premises signs not to exceed 64 gross square feet of advertising surface (with no sign surface exceeding 32 square feet in size);
  - 4. Sign(s) shall be in the form of an allowable sign type in the underlying zoning district;
  - 5. No dimension of any sign shall exceed 15 feet exclusive of supporting structures; and
  - 6. Any illuminated sign shall be illuminated only during those hours when business is open to the public for conducting business.
- (c) Temporary off-premises sign(s). Independent of the total allowable sign area for an individual property anywhere within the city, a temporary off-premises sign may be erected on a property in conjunction with an operating agricultural sales business subject to the following requirements and restrictions.
- 1. *Maximum number*. Every agricultural sales business shall have no more than 2 off-premises signs at any given time to direct the public to the location of the business.
- 2. *Time frame of use*. Temporary off-premises signs may be erected for 45-day time periods no more than 4 times in any given calendar year. The required temporary sign permit shall stipulate the range of dates for each of the 4 allowable time periods in any given calendar year.
- 3. Size and height. An off-site agricultural sales advertising sign shall not exceed 50 square feet in area and shall not be taller than 10 feet in height.
- 4. Setbacks. Off-premises signs shall be a minimum of 25 feet from all side property lines, and a minimum of 50 feet from other off-premises advertising signs.
- 5. *Permission required.* Applicants for off-premises signs shall acquire permission from the property owner upon whose land the sign is to be erected.
  - (3) *I-94 District*.
- (a) Boundary. The I-94 district shall include parcels within the BP, GB, HB. CB, and LB zoning districts which meet one of the following criteria:
  - 1. The property is a buildable lot located to the south of Hudson Boulevard and to the north of Interstate 94; or
- 2. The property's southern boarder abuts Hudson Boulevard, and is not directly north, either wholly or partially, of a developable parcel lying between Hudson Boulevard and Interstate 94.
- (b) *Permits*. Signs in the I-94 District may be erected in conformance with sign regulations governing the underlying zoning district without additional approvals. Signs proposed to conform to the special standards established for the I-94 District shall only be authorized through approval of an interim use permit.
- (c) *Illumination*. All forms of illumination which conform to the general illumination standards for all signs shall be the permitted within the I-94 Sign District.
- (d) Maximum total square footage of all sign surfaces. The maximum total square footage of all sign surfaces in the I-94 district shall be dictated by the maximum sign sizes for allowable sign types.
  - (e) Wall signs. The least restrictive of the following may be used to determine the allowable area for wall signs in the I-94 District:
- 1. The total area of all wall signs on any wall shall not exceed 10% of the area of the wall with a maximum allowable area of 80 square feet; or
- 2. The total area of all wall signs on any wall shall not exceed 5% of the area of the wall with a maximum allowable area of 300 square feet.
- (f) Freestanding signs. In lieu of a freestanding sign meeting underlying zoning requirements, a building site within the I-94 District may have one freestanding sign within 50 feet of the property line nearest the interstate provided the sign does not exceed 150 square feet per side (300 square feet total) or 30 feet in height. The base of such a sign shall be at least 75% of the width of the sign and be constructed of materials that match those used on the building for which the sign is installed.

- (g) Window signs. Window signs in the I-94 district shall not cover more than 1/3 of the window area.
- (h) Awning, canopy, and projecting signs. One awning, canopy or projecting sign, in conformance with the underlying zoning requirements for height, location, and maximum size may also be erected for each business on a building site in the I-94 District.
- (T) Substitution clause. The owner of any sign which is otherwise allowed by this subchapter may substitute non-commercial speech signs in lieu of any other commercial speech sign or other non-commercial speech sign. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or favoring of any particular noncommercial speech over any other noncommercial speech. This provision prevails over any more specific provision to the contrary.
  - (U) Temporary signs.
- (1) Special events. Temporary signs may be allowed upon issuance of a permit for on-site advertising of special events such as openings and closings, change in management, sales events, or other special occasions. No more than 4 temporary sign permits may be issued in any calendar year for a given destination, and each temporary sign permit shall run for 15 days. Temporary signs for special events shall be subject to the following regulations:
  - (a) Only 1 on-premises temporary sign shall be allowed per business or event;
  - (b) Temporary signs shall be in the form, of an allowable sign type in the underlying zoning district; and
  - (c) Temporary signs shall not exceed 32 square feet in area and shall not be taller than 10 feet in height.
- (2) Residential development advertising signs. Independent of the total allowable sign area for individual properties or residences within a residential zoning district, one or more additional ground signs may be erected within a newly established unified residential area development subject to the following:
  - (a) Minimum development size.
- 1. Projects of less than 25 acres which create 10 or more dwelling units are allowed 1 on-premises ground sign not to exceed 100 square feet of advertising surface;
- 2. Projects of 26 through 50 acres which create 10 or more dwelling units are allowed 1 or 2 on-premises ground signs not to exceed 200 aggregate square feet of advertising surface on the project site; and
- 3. Projects over 50 acres which create ten or more dwelling units are allowed 1, 2, or 3 on-premises ground signs not to exceed 200 aggregate square feet of advertising surface on the project site.
  - (b) Restrictions.
    - 1. No dimension shall exceed 25 feet exclusive of supporting structures.
    - 2. The sign shall not remain once 90% of the lots in the development have been issued building permits.
    - 3. The permit for the sign must be renewed annually by the Council.
- 4. Only indirect illumination is permitted and shall only occur during those hours when an on-site sales office or model home is open for conducting business.
  - (3) Temporary off-premises signs. Temporary off-premises signs may be erected if all of the following criteria are met:
    - (a) The destination to which the off-premises sign is advertising is a property for sale;
    - (b) An agent must be present at the destination property for sale, and the property must be open for viewing;
- (c) The sign must be located on private property, and permission must have been obtained from the private property owner to erect the temporary sign;
  - (d) The temporary off-premises sign shall not exceed 6 square feet in size; and
- (e) The temporary off-premises sign shall not cause the total square feet of signage on a property to exceed the allowed maximum in the underlying zoning district.
- (V) Warning signs. Warning signs which do not exceed the minimum statutory requirements for size and number may be posted, and shall not count towards the overall permitted signage on a given property. Increases in either size or number over minimum statutory requirements shall count

against the overall permitted signage on a given property unless authorized by conditional use permit which finds sufficient evidence that larger or more frequent signage is necessary to provide the intended warning.

(Ord. 08-015, passed 7-21-2009)

# § 151.118 SPECIFIC REGULATIONS BY ZONING DISTRICT.

(A) Sign setbacks. Signs shall conform to the set back regulations listed in Table 1 for the zoning district in which the signs are located except as may be specifically exempted or restricted in §§ 151.117 and 151.118.

Table 1: SETBACKS BY ZONING DISTRICT [1]														
	Base Zoning Districts													
	A	RR	R1	R2	R3	R4	RE	OP	GB	НВ	СВ	LB	BP [2]	PF
Front lot line	5	5	5	5	5	5	5	5	1	1	1	1	1	5
Side lot line	5	5	5	5	5	5	5	5	5	5	5	5	5	5
Rear lot line	5	5	5	5	5	5	5	5	10	10	10	10	10	5
Vehicular access	5	5	5	5	5	5	5	5	15	15	15	15	15	5

<sup>[1]:</sup> Awning/canopy signs, mural signs, projecting signs, wall signs, or window signs proposed to be located on a building legally non-conforming to setback requirements shall be permitted without a variance provided all other zoning code provisions are met.

(B) *Allowable sign area*. The maximum allowable sign area for an individual sign and for total site signage is listed in Table 2 by zoning district. These maximums shall apply except as may be specifically exempted or restricted in §§ 151.117 and 151.118.

District(s)	Maximum sign area in square feet (per surface) by sign type [1]											
	Awning/ Canopy Sign	Ground Sign [2]	Monument Sign[2]	Mural Sign	Pole Sign[2]	Projecting Sign	Wall Sign	Window Sign	Maximum total square footage of all sign surfaces			
A, RR, R1, R2, RE, OP[3]		6		С	6		6	6	12 square feet			
R3 & R4 [3]		12		С	12		12	12	24 square feet			
Table 2: ALLO	WABLE SIGN A	REA BY Z	ONING DISTI	RICT								
	Maximum sign	n area in sq	uare feet (per s	surface) by	sign type [1]							
District(s)	Awning/ Canopy Sign	Ground Sign [2]	Monument Sign[2]	Mural Sign	Pole Sign[2]	Projecting Sign	Wall Sign	Window Sign	Maximum total square footage of all sign surfaces			

<sup>[2]:</sup> Signs within business parks shall also adhere to the requirements of a master sign program approved by the City Council in conjunction with the business park establishment.

