

3800 Laverne Avenue North
Lake Elmo, MN 55042

(651) 747-3900
www.lakeelmo.org

NOTICE OF MEETING

The City of Lake Elmo
Planning Commission will conduct a meeting on
Monday June 13, 2016 at 7:00 p.m.
AGENDA

1. Pledge of Allegiance
2. Approve Agenda
3. Approve Minutes
 - a. May 23, 2016
4. Public Hearings
 - a. EASEMENT VACATION: A request by the City of Lake Elmo to vacate watermain easements on property located at 8574 Eagle Point Circle N, Lake Elmo, Washington County, MN PID #33.029.21.43.0004.
 - b. ZONING TEXT AMENDMENT: A request by the City of Lake Elmo to Amend Article XV: Land Usage; Chapter 154: Zoning Code; Section 205: Fencing Regulations; Subd. 6.: Easement Encroachment of the Lake Elmo Code of Ordinances to allow administrative approval of encroachment agreements.
 - c. ZONING TEXT AMENDMENT: A request by the City of Lake Elmo to Amend Title I: General Provisions; Chapter 11; Title XV: Land Usage; Chapter 154: Zoning Code; Article 5. General Regulations; Section 213: Accessory Buildings and Structures, Generally; Subd. B: Definitions and Subd. D: Principle Structure Necessary; and Title XV: Land Usage; Chapter 154: Zoning Code; Section 404: Accessory Structures, rural districts, Subd. D, striking the exception by City Council resolution and Title XV; Land Usage, Chapter 154: Section 154.213, Subd. 3, Amending the Definition of Tool Shed.
 - d. COMPREHENSIVE PLAN TEXT AMENDMENT: A request by the City of Lake Elmo to amend the Comprehensive Land Use Plan planned land use category for Rural Single Family such that the City Council can allow connection to the sanitary sewer system where practical.
5. Business Items
 - a. ZONING TEXT AMENDMENT: The Planning commission is being asked to discuss the VMX Zoning District.
6. Updates
 - a. City Council Updates –
 - i. None
 - b. Staff Updates
 - i. Upcoming Meetings:

- June 27, 2016
- July 11, 2016

c. Commission Concerns

7. Adjourn



**City of Lake Elmo
Planning Commission Meeting
Minutes of May 23, 2016**

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

COMMISSIONERS PRESENT: Kreimer, Dunn, Fields, Larson, Lundquist and Williams.

COMMISSIONERS ABSENT: Haggard, Griffin & Dodson

STAFF PRESENT: Planning Director Wensman

Approve Agenda:

M/S/P: Williams/Dunn, move to approve the April 25, 2016 minutes as amended, ***Vote: 6-0, motion carried unanimously.***

Approve Minutes: April 25, 2016

M/S/P: Williams/Lundquist, move to approve the April 25, 2016 minutes as amended, ***Vote: 6-0, motion carried unanimously.***

Business Item – Zoning Text Amendment – Accessory Structure Ordinance in regards to fish houses.

Wensman started his presentation stating that this is not a public hearing, but a discussion item for the Planning Commission to consider prior to Public Hearing. This draft is requested by the City Council to consider fish houses on lots in the RS district, prior to a primary structure being built, limited to 120 square feet or less. This code will also define what a fish house is and require that it is licensed by the DNR.

Wensman stated that they are requiring that they be licensed each year to preclude them from not being more of a recreational or storage type use. This is a deviation from the rule that you need a primary structure before you can have an accessory structure. There is also a provision that limits them to parcels with direct lake access.

Wensman stated that there are 2 other pieces to look at along with this. Right now the code says that an accessory structure can be located closer to the front lot line by resolution of the City Council. Staff would like to see that required to be a variance. Also, currently parcels are allowed a tool shed in addition to allowed accessory structures up to 160 square feet. Staff would like that size to be increased to 200

square feet to be in line with the change in the building code requiring a building permit at 200 square feet instead of the previous 160 square feet.