GB, HB, CB, LB,									1.0 square foot
BP, & PF									per lineal foot of
·									building parallel or
									substantially
									parallel to public
									road frontage
	F 4 3	20	4.5	C	20		rea	NT.	(excluding alleys).
	[4]	30	45	C	30	6	[5]	No max	[6]
	[4]	30	45	C	30	6	[5]	No max	[6]

- [1]: Sign types with empty cells are prohibited in the applicable zoning district(s). Sign types with a maximum sign area of "C" shall require a conditional use permit.
- [2]: Ground, monument, or pole signs, where permitted, shall be limited to 1 per commercial establishment.
- [3]: All sign types in residential districts shall have no more than 2 surfaces.
- [4]: The gross surface of an awning or canopy sign shall not exceed 30% of the gross surface area of the smallest face of the awning or canopy of which the sign is to be affixed.
- [5]: On any wall parallel or substantially parallel to a public roadway, the gross surface area of a wall sign shall not exceed 0.75 square feet for each lineal foot of building facing the applicable roadway. For walls not facing a public roadway, the maximum wall sign size shall be 12 square feet.
- [6]: Open sales lots or other approved uses on lots without a building shall be limited to 30 square feet of total sign surfaces.
- (C) Freestanding sign height. The maximum allowable sign height for a freestanding sign is listed in Table 3 by zoning district. These maximums shall apply except as may be specifically exempted or restricted in §§ 151.117 and 151.118.

	Base Zon	ing D	istrict	s										
	Residential Districts								Business Districts					
	A	RR	R1	R2	R3	R4	RE	OP	GB	НВ	СВ	LB	BP	PF
Allowable height in feet	5	5	5	5	8	8	5	5	20	20	20	20	20	20

(Ord. 08-015, passed 7-21-2009)

### § 151.119 SIGN VARIANCES.

- (A) Variances from sign provisions shall be administered in accordance with § 154.017, and shall be subject to the following additional requirements:
  - (1) The sign(s) shall be compatible with the character of the adjacent buildings and with the character of the adjacent neighborhood;
  - (2) The sign(s) shall have good scale and proportion in the visual relationship to buildings and adjacent areas;
  - (3) The material, size, color, lettering, location, and arrangement of the sign(s) is an integral part of the site and building design; and/or
  - (B) The colors, materials, and lighting of the sign(s) are restrained and harmonious, as interpreted by the City Planner.

(Ord. 08-015, passed, 7-21-2009)

#### Dis claimer:

This Code of Ordinances and/or any other documents that appear on this site may not reflect the most current legislation adopted by the Municipality. American Legal Publishing Corporation provides these documents for informational purposes only. These documents should not be relied upon as the definitive authority for local legislation. Additionally, the formatting and pagination of the posted documents varies from the formatting and pagination of the official copy. The official printed copy of a Code of Ordinances should be consulted prior to any action being taken.

For further information regarding the official version of any of this Code of Ordinances or other documents posted on this site, please contact the Municipality directly or contact American Legal Publishing toll-free at 800-445-5588.

© 2011 American Legal Publishing Corporation techsupport@amlegal.com 1.800.445.5588.



Planning Commission

Date: 5/13/13 Business Item

Item: 6b

ITEM: Zoning Ordinance Update – Review of Article 3 Zoning Administration and

**Enforcement Draft** 

REQUESTED BY: Planning Department

SUBMITTED BY: Kyle Klatt, Planning Director

REVIEWED BY: Nick Johnson, City Planner

Rick Chase, Building Official

### SUMMARY AND ACTION REQUESTED:

The Planning Commission is being asked to review a preliminary draft of Article 3 – Zoning Administration and Enforcement, which is proposed to take the place of the existing sections of the Zoning Ordinance that deal with similar provisions. The portions of the current Zoning that would be replaced are Sections 151.015 through 151.021. Staff is recommending that the Commission review the proposed document and provide any comments and direction to Staff prior to a public hearing on the proposed amendments.

# ADDITIONAL INFORMATION:

The proposed revisions deal with elements of the Zoning Ordinance that establish how the ordinance will be administered, and includes the following components:

- Identifying the City staff will be responsible for issuing permits, enforcing the code, keeping records, processing applications, and performing other administrative duties related to the ordinance.
- Describing the application and review process that now includes a unified list of application requirements that may be referenced for each type of permit rather than maintaining a separate list for each unique permit.
- Providing a unified hearing review process that also may be referenced for each type of permit that requires a public hearing.
- Identifying and describing all permits that are required under the Zoning Ordinance. Staff is recommending a new permit category called "Certificate of Compliance" to regulate uses that are not subject to review by the Planning Commission or Council but that should be reviewed for conformance with the City Code. Staff is also recommending that the Ordinance describe the design review process associated with the Lake Elmo Design Standards Manual (which is pending formal approval by the City).
- Describing the process for handling enforcement of the ordinance.

At this time, Staff does need to spend a little more time making adjustments to the Interim Use provisions to improve the consistency of this section with the other portions of the ordinance. Additionally, Staff would like to further review the Violations and Enforcement section to ensure that these provisions do not conflict with the "Penalties" section of the City Code (Section 10.99). These revisions will be incorporated into the ordinance for review at the public hearing.

Staff will review the entire ordinance in greater detail with the Planning Commission at the workshop.

# **RECOMMENDATION:**

Staff recommends that the Planning Commission review the proposed amendments to Article 3 – Zoning Administration and Enforcement and provide any comments and feedback to Staff at the meeting.

# **ATTACHMENTS (1):**

1. Draft Article 3 – Zoning Administration and Enforcement

## ARTICLE 3 ZONING ADMINISTRATION AND ENFORCEMENT

§154.100	Director of Planning
§154.101	Applications Review Process
§154.102	Public Hearing Requirements
§154.103	Permits, Certificates and Licenses
§154.104	Planning Commission
§154.105	Zoning Amendments
§154.106	Conditional Use Permits
§154.107	Interim Use Permits
§154.108	Appeals and the Board of Adjustment
§154.109	Variances
§154.110	Violations and Enforcement

## § 154.100 Director of Planning

The City Council shall appoint a Director of Planning. The Director of Planning, or his/her designated agent, shall enforce this chapter and shall perform the following duties:

- A. *Permits.* Issue zoning permits pertaining to the zoning ordinance and make and maintain records thereof:
- B. *Inspections*. Conduct inspections of buildings and use of land to determine compliance with the terms of this chapter;
- C. Records. Coordinate with the City Clerk to maintain permanent and current records of this chapter, including but not limited to: all maps, amendments and conditional uses, variances, appeals and applications therefore;
- D. Applications. Receive, file and forward all applications for appeals, variances, conditional uses or other matters to the designated official bodies;
- E. *Interpretation.* Interpret the provisions of this chapter and related provisions of the City Code, including determinations of Zoning Use Types and Classifications as specified in §154.012.
- F. *Enforcement*. Institute in the name of the City any appropriate actions or proceedings to enforce this chapter;
- G. Work Program. Recommend a program of work pursuant to Section §32.032 of the City Code to the Planning Commission prior to the beginning of each calendar year and at such other times as the Planning Commission may request.
- H. Reporting. Submit a yearly report to the Planning Commission in January of each year summarizing the activities of the Planning Department during the previous year, including information related to housing, public infrastructure, City facilities, industrial and commercial development, enforcement actions, and other such information as the Director of Planning deems relevant. This report should also include any recommended changes to the Comprehensive Plan or various land use ordinances.
- I. Planning Commission. Serve as an ex-officio, non-voting member of the Planning Commission.

# § 154.101 Applications and Review Process.

- A. Application Form and Fee. The following general provisions apply to all applications required under this chapter.
  - 1. Application form. All applications for any site plan, conditional use permit, zoning verification, variance, or for any other City approval required by this chapter, or to amend this chapter, shall be made in writing on a form provided by the city, to the Director of Planning.

- a. Information required. Every application shall contain the legal description of the property and a statement of the specific permit or action being sought. In addition, the Planning Department shall develop a list of other information required for each type of permit. The information list shall be attached to the application form. Nothing in this section shall be deemed to prevent the city from requesting additional information from the applicant upon which to base a decision.
  - i. *Grading*. If grading or stormwater management is proposed, grading or stormwater management plans meeting the requirements of the Lake Elmo City Code shall be submitted with the application.
- 2. Fee. The application shall be accompanied by the required fee as established by resolution of the City Council. If a dispute arises over a specific fee imposed by the city, the amount of the fee must be deposited and held in escrow, and the person aggrieved by the fee may appeal to district court, as provided by M. S. 462.361 (judicial review), as it may be amended from time to time. The application shall proceed as if the fee had been paid, pending a decision of the court.