Williams would like to propose the following change under section 1, the definition of fish house, he would like to add the clause “is not used for boat storage”. Williams would like the code to say “fish house” license to be more clear.

Kreimer would like to add “g” to section 3 to read that if a fish house license is not obtained, the structure will need to be removed within 60 days.

The Commission is fine with the change in size from 160-200 square feet for the “tool” shed, but would be interested in a different name for it as it isn’t important what is stored in there.

The Commission is agreeable to striking the language allowing an accessory structure in the front yard by resolution. Dunn was interested in getting input from the City Attorney also.

Business Items – Zoning Text Amendment – Discuss the Low Density Residential Setbacks

Wensman started his presentation by discussing the 5 foot setback and how it applies to the fire code. The question is whether they want to change that setback and if the lots are too narrow. Fields asked what the staff had to say. The new Building Official doesn’t mind the 5 foot setback, where the old Building Official had a strong opinion against.

Williams stated that he thinks if the width of the lot increases, the setback should also increase. He is concerned that if the lot width is increased and the setbacks are increased, it could negatively impact our required densities. He does feel this concern could be overcome though in the long range discussions.

Fields thinks the code is functional because there are methods to meet the fire code. It might be an education process for the builders. Wensman stated that this is the new Building Officials feeling as well.

Dunn would like to increase the setbacks so there is more room for safety issues. She did not see anything from the fire chief who was concerned about how close they were in the past. Williams would like to see a 10 foot setback on both sides. He doesn’t see the need to increase the lot width. Dunn agrees and would like to see a 10 foot setback on both sides. Fields doesn’t mind changing the setback, but does not want to see the lot width changed.

The Planning Commission would like to see this ordinance run by the City Council for feedback before it is brought back to them.

Business Item – Zoning Text Amendment – Discuss the VMX Zoning District

Wensman stated that this is somewhat of a housecleaning item. The Comprehensive Plan currently guides the downtown area as VMX. The zoning of those parcels is still general business with the exception of the Arbor Glen parcel which was rezoned to VMX. Staff would like to know if the Planning Commission is interested in rezoning that area to VMX at this time. Wensman stated that VMX is a more liberal code than the general business and allows more flexibility.

The Commission discussed the area that would be affected. Williams stated that he thinks this didn't move forward because they were possibly waiting to see a form based zoning code implemented. Williams would like to see the area rezoned to VMX as a group. Dunn is against rezoning the whole old Village to VMX. She would like to wait, look at the form based code and believes this area is too intense. Wensman stated it is only the parcels that are currently zoned general business. Dunn thinks it is too dense because it is 6-10 units per acre. She feels we have the opportunity to change some of the densities and she thinks the rezones should be done as needed.

Kreimer asked if there was any down side of doing it on an as needed basis like was done with Arbor Glen. Wensman gave an example that when people are looking at doing things in the Village, the current zoning is somewhat obsolete and could be construed a little bit like spot zoning.

Kathy Weeks, expressed concern that rezoning the whole area to VMX at once might create some non-conformities in the residential areas.

Wensman stated that he believes there is already non-conformities in the Village area and that rezoning to VMX will probably reduce the non-conformities as the standards are not as strict.

Williams stated that the VMX district has maximum setbacks and is wondering if a building becomes non-conforming because the setback is greater than allowed, would it require a variance to add on. Wensman stated as they look at the form based code, they can work through that. Williams is wondering if the new VMX is adopted would it make any existing businesses non-conforming. Wensman stated he is not aware of any.

Lundquist is wondering if VMX is adopted, would they be able to grandfather in existing businesses as being considered conforming. Wensman stated that they could.

Williams asked if there were any other categories of business in the Village. Wensman stated that currently the Village is all general business.

Kathy Weeks, 3647 Lake Elmo Ave, said she would like to see the general business carefully compared to the VMX district so that people don't need variances. She would rather see properties rezoned as projects come forward and would like this looked at carefully.

Fields would like to know how this rezone would affect current properties, but does not feel it should be done on a case by case basis. If this is the zone we are planning for, we should make the change so people know what opportunities are available. If VMX is not the zoning we are looking for in the Village, we should either make changes to the requirements, or adopt it as a whole.

Dunn did not think that the VMX zone would encompass as much area as is shown, but would only be attributed to new parcels to mesh with the old businesses. She feels that a blanket rezoning is just asking for trouble.

Larson is wondering if it might be possible to allow for parcels to choose if they want to stay with GB zoning or go with VMX. Wensman stated that any new projects coming in would need to conform with the VMX standards and the comprehensive plan guides it as VMX. Wensman stated that he would like to see the Commission get the VMX district how they want it and then adopt it as whole for the parcels currently zoned GB. Wensman stated that maybe they want to work to incorporate a form based code that can help incorporate new projects to be compatible with the old. Wensman would like to bring back a comparison for what we currently have vs. what the VMX would be.

Steve Johnson addressed the Commission regarding a storage building project that he is interested in constructing. There was some discussion regarding how the current code would apply and what he would need to apply for to accomplish his project.

Council Updates – May 3, 2016 Meeting

1. Inwood 3rd Addition Developers Agreement – passed.
2. Palmquist Wedding Ceremony Venue IUP – passed.

Council Updates – May 17, 2016 Meeting

1. Boulder Ponds 2nd Addition Final Plat – passed.
2. Boulder Ponds 2nd Addition Developers Agreement – passed.
3. Noise Ordinance – On hold.
4. Clarification on Zoning Code Amendment for Rural Districts – City Council clarified motion to repeal some uses in these districts.

Staff Updates

1. Upcoming Meetings
 - a. June 13, 2016

b. June 27, 2016

Commission Concerns

Williams asked about the revised work plan. Wensman stated that he will update the work plan and send out before the next meeting.

Tartan Park has a grading permit and has taken out one road to stop people from going in there.

Kreimer would like to see a consistent list of Cities that we use as comparison so it is not picking out ones that we like. Wensman stated that sometimes only certain cities have dealt with a specific issue.

Meeting adjourned at 8:44 pm

Respectfully submitted,

Joan Ziertman
Planning Program Assistant



PLANNING COMMISSION

DATE: 06/13/2016
ITEM #: 4a- PUBLIC HEARING
CASE #2016-15

AGENDA ITEM: Auto-Owners Easement Vacation
SUBMITTED BY: Emily Becker, City Planner
REVIEWED BY: Stephen Wensman, Planning Director

BACKGROUND:

Applicant: Auto-Owners Life Insurance Co.
Owner: Auto-Owners Life Insurance Co.
Location: Lot 1, Block 1 of HOA 3rd Addition
PID # 3302921430014
Request: Vacate easement #1238129 on file with Washington County
Applicable Regulations: M.S. 412.851

Auto-Owners recorded easements related to their required water mains and hydrants as requested by the City. After easements were recorded, the City moved the location of the water mains and hydrants, and new easements were recorded. Auto Owners is requesting the old easements be vacated.

PROPOSAL DETAILS/ANALYSIS:

The only amendment to the originally recorded easement is the location/legal description of the location of the easement. All other terms and conditions remain. Easement vacations require a public hearing.

FISCAL IMPACT:

There is no fiscal impact as easements exist to accommodate the new locations of the water mains and fire hydrants.

PUBLIC COMMENTS:

Staff has received a call from the Machine Shed owners, but when the application was explained to them, they had no issues with it.

RECOMMENDATION:

Based on the foregoing, Staff recommends the Planning Commission hold the public hearing and recommend approval of the requested easement vacation:

“Move to recommend approval of a request to vacate the easement as outlined in Exhibit B-2/1238129 Water Main Easement as recorded by Washington County.”