# B. Application requirements.

- 1. *Submission materials*. Submission materials for applications required under this chapter shall include the following specific information:
  - a. Site plan drawn to scale showing parcel and building dimensions.
  - b. Location of all buildings and their size, including square footage.
  - c. Curb cuts, driveways, access roads, parking spaces, off-street loading areas, and sidewalks.
  - d. Landscape plans meeting the requirements of Section 155.89 of Article 6 of this Zoning Ordinance.
  - e. Grading and Erosion Control Plans meeting the requirements of §150.270 through §150.284, §151.017, and §151.027 of the City Code.
  - f. Type or types of business or activity and proposed number of employees.
  - g. Proposed floor plan of any building with use indicated.
  - h. Building elevation drawings of any new construction or building renovation proposed.
  - i. The Director of Planning may require that the applicant supply proof of ownership of the property for which a permit is requested.
  - j. The Director of Planning may require traffic generation information to determine the adequacy of existing transportation infrastructure.
  - k. Such other information as may be required by the Director of Planning, Planning Commission or City Council.
- 2. Waiver of submission materials. The Director of Planning may waive certain submission requirements for projects that will have a minimal impact on surrounding properties or in instances when said submission requirements are impractical given the nature of the proposed development.
- C. State established time limit for final action. The City shall comply with the time limits as established by Minnesota Statute 15.99 (time deadline for agency action), as it may be amended from time to time, with regards to taking action on any applications subject to said Statute.

## § 154.102 Public Hearing Requirements

This section contains requirements for public hearings held by the Planning Commission, Board of Adjustment or City Council under this Ordinance.

- A. *Notification of general public.* The Director of Planning shall set the date for a public hearing and shall have notices of such hearing published in the legal newspaper at least once, and not less than ten days prior to the hearing.
- B. Notification of surrounding property owners. For any application for which a public hearing is required, the Director of Planning shall notify all property owners within the affected zone and within three hundred and fifty feet (350') of the outer boundaries of the property in guestion.
  - 1. Failure of any property owner to receive such notification shall not invalidate the proceedings.
  - 2. The City Council may waive the mailed notice requirements for a city-wide amendment to the zoning ordinance initiated by the Planning Commission or City Council.

# C. Hearing Procedures

- Public Hearings conducted by the Planning Commission, City Council, and Board of Adjustment.
  - a. The Director of Planning or his/her representative shall summarize the application and any associated information.
  - b. The applicant shall be allowed to summarize the request and call any witnesses to support his/her request.
  - c. The public shall be allowed to make statements concerning the request subject to reasonable limits that may be set by the body conducting the hearing.
  - d. The Planning Commission, City Council and Board of Adjustment may establish other procedures as needed to ensure due process for those parties involved with the hearing.
- 2. Appeal Hearings. The Board of Adjustment shall hold a hearing and make a decision on any appeal submitted in accordance with §154.108 of this Article. The Board of Adjustment shall establish rules for due process during appeal hearings and any party to the appeal may appear at the hearing in person or by agent or attorney. At a minimum, the following hearing procedure will be followed:
  - a. Appellant shall present a case and may call any witnesses necessary in support thereof;
  - b. Respondent may ask questions of appellant's witnesses;
  - c. Respondent may call witnesses;
  - d. Appellant may ask questions of respondent's witnesses;
  - e. Respondent may summarize his or her position;
  - f. Appellant may summarize his or her position;
  - g. Generally, the Minnesota District Court Rules of Civil Procedure shall apply for the conduct of the hearing.

## § 154.103 Permits, Certificates and Licenses

# A. Building permits.

1. Compliance. A building permit is required for the construction or structural alteration of a building or any part thereof. Other construction activity may require a permit in accordance with the Minnesota State Building Code. Demolition, wrecking or removal of any structure shall require a demolition or moving permit. No building permit shall be issued for any construction, enlargement, alteration or repair, demolition or moving of any building or structure on any lot or parcel until all requirements of the Minnesota State

- Building Code as adopted by the City of Lake Elmo pursuant to Chapter 151, Title XV of the City Code have been fully met.
- 2. Concurrent applications. If the proposed development requires a zoning amendment, variance or conditional use permit, or other permit required under this Article, the applicant shall secure all required permits prior to the issuance of a building permit for said development.
- 3. Administrative review of permits for existing platted lots. If the proposed development does not involve a zoning amendment, variance or conditional use permit, and proposes a use, structure or expansion of an existing structure on an existing platted lot, the Director of Planning may review the application and authorize the Building Official to approve or to deny the permit.
- 4. *Expiration*. Any building permit issued by the city shall expire and by limitation be null and void if a certificate of occupancy and final completion has not been issued within the following applicable period of time after the date of permit issuance:
  - Single-family residential dwellings, including new construction, remodeling or additions: 12 months:
  - b. Multi-family and nonresidential construction: 12 months unless a longer time is specified by the City Council at the time the original permit is issued;
  - c. Extension. The Building Official may grant an extension prior to the expiration of any building permits in accordance with the Minnesota State Building Code. An expired building permit may be reissued once, by the Building Official, for one-half the original permit fee. Thereafter, if the permitted work is not completed within the applicable time period, a new permit may be issued only upon such conditions as the City Council by resolution may prescribe, including financial guarantees to guarantee completion by a specified date.
  - d. Time limitations for exterior work. All exterior work shall be completed as follows:
    - i. All disturbed and exposed ground shall be covered with landscaping in accordance with §150.070 through §150.078 of the City Code.
    - ii. All exterior construction, including siding, roofing, doors, windows and finish shall be completed and present a finished appearance within 6 months of the start of construction. Tar paper, unfinished plywood, fiberboard insulation, foam insulation, brown coat or scratch coat of stucco, plastic sheeting and other similar materials not designed to be an exterior finish shall not be considered an acceptable exterior finish;
    - iii. Failure to complete exterior work as required herein shall result in suspension of the existing permit until a reinstatement fee equal to 100% of the original building permit has been made. Reinstatement of a building permit does not extend the original term of the permit. The reinstatement fee shall also be paid prior to reissuance of any subsequent permit for exterior work that was not completed under a prior permit that expired.
- B. Certificate of zoning compliance. A certificate of zoning compliance is a zoning permit that is intended as a means of administratively reviewing a new use, change in use, or structural change that does not require a building permit.
  - 1. When required. A certificate of zoning compliance is required for the following activities:
    - a. A new use classification within an existing building or structure;
    - b. A change of use classification within an existing building or structure;
    - c. Addition, removal or change in parking or other on-site improvements;
    - d. Small accessory structures that do not require a building permit;

- e. Home occupations;
- f. Swimming pools;
- g. Antennas, including amateur radio antennas and wireless communications facilities that meet the criteria for administrative review in §150.111(C);
- h. Fences less than six feet in height;
- i. Driveways that are not authorized as part of an approved building permit;
- j. Stormwater management activities and structures not otherwise permitted as part of a development application;
- Other situations requiring additional review or interpretation, as specified elsewhere in this Ordinance.
- 2. Expiration of a certificate of zoning compliance. Where a certificate of zoning compliance use has been established and is discontinued for any reason for a period of one (1) year or longer, the certificate of zoning compliance shall become null and void.
- C. Certificate of Occupancy. No vacant land shall be occupied or used and no buildings hereafter erected, altered or moved shall be occupied until a certificate of occupancy has been issued by the Building Official. Such certificate shall show that the building or premises or part thereof and the use thereof are in conformity with the Minnesota State Building Code and the provisions of this chapter. Such certificate shall be issued only when the building or premises and the use thereof conform to all the requirements of the City Code.
- D. Sign permit. A sign permit shall be authorized for a sign that conforms to the sign regulations in \$154.212. An application, on a form provided by the Director of Planning, shall be submitted with the required fee by the owner of the proposed sign. The Director of Planning shall issue a sign permit if all of the regulations in \$154.212 are met.
- E. Special Event Permit. A special event permit may be issued for certain events for activities or events not otherwise permitted under the Zoning Ordinance in accordance with §110.070 of the City Code.
- F. Grading permit. A permit shall be required for all non-agricultural project(s) or activities that will result in the movement of more than fifty (50) cubic yards of earth or the disturbance of more than one-half acre of land, and for construction of a building or structure on steep slopes, as specified in Article 6, Section 155.84. The Director of Planning may issue a grading permit only if the grading plan meets the requirements of the Lake City Grading and Stormwater Management Handbook.
- G. Review of Design or Demolition. For certain development activity as specified in the Lake Elmo Design Standards Manual, design review is required as part of the approval process for a permit or certificate under this Ordinance. All projects subject to design review shall be reviewed for conformance with the Lake Elmo Design Standards Manual. Demolition review is also required prior to the demolition of structures in the VMX District as provided for in Article 11. A separate process for design review or demolition review is not established.
  - Review authority. Design review or demolition review shall be the responsibility of the
    individual or body authorizing the permit or certificate and shall be incorporated in the
    established review of the applicable permit or certificate. For those applications under
    this Ordinance that require review by the Planning Commission, the Planning Commission
    shall consider the standards in the Lake Elmo Design Standards Manual as part of its
    recommendation to the City Council.
  - 2. Review by professional. The authorizing body may request review by a design professional of the proposed design or demolition. The cost of review by such design professional shall be charged to the applicant, and shall not exceed \$1,000 unless otherwise agreed to by the applicant.