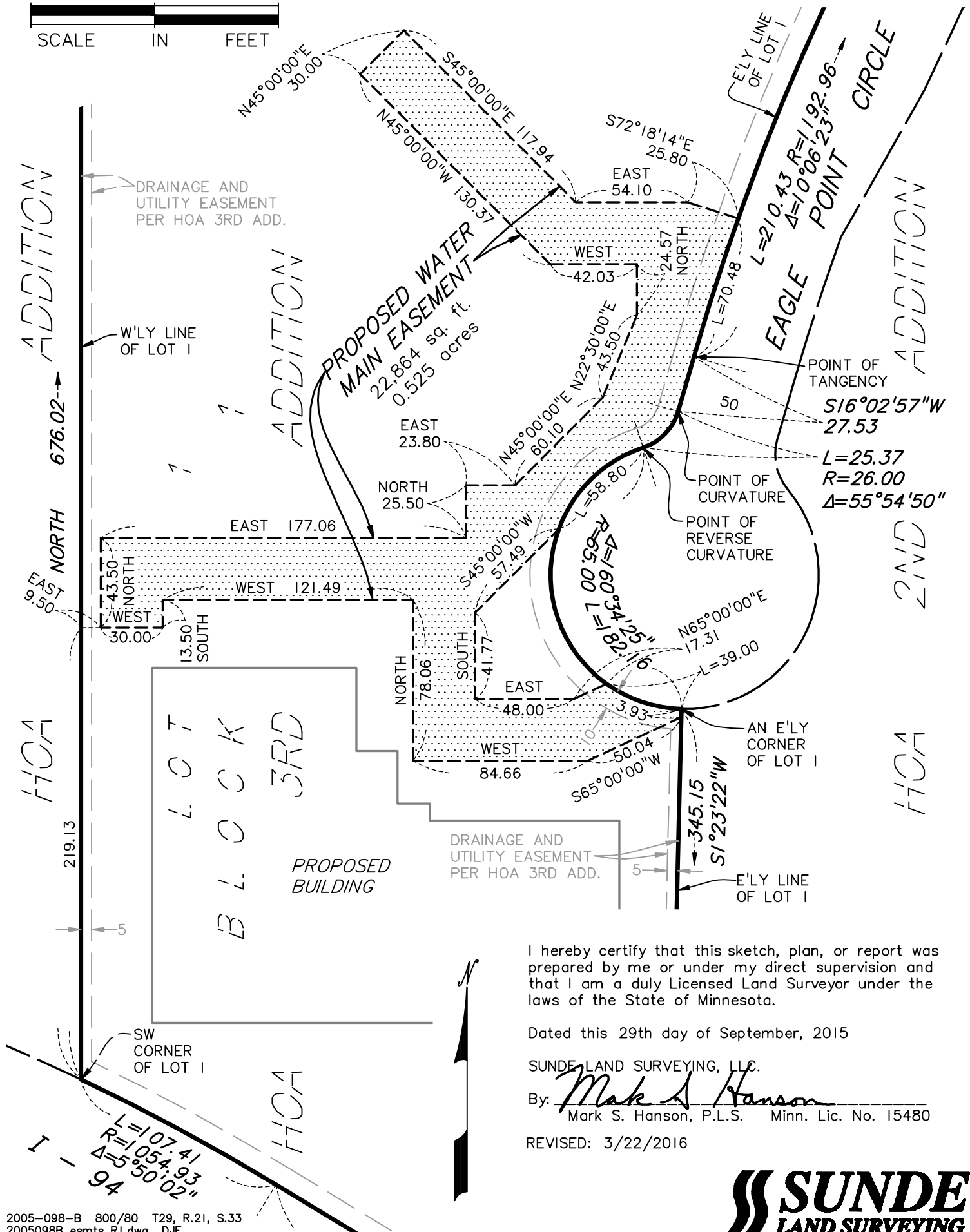
ATTACHMENTS:

1. Water Main Easement Drawing (Exhibit B-2)
2. Originally Recorded Water Main Easement 1238129
3. Revised Recorded Water Main Easement 1239943
4. Letter of support from AutoOwners

ORDER OF BUSINESS:

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

A number line with tick marks at 0, 60, and 120. The segment from 0 to 60 is labeled 'SCALE' and 'IN'. The segment from 60 to 120 is labeled 'FEET'.



I hereby certify that this sketch, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Dated this 29th day of September, 2015

SUNDE LAND SURVEYING, LLC.

By: Mark S. Hanson
Mark S. Hanson, P.L.S. Minn. Lic. No. 15480

REVISÉD: 3/22/2016



SUNDE
LAND SURVEYING

COPY

Receipt# 310086
Attested Copy

EAS \$46.00
AT \$2.00
CRV Not Required
No Tax Due

1238129



Certified Filed and/or recorded on:

12/23/2015 1:41 PM

1238129

Certificate #: 73220

Office of the Registrar of Titles
Washington County, Minnesota
Jennifer Wagenius, Registrar of Titles
Kevin Corbid, Auditor Treasurer

Return to:
SUNDE LAND SURVEYING
LLC
9001 E BLOOMINGTON
FRWY #118
BLOOMINGTON MN 55420

PERMANENT WATER MAIN EASEMENT AGREEMENT

THIS PERMANENT WATER MAIN EASEMENT AGREEMENT shall be effective as of the date that the last party executes this Agreement, is made by and between Auto-Owners Life Insurance Company, a Michigan Corporation, hereinafter referred to as the "Owner," and the City of Lake Elmo, a Minnesota Municipal Corporation, hereinafter referred to as the "City."

The Owner owns the real property situated within Washington County, Minnesota as described on the attached **Exhibit A** (hereinafter "Owner's Property").

The Owner in consideration of one dollar (\$1.00) and other good and valuable consideration does hereby grant and convey to the City, its successors and assigns, the following:

1. A permanent easement for water main and, all such purposes ancillary, incident or related thereto (hereinafter "Permanent Easement") under, over, across, through and upon that real property identified and legally described on **Exhibit B**, (hereinafter the "Permanent Easement Area") attached hereto and incorporated herein by reference.

The Permanent Easement rights granted herein are forever and shall include, but not be limited to, the construction, maintenance, inspection, repair and replacement of water mains, pipes, hydrants, and all facilities and improvements ancillary, incident or related thereto, under, over, across, through and upon the Permanent Easement Area.

EXEMPT FROM STATE DEED TAX

The rights of the City also include the right of the City, its contractors, agents and servants:

- a.) to enter upon the Permanent Easement Area at all reasonable times for the purposes of construction, reconstruction, inspection, repair, replacement, grading, sloping, and restoration relating to the purposes of this Permanent Easement; and

- b.) to maintain the Permanent Easement Area, any City improvements and any underground pipes or mains, together with the right to excavate and refill ditches or trenches for the location of such mains; and
- c.) to remove from the Permanent Easement Area, trees, brush, herbage, aggregate, undergrowth and other obstructions interfering with the location, construction and maintenance of the pipes or mains; and
- d.) to remove or otherwise dispose of and replace as necessary all earth or other material excavated from the Permanent Easement Area as the City may deem appropriate.
- e.) to prohibit obstructions or interference with its use of the Easement Area.

The City shall not be responsible for any costs, expenses, damages, demands, obligations, penalties, attorneys' fees and losses resulting from any claims, actions, suits, or proceedings based upon a release or threat of release of any hazardous substances, petroleum, pollutants, and contaminants which may have existed on, or which relate to the Permanent Easement Area or the Owner's Property prior to the date hereof.

Nothing contained herein shall be deemed a waiver by the City of any governmental immunity defenses, statutory or otherwise. Further, any and all claims brought by the Owner, its successors or assigns, shall be subject to any governmental immunity defenses of the City and the maximum liability limits provided by Minnesota Statute, Chapter 466.