- 3. Development Activity Defined. Development Activity includes remodeling, altering, or repairing a structure in any manner that will change the exterior appearance of said structure. Development activity also includes the construction of new parking lots and installation of signage.
  - a. Exempt Activities. The following shall activities shall be exempt from review under this Section:
    - i. Ordinary repairs and maintenance that will not change the exterior appearance of a structure;
    - ii. Removal of existing signage without replacement unless said signs are an integral part of the building;
    - iii. Emergency repairs ordered by the Director of Planning in order to protect public health and safety;
    - iv. Exterior alteration, addition, or repair of a structure used as a single-family residence.
    - v. Temporary signage, installed in accordance with §154.212 of this Ordinance, or during which time an application for permanent signage is pending under this Ordinance;
    - vi. Maintenance of existing signage advertising an on-site business;
    - vii. Alterations only to the interior of a structure.
- 4. Demolition Review. The Planning Commission shall review any application for the demolition of structure within the VMX Village Mixed Use District in accordance with the standards of §154.506. No demolition permits shall be issued in the VMX District until this review has been completed.

# § 154.104 Planning Commission

The Planning Commission shall provide assistance to the City Council in the administration of this chapter. The recommendations of the Planning Commission shall be advisory in nature. Specifically, the Planning Commission shall review, hold public hearings and make recommendations to the City Council on all applications for zoning amendments, variances, and conditional use permits using the criteria of this Article. The Planning Commission shall be formed and operate in conformance with Chapter 32 of the City Code and specifically with Sections 32.025 through 30.042.

## § 154.105 Zoning Amendments

- A. Criteria for granting zoning amendments. The City Council may adopt amendments to the zoning ordinance and zoning map in relation to land uses within a particular district or to the location of a district line. Such amendments shall be used as a means to reflect changes in the goals and policies of the city as reflected in the Comprehensive Plan.
- B. Types of amendments.
  - 1. Rezoning. A change in the boundary of a zoning district or a change from one district to another on the Official Zoning Map, referred to as a rezoning.
  - 2. *Text amendment*. A change in the text for specific zoning district regulations or any other provision of this Chapter.
- C. *Initiation of proceedings*. Proceedings for a text amendment or a rezoning may be initiated by one of the following three methods:
  - 1. By petition of an owner or owners of property that is proposed to be rezoned or for which a text amendment for a change in a district regulation is proposed;
  - 2. By recommendation of the Planning Commission;

- 3. By action of the City Council.
- D. Application requirements for zoning amendments initiated by petition. A petition for a Zoning Amendment shall be submitted to the Director of Planning on such form as required by §154.101 of this Article and accompanied by the following information:
  - 1. Conceptual site plan drawn to scale showing all affected parcels and a general concept for any proposed development of said parcels.
  - 2. General location of all buildings and their approximate dimensions and square footage.
  - 3. Approximate location of all curb cuts, driveways, access roads, parking areas, off-street loading areas, and sidewalks.
  - 4. Conceptual landscape plan indicating general planting areas for trees, shrubs, and lawns.
  - 5. Conceptual grading, erosion control, and storm water management plan.
  - 6. Conceptual sewer and water utility plan for the development.
  - 7. Narrative indicating the types of uses or businesses that are contemplated for the development, number of employees, parking and traffic impacts, and other pertinent information about the proposed development.
  - 8. The Director of Planning may require the applicant to supply proof of ownership of the property for which the amendment is requested that illustrates legal or equitable interest in the property.
- E. Hearing requirements. The Planning Commission shall hold a public hearing on each complete application for a Zoning Amendment as provided in §154.102 of this Article. After the close of such hearing, the Planning Commission shall consider findings and shall submit the same together with its recommendation to the City Council.
- F. Effect of denial of application. No application of a property owner for an amendment to the text of this chapter or the zoning map shall be considered by the Planning Commission within the one year period following a denial of such request, except the Planning Commission may permit a new application, if in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it.
- G. Relationship to Comprehensive Plan. Any rezoning shall be consistent with the current City of Lake Elmo Comprehensive Land Use Plan. If the rezoning is not consistent with the current Comprehensive Plan, an amendment to the Comprehensive Plan must be requested and approved prior to or concurrent with the rezoning request.
- H. Coordination with adjoining communities. Any zoning district change on land adjacent to or across a public right-of-way from an adjoining community shall be referred to the Planning Commission and the adjacent community or county for review and comment prior to action by the City Council granting or denying the zoning district classification change. A period of at least ten (10) days shall be provided for receipt of comments. Such comments shall be considered as advisory only.

### § 154.106 Conditional Use Permits

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

- 4. The proposed use meets all specific development standards for such use listed in Article 7 of this Chapter.
- 5. If the proposed use is in a flood plain management or shoreland area, the proposed use meets all the specific standards for such use listed in Chapter 150, §150.250 through 150.257 (Shoreland Regulations) and Chapter 152 (Flood Plain Management).
- 6. The proposed use will be designed, constructed, operated and maintained so as to be compatible in appearance with the existing or intended character of the general vicinity and will not change the essential character of that area.
- 7. The proposed use will not be hazardous or disturbing to existing or future neighboring uses.
- 8. The proposed use will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, water and sewer systems and schools or will be served adequately by such facilities and services provided by the persons or agencies responsible for the establishment of the proposed use.
- 9. The proposed use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
- 10. The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare or odors.
- 11. Vehicular approaches to the property, where present, will not create traffic congestion or interfere with traffic on surrounding public thoroughfares.
- 12. The proposed use will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance.
- B. Application Requirements. Conditional Use Permit applications shall be submitted to the Director of Planning on such form and accompanied by such information as required by §154.101.A of this Article and with the submission materials listed in §154.101.B of this Article.
- C. Public hearing required. The Planning Commission shall hold a public hearing on each complete application for a conditional use permit as provided in §154.102 of this Article. After the close of the hearing on a proposed conditional use permit, the City Planning Commission shall consider findings and shall submit the same together with its recommendation to the City Council.
- D. Final decision by City Council. The City Council shall make the final decision on a conditional use permit after a public hearing by the Planning Commission. The City Council may approve, approve with conditions or deny the application.
- E. Conditions. In reviewing applications for conditional use permits, the Planning Commission and Council may attach whatever reasonable conditions they deem necessary to mitigate anticipated adverse impacts associated with these uses, to protect the value of property within the district and to achieve the goals and objectives of the Comprehensive Plan. In determining such conditions, special consideration shall be given to protecting immediately adjacent properties from objectionable views, noise, traffic and other negative characteristics associated with such uses.
  - 1. The conditions shall include all specific development standards for such use listed in Article 7 of this Chapter.
  - 2. If the proposed use is in a flood plain management or shoreland area, the conditions shall include specific standards for such use listed in Chapter 151 (Floodplain Management) and Chapter 152 (Shoreland Management).
  - 3. In addition, conditions may include, but are not limited to, the following:

- a. Controlling the number, area, bulk, height and location of such uses;
- b. Regulating ingress and egress to the property and the proposed structures thereon with particular references to vehicle and pedestrian safety and convenience, traffic flow and control and access in case of fire or other catastrophe;
- c. Regulating off-street parking and loading areas where required;
- d. Controlling the location, availability and compatibility of utilities;
- e. Requiring berming, fencing, screening, landscaping or other means to protect nearby property; and
- Requiring other conditions to create compatibility of appearance with surrounding uses.
- F. Findings for denial. If the Planning Commission recommends denial of a conditional use permit or the Council orders such denial, it shall include in its recommendation or determination findings as to the specific ways in which the proposed use does not comply with one or more specific findings required by this chapter.
- G. Permittee. A conditional use permit shall be issued for a particular use and not for a particular person, except in the case of a permit granted for the uses of land reclamation, mining or soil or mineral processing. In such cases, a permit shall be issued to the particular person making application for such permit and such permit shall not be transferred or assigned for use by another without the written consent of the city. However, such consent by the city shall not be unreasonably withheld.
- H. *Periodic review*. A periodic review of the use may be attached as a condition of approval of a conditional use permit.
- I. Term of permit. Unless otherwise stipulated, the term shall be the life of the use.
- J. Revocation. Failure to comply with any condition set forth in a conditional use permit, or any other violation of this chapter, shall be a misdemeanor and shall also constitute sufficient cause for the termination of the conditional use permit by the City Council following a public hearing conducted in accordance with §155.102 of this Article.
- K. Expiration. If substantial construction has not taken place within 12 months of the date on which the conditional use permit was granted, the permit is void except that, on application, the Council, after receiving recommendation from the Planning Commission, may extend the permit for such additional period as it deems appropriate. If the conditional use is discontinued for six months, the conditional use permit shall become void. This provision shall apply to conditional use permits issued prior to the effective date of this chapter, but the six-month period shall not be deemed to commence until the effective date of this chapter.

# § 154.107 Interim Use Permits

- A. *Purpose and intent*. The purpose and intent of allowing interim uses are:
  - 1. To allow a use for a limited period of time that reasonably utilizes the property where such use is not consistent with the future land map in the Comprehensive Plan; and
  - 2. To allow a use that is presently acceptable, but that with anticipated development or redevelopment or other significant change, will not be acceptable in the future or will be replaced by a permitted or conditional use allowed within the respective district.
- B. General standards. An interim use permit may be granted only if the City Council finds as follows:
  - 1. The use is allowed as an interim use in the respective zoning district and conforms to standard zoning regulations.

- 2. The use will not adversely impact nearby properties through nuisance, noise, traffic, dust, or unsightliness and will not otherwise adversely impact the health, safety, and welfare of the community.
- 3. The use will not adversely impact implementation of the Comprehensive Plan.
- 4. The date or event that will terminate the use is identified with certainty.
- 5. The user agrees to all conditions that the City Council deems appropriate for permission of the use. This may include the requirement of appropriate financial surety such as a letter of credit or other security acceptable to the city to cover the cost of removing the interim use and any interim structures not currently existing on the site, upon the expiration of the interim use permit.
- 6. There are no delinquent property taxes, special assessments, interest, or city utility fees due upon the subject parcel.
- 7. The date or event terminating the interim use shall be set by the City Council at the time of approval.
- C. Recordkeeping. The Zoning Administrator shall maintain a record of all applications and all interim use permits issued, including information on the use, location, conditions imposed by the community, time limits, review dates, and such other information as may be appropriate.
- D. Application. Applications for an interim use permit shall be made by the fee owner or authorized representative of the fee owner of the property upon which the interim use is proposed. All applications shall include the following:
  - 1. A completed application form signed by the fee owner of the property or by the fee owner's authorized representative;
  - 2. Application fee;
  - 3. Proof of ownership consisting of an abstract of title or registered property certificate on which the interim use is requested;
  - 4. Plans for the proposed use showing all information deemed necessary by the Administrator to ensure the community can determine whether the proposed use and/or improvements will meet all applicable standards. Such information may include but shall not be limited to the following:
    - a. Site plan drawn to scale showing parcel and existing topography;
    - b. Location of all buildings and their size, including square footage;
    - c. Curb cuts, driveways, access roads, parking spaces, off-street loading areas, and sidewalks;
    - d. Landscaping and screening plans, including species and size of trees and shrubs proposed;
    - e. Finished grading and drainage plan sufficient to drain and dispose of all surface water accumulated (see § 150.277 to determine if a Storm Water Management Plan and/or an Erosion and Sediment Control Plan is required);
    - f. Type of business or activity and proposed number of employees;
    - g. Proposed floor plan and elevations of any building with use indicated;
    - h. Sanitary sewer and water plan with estimated flow rates;
    - Soil type and soil limitations for the intended use. If severe soil limitations for the intended use are noted, a plan or statement indicating the soil conservation practice or practices to be used to overcome the limitation shall be made part of the application; and

- 5. A certified list of property owners located within 350 feet of the subject property obtained from and certified by a licensed abstractor.
- 6. A letter from the applicant explaining the proposal and stating the date or event that will terminate the use;
- 7. A signed consent agreement, subject to review and approval by the City Council documenting:
  - a. That the applicant, owner, operator, tenant and/or user has no entitlement to future reapproval of the interim use permit;
  - b. That the interim use will not impose additional costs on the public if it is necessary for the public to fully or partially take the property in the future; and
  - c. That the applicant, owner, operator, tenant and/or user will abide by conditions of approval that the City Council attaches to the interim use permit.
- 8. Any other information that may be reasonably required by the city to evaluate the application.
- E. Planning Commission review and public hearing. The Zoning Administrator shall refer completed applications to the Planning Commission for consideration and a public hearing at the next available regular meeting as determined by staff. Prior to the meeting, the Zoning Administrator shall complete the following.
  - 1. Distribute the application to appropriate city departments and commenting agencies to receive feedback;
  - 2. Publish notice of the purpose, time and place of the public hearing in the official newspaper of the community, and mail notices to all property owners located within a minimum of 350 feet of the property described in the application, at least 10 days prior to the date of the hearing. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the responsible person and shall be made a part of the records of the proceedings. Failure to give mailed notice to individual property owners or defects in the notice shall not invalidate the proceedings, provided a bone fide attempt to comply with the provisions of this section has been made.
  - 3. Prepare a staff report analyzing the request under city code requirements for consideration by the Planning Commission.
  - 4. After considering the application, the staff report, testimony from the applicant and the public and any other relevant information; the Planning Commission shall recommend approval, approval with conditions, or denial. The recommendation of the Planning Commission shall be forwarded to the City Council as soon as practical, and in a manner which allows the City Council time to make a final determination on the request within the state mandated timelines for reviewing land use applications.
- F. City Council action. After considering the application, recommendation of the Planning Commission, any staff reports, testimony from the public hearing and any other relevant information; the City Council shall take action on the application through approval, approval with conditions, or denial. Should the City Council approve the application, the City Council shall make findings on conformance to the IUP general standards, specify the term of the interim use permit, the event(s), circumstances or conditions that shall cause termination, and any conditions of approval.
- G. *Termination*. An interim use shall terminate on the happening of any of the following events, whichever occurs first:
  - 1. The date or event stated in the permit;
  - 2. Upon violation of conditions under which the permit was issued;

- 3. Upon change in the city's zoning regulations which renders the use nonconforming; or
- 4. The redevelopment of the use and property upon which it is located to a permitted or conditional use as allowed within the respective zoning district.
- H. Suspension and revocation. The City Council may suspend or revoke an interim use permit upon finding that the activities allowed under the permit adversely affect the public health, safety, or welfare in ways not anticipated during approval of the permit. A suspension or revocation of an interim use permit shall be preceded by written notice to the permittee and a hearing. The notice shall provide at least 10 days notice of the time and place of the hearing and shall state the nature of the violations. The notice shall be mailed to the permittee at the most recent address listed on the application. The hearing of a contested case may, at the City Council's option, be before the City Council or in accordance with M.S. §§ 14.57 to 14.60, but informal disposition of a contested case by stipulation, pursuant to M.S. § 14.59, may provide an adequate basis for imposition of sanctions.
- I. Amendments. All requested amendments to an existing interim use permit shall be processed in the same manner as a new application.
- J. Renewal. The following process may be used to renew an active interim use permit that is set to expire. Terminated or suspended interim use permits cannot be renewed unless the City Administrator has received and approved a 1-time 30-day extension to continue processing the renewal application.
  - 1. Application. Application requirements for renewal of an existing interim use permit be the same as for a new application.
  - 2. Review. Upon receiving a completed application for an interim use permit renewal, the Zoning Administrator shall send notice of the requested renewal to all property owners within 350 feet of the parcel(s) containing the interim use. If any objections are raised within 10 days of the mailed notice, the application shall be processed in the manner of a new application. If no objections are raised, the Zoning Administrator shall prepare a resolution of approval outlining the conditions and stipulations of the renewal for consideration by the City Council. Council—at its discretion—may approve or deny the request with findings. Denial of a renewal request does not constitute termination of the existing interim use permit.

# § 154.108 Appeals and the Board of Adjustment

The Board of Adjustment is hereby established pursuant to this chapter and Minnesota law. The Board of Adjustment (which is the City Council in accordance with §31.10 of the City Code) shall have those powers and authority as provided by Minnesota law and as hereinafter provided for. The Board of Adjustment shall be formed and operate in conformance with Chapter 31 of this Code and specifically with §31.10.

- A. Powers of the Board of Adjustment.
  - 1. Review of administrative decisions. The Board of Adjustment shall act upon all questions as they may arise in the administration of this chapter, including the interpretation of zoning maps, and it shall hear and decide appeals from and review any order, requirement, decision or determination made by such an administrative official charged with enforcing this chapter. Such appeal may be made by any person, firm or corporation aggrieved by an officer, department, board or bureau of the city.
  - 2. Variances. The Board of Adjustment shall also have the power to grant variances to the provisions of this chapter under certain conditions. The conditions for the issuance of a variance are as indicated in §154.109 of this Article. No use variances (uses different than those allowed in the district) shall be issued by the Board of Adjustment.
- B. Procedures for appeals.