The Owner, for itself and its successors and assigns, does hereby warrant to and covenant with the City, its successors and assigns, that it is well seized in fee of the Owner's Property described on Exhibit A, and the Permanent Easement Area described on Exhibit B, and has good right to grant and convey the Permanent Easement herein to the City. In addition, the Owner, for itself and its successors and assigns, does hereby warrant to and covenant with the City, its successors and assigns, the right of after acquired title to the Permanent Easement granted and conveyed in this Agreement provided that the Owner receives title to all or part of the Permanent Easement Area after the recording of this Agreement.

This Permanent Easement Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN TESTIMONY WHEREOF, the Owner and the City have caused this Permanent Easement Agreement to be executed as follows:

Owner:
AUTO-OWNERS LIFE INSURANCE COMPANY,
a Michigan Corporation

Signature: By Ian R. Ward

Print Name: Ian R. Ward
Its: Senior Vice President

Signature: By Eileen K. Phaner

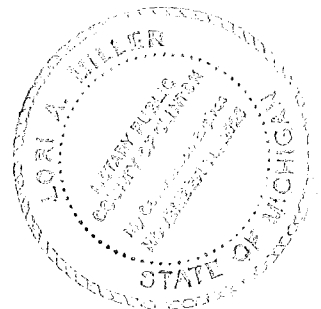
Print Name: Eileen K. Phaner
Its: Senior Vice President, Treasurer & CFO

STATE OF MICHIGAN)
) SS
COUNTY OF EATON)


The foregoing instrument was acknowledged before me this 24th day of November, 2015, by Ian Ward, and Eileen K. Phaner the SVP and CFO, respectively of Auto-Owners Life Insurance Company, a Michigan corporation, on behalf of said corporation.

LORI A. MILLER
NOTARY PUBLIC - STATE OF MICHIGAN
COUNTY OF CLINTON
My Commission Expires November 10, 2020

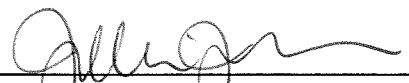
Lori A. Miller
Clinton Notary Public
County, Michigan
Acting in Eaton County, Michigan
My Commission Expires: November 10, 2020

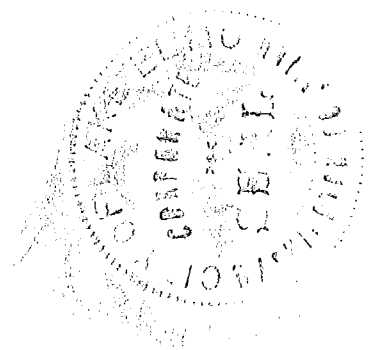


CITY OF LAKE ELMO

By: 
Mike Pearson, Mayor

ATTEST:


Julie Johnson, City Clerk



STATE OF MINNESOTA)
)
COUNTY OF WASHINGTON) ss.

On this 14th day of December, 2015, before me a Notary Public within and for said County, personally appeared Mike Pearson and Adam Bell, to me personally known, who being each by me duly sworn, each did say that they are respectively the Mayor and City Clerk of the **City of Lake Elmo**, a Minnesota municipal corporation, the municipality named in the foregoing instrument, and that the seal affixed to said instrument was signed and sealed on behalf of said municipality by authority of its City Council and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said municipality.


Notary Public

This instrument was drafted by:
David K. Snyder, Esq.
Johnson & Turner, P.A.
56 East Broadway Avenue, Suite 206
Forest Lake, MN 55025
651-464-7292



EXHIBIT A
LEGAL DESCRIPTION OF OWNER'S PROPERTY

Lot 1, Block 1, HOA 3rd ADDITION, according to the recorded plat thereof, Washington County, Minnesota.