- 1. Filing of appeals. All appeals to the Board of Adjustment shall be in writing and filed with the office of the City Clerk within 14 calendar days of the date of mailing of the notice of the order, requirement, decision or determination from which the appeal is made.
- 2. Hearings. The Board of Adjustment shall conduct a hearing regarding all appeals in accordance with §154.102.C.2 of this Article.
- 3. *Notice*. Written notice of the hearing shall be provided to the parties to the hearing and mailed not less than 14 days prior to the hearing.
- 4. Orders. The Board shall, within a reasonable time, make its order deciding the matter and shall serve a copy of such order upon the appellant or petitioner by mail. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made. The reasons for the decision of the Board of Adjustment shall be stated in the order. A majority vote of the Board of Adjustment shall be necessary to reverse any decisions of an administrative office of the city or to decide in favor of the applicant.

#### § 154.109 Variances

- A. *In general*. The Board of Adjustment shall have the power to grant variances to the provisions of this chapter under the following procedures and standards.
  - A request for a variance from the literal provisions of this chapter may be granted in instances where their strict enforcement would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter. All requests for variances shall be reviewed in accordance with the required findings listed in §154.109.F.
- B. Use variances prohibited. A variance shall not be granted for any use that is not a listed permitted or conditional use under this chapter for property in the zone where the property is located.
- C. Application Requirements. Variance applications shall be submitted to the Director of Planning on such form and accompanied by such information as required by §154.101.A of this Article and with the submission materials listed in §154.101.B of this Article.
- D. Hearing requirements. The Planning Commission shall hold a public hearing on each complete application for a variance as provided in §154.102 of this Article. After the close of the hearing on a proposed variance, the City Planning Commission shall consider findings and shall submit the same together with its recommendation to the Board of Adjustment.
- E. Board of Adjustment action. The Board of Adjustment shall receive the recommendation of the Planning Commission and shall take final action on the variance request. All findings and decisions of the Board of Adjustments concerning variances shall be final.
- F. Required findings. Any action taken by the Board of Adjustment to approve or deny a variance request shall include the following findings:
  - Practical Difficulties. A variance to the provision of this chapter may be granted by the Board of Adjustment upon the application by the owner of the affected property where the strict enforcement of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter.
    - a. Definition of practical difficulties. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control.

- 2. *Unique circumstances*. The problem for the landowner/applicant which the proposed variance is intended to correct must be due to circumstances that are unique to the property in question and that were not created by the land owner/applicant.
- 3. Character of locality. The proposed variance will not alter the essential character of the locality in which the property in question is located.
  - a. Definition of locality. For purposes of this subsection, "locality" shall be defined as all that property within 350 feet of the property proposed for the variance; however, in all events, it shall include all parcels abutting the affected parcel, including those immediately across a public street, alley of other public property.
- 4. Adjacent properties and traffic. The proposed variance will not impair an adequate supply of light and air to property adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood.
- G. Conditions. The Planning Commission may recommend and the Board of Adjustment may impose such restrictions and conditions upon the property that is the subject of the variance as may be necessary to comply with the standards established by this chapter or to reduce or minimize the effect of such variance upon other properties in the neighborhood and to better carry out the intent of the variance.
- H. Effect of denial. No application by a property owner for a variance shall be submitted to the Board of Adjustment within a six (6) month period following a denial of such a request unless, in the opinion of the Board, new evidence of change in circumstances warrant it.
- I. Expiration. A variance shall be deemed to authorize only one particular use and shall expire if work does not commence within twelve (12) months of the date of granting such variance or if that use ceases for more than six (6) consecutive months.
- J. Revocation. The Board of Adjustment may revoke a variance if any conditions established by the Board as part of granting the variance request are violated.

### § 154.110 Violations and Enforcement

- A. *Enforcing officer*. It shall be the duty of the Director of Planning to cause the provisions of this chapter to be properly enforced.
- B. Violations.
  - 1. *Violations*. Any person who shall violate or refuse to comply with any of the provisions of this Chapter shall be subject to the provisions of this Section.
  - 2. Separate offenses. Each day that the violation is permitted to exist shall constitute a separate offense.
- C. Investigation and administrative enforcement.
  - 1. Investigation of violation. The Director of Planning shall investigate alleged violations of this Chapter. Investigation of a violation may require accessing the property where the violation is alleged to have occurred. The Director of Planning shall notify the landowner of the need for investigation and make a reasonable attempt to gain permission from the landowner for access to the property and structures for investigative purposes. If the landowner is not responsive, the Director of Planning may, upon probable cause of a violation, enter upon the property, but not enter any structures, for the sole purpose of investigation. If access to the property is specifically denied by the landowner, the Director of Planning shall obtain a judicial order prior to entering upon the property. Entering a structure for investigative purposes shall occur only upon permission of the landowner or issuance of a judicial order.
  - 2. Administrative enforcement.

- a. Notice of violation. Whenever in the judgment of the Director of Planning a determination is made upon investigation that a particular permit holder has not complied with this Chapter, the Director of Planning shall issue written notice of violation to the owner of record and require him or her to complete the work.
- b. Cease and desist order. Upon investigation, if the Director of Planning has probable cause to believe a violation of this Chapter has occurred and that immediate stoppage of work is necessary to minimize harm caused by such violation, the Director of Planning may issue a cease and desist order to halt the progress of any property modification. When any work has been stopped by a cease and desist order, it shall not be resumed until the reason for the work stoppage has been completely satisfied and the cease and desist order lifted.
- 3. Service of notice. Service of a cease and desist order shall be in person by city law enforcement. Service of a notice of violation shall be in person or by mail. If the premises are not occupied by the owner of record and the address of the owner of record is unknown, service on the owner of record may be had by posting a copy of the notice on the premises.
- 4. Code violation citation. If a violation is not remedied within fifteen (15) days of the date of issuance of the notice of violation, the city official issuing the notice shall issue a code violation citation to the notified owner of record.
- D. Correction by City and recovery of cost. Upon issuance of a code violation citation the Director of Planning may cause work to be completed at the expense of the city to correct the violation. The city shall recover such expense as an administrative fee, either by civil action against the person or persons served or to certify the same to the County Auditor for collection in the manner as taxes and special assessments are certified and collected.
- E. Civil and criminal enforcement. Any violations of the provisions of this Chapter or failure to comply with any of its requirements by a landowner or their agent shall constitute a misdemeanor and shall be punishable as defined by Minnesota State Statutes 394.37. The provisions of this Ordinance may be enforced through criminal prosecution, civil remedy, or both. Utilization of a civil remedy shall not prevent a criminal prosecution for the same violation. A criminal prosecution for a violation shall not be a bar to a civil remedy.
- F. *Injunctive relief allowed.* The city may sue for injunctive relief on any violation, including restoration of the premises to its existing condition prior to the violation.
- G. Administrative fee for enforcement. The Director of Planning shall charge an administrative fee, as set by resolution of the City Council, to compensate for time spent involving the investigation and prosecution of violations, and including any expenses incurred during the investigation.
- H. After the fact applications and fees. Any person making application for a permit after the commencement of work requiring a permit, shall be charged an additional administrative fee. In the event the application for a permit is denied or the action permitted does not include all or part of the work commenced prior to approval of said permit, the Director of Planning shall require correction and/or restoration of the concerned property to its original state, including removal of structures or improvements.



**Planning Commission** 

Date: 5/13/13 Item: 6c

ITEM: Zoning Text Amendment – Fence Ordinance

SUBMITTED BY: Nick Johnson, City Planner

REVIEWED BY: Kyle Klatt, Planning Director

### **SUMMARY AND ACTION REQUESTED:**

The Planning Commission is being asked review a draft Fence Ordinance as presented by Staff and provide feedback. The amendment of the Fence Ordinance is part of the ongoing effort to improve and reorganize the Lake Elmo Zoning Code.

### ADDITIONAL INFORMATION:

Staff is proposing to update and relocate the Fence Ordinance into Article 5 – General Regulations. As with some other recently updated ordinances, Staff has found the Fence Ordinance to be poorly organized and somewhat confusing to some members of the public. In addition, there are no specific standards in the current ordinance that pertain to commercial fencing. With the expected growth of commercial or mixed-use development in the coming years, now is a good time to make these improvements in advance of future growth. Finally, the existing Fence code does not allow for privacy fencing in residential districts. As more sewered residential homes are developed at a higher density than typical residential neighborhoods in Lake Elmo, Staff anticipates that there will be greater demand for such privacy fencing.

In order to understand the standards contained in the existing Fence Ordinance, it is important to give some background of the ordinance. The current ordinance does not allow solid fencing above 42 inches. Currently, any portion of the fence above 42" must be 75% open to air and light. The intention with this provision was to maintain open vistas that contribute to the rural character of Lake Elmo. Given this intention, the provision makes sense. However, as residential development occurs at a slightly higher density, there is typically a greater appetite or demand for solid fencing. Given this fact, the proposed ordinance does allow for solid fences up to 6', except in front or side (corner) yard setbacks, in residential districts. Conversely, if the Planning Commission recommended to maintain the current provisions related to 75% open to air and light above 42" in the rural or open space districts, than the ordinance could be amended to only apply to urban districts. This issue should provide for good discussion.

Related to commercial fences, the existing Fence Ordinance makes little reference to commercial fencing. There is a section related to required fencing for screening. However, Staff is proposing to address screening in between non-compatible uses in the future

landscaping section. Any screening provisions related to fencing may be included in the screening and landscaping ordinance. In the City Code, fencing used for screening is referenced in multiple zoning districts, including General Business (GB) and Highway Business (HB), etc. The proposed ordinance recommends to eliminate references to fencing as screening within the zoning districts themselves, and just address commercial fencing through the Fence Ordinance, and screening through the landscaping and screening ordinance. Again, this is part of the effort to reorganize the Lake Elmo Zoning Code. Finally, the proposed ordinance recommends a height allowance for commercial fences of eight feet (8'). There are some instances related to commercial activities that require a higher fence than 6', such as outdoor storage. In addition, the proposed ordinance requires all requests for fences above 8' in commercial or industrial districts to be allowed only as a conditional use. This would allow the Planning Commission and City Council to more carefully review the purpose of the fence, and ensure that no negative impact on adjacent properties would result.

Finally, the existing Fence Ordinance addresses fencing in shoreland districts, noting that fences are not allowed in the setback to the Ordinary High Water (OHW) elevation. Staff has not included this provision in the proposed ordinance as of now. As far as the fence codes of other communities researched, these fence ordinances do not include provisions related to shoreland district rules. However, Staff will conduct further research regarding these provisions in advance of a public hearing.

Staff is looking for additional input regarding the proposed Fence Ordinance in advance of any amendments or updates.

#### **RECCOMENDATION:**

No formal action is required at this time. If appropriate, Staff will publish a public hearing notice for the next Planning Commission meeting in relation to the Sign Ordinance.

### **ATTACHMENTS:**

- 1. Fencing Regulations Ordinance (§154.205)
- 2. Existing Fence Ordinance (§154.120)

### **ORDER OF BUSINESS:**

-	Introduction	Planning Staff
-	Report by Staff	Planning Staff
-	Questions from the Commission	Chair & Commission Members
-	Discussion by the Commission	Chair & Commission Members
-	Action by the Commission	Chair & Commission Members

### §154.205 Fencing Regulations

### §154.205 Fencing Regulations

- A. Purpose. The purpose of this Ordinance is to provide for the regulation of fences in the city of Lake Elmo and to prevent fences from being erected that would be a hazard to the public, an unreasonable interference with the uses and enjoyment of neighboring property or are incompatible with existing uses and other zoning restrictions.
- B. *Definitions*. The following words, terms and phrases, when used in this Section, shall have the meaning ascribed to them in this subsection, except where the context clearly indicates a different meaning:
  - Temporary Fence. Fences that are installed and removed on a seasonal basis, such as snow fences, garden fences and seasonal recreational fences, such as hockey boards.
- C. Permit Required. No fence shall be erected without first obtaining a fence permit. Application shall be made to the Planning Director. The fee shall be established by the City's Fee Schedule. The Planning Director is authorized to issue a fence permit if the application indicates that the fence will be in compliance with this Ordinance. The Board of Adjustment and Appeals shall hear and decide appeals when it is alleged that the Planning Director was in error. The appeals shall follow the procedure outlined in §31.01.
- D. General Requirements. All fences erected in the city of Lake Elmo are subject to the following requirements:
  - 1. *Maintenance*. All fences shall be properly maintained with respect to appearance and safety. Fences that remain in a state of disrepair for an extended period of time shall constitute a nuisance per §96.03.
  - 2. Face of Fence. The finished side of any fence or wall must face abutting property or street rights of way.
  - 3. Fence Materials. Permitted fence materials shall be limited to brick, stone, wood, wrought iron, vinyl, composite material, chain-link and materials as regulated under subsection (F).
  - 4. *Traffic Obstruction*. No fence or wall shall obstruct a motorist's or a pedestrian's safe view from the driveway or street.
  - 5. Easement Encroachment. Where allowed by this Ordinance and other applicable sections, a fence may be constructed up to 1 foot off a property line unless an easement is present, or it is determined a fence would obstruct a drainage area. An easement encroachment agreement, along with a fence permit, allows a fence to be constructed within a City easement after it has been reviewed and approved by the City Council and the applicable fee has been received.
  - 6. Swimming Pools. All swimming pools shall be enclosed with required fencing per §151.085.

#### E. Fence Height

- 1. Fences within Front and Side (Corner) Yards. Any fence within a front or side (corner) yard setback may not exceed forty-two (42) inches in height and must be 50% open to air and light.
- 2. Residential and Mixed-Use Districts. No fence or wall shall exceed six feet (6') in height.
- 3. Commercial and Industrial Districts. No fence or wall shall exceed eight feet (8') in height. Fences that exceed eight feet (8') in height require a conditional use permit.
- F. Temporary Fences

- 1. Height and Performance. Temporary fences shall comply with the fence height standards of subsection (E). Temporary fences shall be at least 40% open to air and light. If unable to be at least 40% open to air and light, temporary fences shall not exceed forty-two inches (42") in height.
- 2. Duration and Limitation
  - a. No snow fence or posts shall be installed prior to November 1, and must be removed prior to April 15.
  - b. Seasonal recreational fencing intended for winter sports, such as hockey or broomball shall not be installed prior to November 1, and must be removed prior to April 15.
- 3. Location. Snow fences shall be set back at least 50 feet from any south or east property line, or such additional distance as may be required to prevent the accumulation of snow on public streets or adjoining property, as determined by the Public Works Director.
- G. Agricultural Exemption. Fences constructed on parcels in excess of 5 acres for the keeping of horses; and fences constructed on parcels in excess of 10 acres for the keeping of other livestock, as defined by § 11.01, are specifically exempted from the provisions of this Section. Any such agricultural fencing shall be at least 75% open to air and light.

DRAFT 5/13/13 5-2 Fencing Regulations



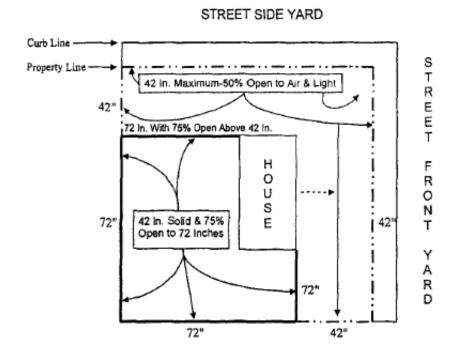
Lake Elmo, MN Code of Ordinances

# **FENCING REGULATIONS**

# § 154.120 FENCE HEIGHT AND LOCATION.

(A) Fence height in street setbacks. No fence shall be constructed exceeding 42 inches in height measured from grade within any front, side (corner), or rear street setback. Fences constructed within the prescribed street setback areas shall be at least 50% open to air and light. (See Figure 154.120)

Figure 154.120: Height of Fencing



- (B) Fence height in interior yards. No fence shall be constructed exceeding 72 inches in height measured from grade in interior yards; and, any portion of such fence above 42 inches measured from grade shall be open to light and air over 75% of the surface area.
  - (C) Fences on through lots.
- (1) Lots with frontage along improved public streets at both the rear yard and the front yard (through lots) may apply the standards of division (B) above for fences paralleling the rear yard.
- (2) When the rear property line of a through lot abuts a public street classified as either a principal arterial, a minor arterial, or B minor arterial in the city's Transportation Plan, a fence parallel to that property line may be constructed up to 72 inches in height, but is not required to be open to light and air. A corner lot must

continue to meet safety requirements of § 96.03(B)(19) of this code regarding the obstruction of view of traffic.

- (D) *Grade defined*. The grade from which fence height measurements are calculated shall only be from either natural grade or grade modified responsive to a grading plan approved by the city; and, shall not include the height of berms or introduced increases in ground elevation that would raise the effective fence height over that which would be otherwise permitted by this subchapter, except that a combination of raised grade and fence that would exceed in sum the fence height permitted by this section may be specifically approved by the City Council as an element of a subdivision plat or commercial site plan approval establishing specific property grading and topography.
- (E) Easement encroachment. Where allowed by other divisions of the fence ordinance and other applicable sections, a fence may be constructed up to 1 foot off a property line unless an easement is present or it is determined a fence would obstruct a drainage area. An easement encroachment agreement, along with a fence permit, allows a fence to be constructed within a city easement after it has been reviewed and approved by the City Engineer and City Council and the applicable fee has been received.

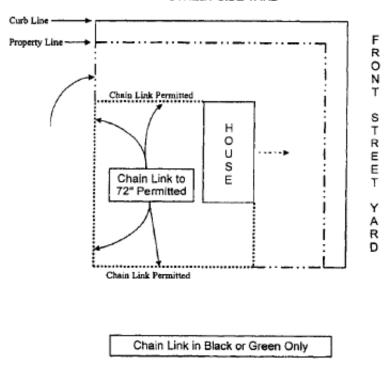
(Ord. 97-137, passed 8-4-2004; Am. Ord. 08-044A, passed 6-7-2011)

## § 154.121 MATERIALS.

- (A) Permitted fence materials. Permitted fence materials shall be limited to brick, stone, wood planks, split rail, wrought iron, and as regulated by § 154.123. Vinyl or composite material fences shall also be permitted.
- (B) Finished face of fence. That side of the fence considered to be the face (finished side as opposed to structural supports and frame) shall face abutting property and public streets.
- (C) Chain link or cyclone fences. Chain link, and wire mesh fences are permitted to a maximum height of 72 inches measured from grade. No chain link, cyclone or wire mesh fence shall be permitted in any front, side (corner), or rear street setback. (See Figure 154.121)

Figure 154.121: Cyclone/Chain Link Fencing

#### STREET SIDE YARD



(Ord. 97-137, passed 8-4-2004; Am. Ord. 08-044A, passed 6-7-2011)

## § 154.122 FENCES IN THE SHORELAND OVERLAY DISTRICT.

No fence shall be permitted in the OHW setback of any parcel located in Shoreland, as defined by § 11.01, except where the principal structure is entirely located within the OHW setback. Where the principal structure is at least partially located within the OHW setback, fences complying with the standards of § 154.120(B) may be constructed within the side yard area of the principal structure, but not extending beyond the front and rear exterior walls of the principal structure. Decks, porches and landings of any type shall not be considered a part of the principal structure for the purpose of determining allowable fence.

(Ord. 97-137, passed 8-4-2004; Am. Ord. 08-044A, passed 6-7-2011)

# § 154.123 TEMPORARY FENCES.

- (A) *Defined*. For the purposes of this subchapter temporary fences are those that are installed and removed on a seasonal basis, such as snow fences and garden fences. Temporary fences shall be open to light and air over not less than 40% of the fence surface area.
- (B) *Duration and limitation*. No snow fence shall or posts therefor shall be installed prior to November 1, and must be removed prior to April 15.
- (C) *Height and location*. Temporary fences shall comply with the fence and fence location standards of § 154.120, except that snow fences shall be set back at least 50 feet from any south or east property line, or such additional distance as may be required to prevent the accumulation of snow on public streets or adjoining

property, as determined by the Building Official.

(Ord. 97-137, passed 8-4-2004; Am. Ord. 08-044A, passed 6-7-2011)

# § 154.124 AGRICULTURAL EXEMPTION.

Fences constructed on parcels in excess of 5 acres for the keeping of horses; and fences constructed on parcels in excess of 10 acres for the keeping of other livestock, as defined by § 11.01, are specifically exempted from the provisions of this subchapter. Any such agricultural fencing shall be at least 75% open to air and light.

(Ord. 97-137, passed 8-4-2004; Am. Ord. 08-044A, passed 6-7-2011)

## § 154.125 FENCES AS SCREENING AND SECURITY, AS REQUIRED.

- (A) Generally. The Lake Elmo City Code and this chapter include prescribed physical circumstances of a site where screening of uses, equipment, and outside storage is required. In those prescribed circumstances, fence not to exceed 72 inches in height measured from grade may be installed, subject to the following standards:
- (1) Required fences for screening and security purposes in Agricultural and Residential zoning districts shall be set back from all property lines equal to the required structure set back of the zoning district in which they are located, except where residential zoned lots share a common property line with commercial uses or commercial zoning districts and only on the common property line between the residential and commercial parcels.

(Am. Ord. 97-169, passed 5-2-2006)

- (2) The provisions of § 154.120 regarding fence height measurement from grade shall apply. No combination of earthen berm and fence may exceed the 72-inch maximum height for screening.
  - (3) Materials used for screening shall be limited to those specified by § 154.121.
  - (4) No such screening shall be roofed or covered in any manner.

(Ord. 97-137, passed 8-4-2004)

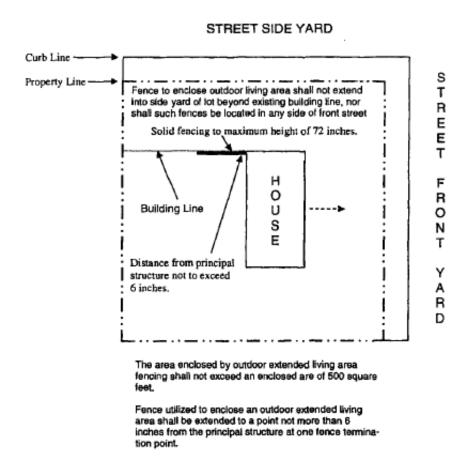
- (5) Solid fence not to exceed 72 inches in height measured from grade may be installed, subject to the following standards:
- (a) The total area of any parcel enclosed by solid fencing shall not exceed the maximum allowable area for an accessory structure in the zoning district in which the parcel is located, less the sum of the area of any accessory structures located on the same tax parcel.
- (b) The area enclosed by screen fencing shall maintain a ratio of width to length of no greater than 2:1. (See § 154.093).
  - (c) A screening fence that is not enclosed may be allowed provided the total length of said fence

does not exceed the perimeter of the largest accessory building permitted in the zoning district in which the parcel is located, less the sum of the area (or perimeter) of any accessory structures located on the same tax parcel.

(Am. Ord. 08-044A, passed 6-7-2011)

- (B) Outdoor living area extensions. Solid fencing to a maximum height of 72 inches may be used to enclose outdoor extended living areas of a principal structure, subject to the following standards:
- (1) The area enclosed by outdoor extended living area fencing shall not exceed an enclosed area of 500 square feet.
- (2) Fence utilized to enclose an outdoor extended living area shall be extended to a point not more than 6 inches from the principal structure at 1 fence termination point.
- (3) Fence utilized to enclose an outdoor extended living area shall not extend into side yard of a lot beyond the existing building line of the existing principal structure, nor shall such fences be located in any side or front street yard. (See Figure 154.125)

Figure 154.125: Fencing for Outdoor Living Area



(Am. Ord. 97-155, passed 4-19-2005)

# § 154.126 PERMITS REQUIRED.

- (A) Except as noted herein, installation of all fences requires a fence permit issued by the City of Lake Elmo. This permit shall be applied for on such forms, include such documentation, and include such fees to the city for processing as may be prescribed from time to time by the City Council. Fences exempt from requiring an installation permit are limited to the following:
- (1) Fences of any type installed for the sole purpose of the keeping of domestic farm animals, as defined by § 11.01, and regulated by § 154.104(E) of this Code. All such fences shall be removed by the property owner within 6 months of the termination of the keeping of domestic farm animals, unless an extension is specifically authorized by City Council action; and
- (2) Fences of any type installed by municipal, county or state governments and public utilities for facility security or the delineation and/or protection of public rights-of-way.
- (B) Failure to obtain a city fence permit prior to the installation of any fence subject to this regulation shall result in an automatic double permit fee, in addition to any corrective measures to bring the fence into compliance with the standards for fences prescribed by this chapter.

(Ord. 97-137, passed 8-4-2004; Am. Ord. 08-044A, passed 6-7-2011)

# § 154.127 FENCES AS NON-CONFORMING/HAZARDOUS STRUCTURES.

Fences shall be considered to be structures for the purposes of applying the terms of the non- conforming structure provisions of this chapter, and the hazardous structures provisions of city code and state statute.

((Ord. 97-137, passed 8-4-2004; Am. Ord. 08-044A, passed 6-7-2011)

# § 154.128 OTHER PROVISIONS; CONFLICTS.

To the extent that provisions of this chapter may conflict with other provisions of the city code regarding the regulation of fences and screening, the provisions of this chapter only shall apply.

(Ord. 97-137, passed 8-4-2004; Am. Ord. 08-044A, passed 6-7-2011)

# § 154.999 PENALTY.

- (A) Any person who violates any provision of this chapter for which no penalty is provided shall be subject to the terms of § 10.99.
- (B) The violation of any provision of this chapter, except for §§ 154.120 through 154.128, or the violation of the conditions or provisions of any permit issued pursuant to this chapter shall be a misdemeanor and, upon conviction, shall be subject to the penalties set forth in § 10.99.

(1997 Code, § 300.14)