EXHIBIT B
LEGAL DESCRIPTION OF
THE PERMANENT WATER MAIN EASEMENT AREA

An easement over, under and across that part of Lot 1, Block 1, HOA 3rd ADDITION, according to the recorded plat thereof, Washington County, Minnesota, described as commencing at the southwest corner of said Lot 1; thence on an assumed bearing of North, along the westerly line of said Lot 1, a distance of 219.13 feet; thence on a bearing of East 9.50 feet to the point of beginning of the easement to be described; thence on a bearing of North 43.50 feet; thence on a bearing of East 177.06 feet; thence on a bearing of North 25.50 feet; thence on a bearing of East 23.80 feet; thence North 45 degrees 00 minutes 00 seconds East 60.10 feet; thence North 22 degrees 30 minutes 00 seconds East 43.50 feet; thence on a bearing of North 142.26 feet; thence on a bearing of East 30.00 feet; thence on a bearing of South 89.44 feet; thence South 72 degrees 18 minutes 14 seconds East 20.02 feet to the easterly line of said Lot 1; thence southwesterly 70.48 feet, along said easterly line of Lot 1, along a curve concave to the southeast not tangential with the last described line, to a point of tangency; thence South 16 degrees 02 minutes 57 seconds West, tangent to said curve, along said easterly line of Lot 1, a distance of 27.53 feet to a point of curvature; thence southwesterly 25.37 feet along said easterly line of Lot 1, along a tangential curve concave to the northwest to a point of reverse curvature; thence southwesterly 58.80 feet, along said easterly line of Lot 1, along a reverse curve; thence South 45 degrees 00 minutes 00 seconds West 57.49 feet; thence on a bearing of South 41.77 feet; thence on a bearing of East 48.00 feet; thence North 65 degrees 00 minutes 00 seconds East 17.31 feet to said easterly line of Lot 1; thence southeasterly 39.00 feet, along said easterly line of Lot 1, along a curve concave to the northeast not tangential with the last described line, to an easterly corner of said Lot 1; thence South 1 degree 23 minutes 22 seconds East, along said easterly line of Lot 1, a distance of 3.93; thence South 65 degrees 00 minutes 00 seconds West 50.04 feet; thence on a bearing of West 84.66 feet; thence on a bearing of North 78.06 feet; thence on a bearing of West 121.49 feet; thence on a bearing of South 13.50 feet; thence on a bearing of West 30.00 feet to the point of beginning.

12960:00151:2414228-2

12mc

Receipt# 320320

EAS \$46.00
CRV Not Required

Return to:
CITY OF LAKE ELMO
3800 LAVERNE AVE NORTH
LAKE ELMO MN 55042

1239943



Certified Filed and/or recorded on:

4/19/2016 2:42 PM

1239943

Certificate #: 73220

Office of the Registrar of Titles
Washington County, Minnesota
Jennifer Wagenius, Registrar of Titles
Kevin Corbid, Auditor Treasurer

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EXEMPT FROM STATE DEED TAX

The rights of the City also include the right of the City, its contractors, agents and servants:

- a.) to enter upon the Permanent Easement Area at all reasonable times for the purposes of construction, reconstruction, inspection, repair, replacement, grading, sloping, and restoration relating to the purposes of this Permanent Easement; and

- b.) to maintain the Permanent Easement Area, any City improvements and any underground pipes or mains, together with the right to excavate and refill ditches or trenches for the location of such mains; and
- c.) to remove from the Permanent Easement Area, trees, brush, herbage, aggregate, undergrowth and other obstructions interfering with the location, construction and maintenance of the pipes or mains; and
- d.) to remove or otherwise dispose of and replace as necessary all earth or other material excavated from the Permanent Easement Area as the City may deem appropriate.
- e.) to prohibit obstructions or interference with its use of the Easement Area.

The City shall not be responsible for any costs, expenses, damages, demands, obligations, penalties, attorneys' fees and losses resulting from any claims, actions, suits, or proceedings based upon a release or threat of release of any hazardous substances, petroleum, pollutants, and contaminants which may have existed on, or which relate to the Permanent Easement Area or the Owner's Property prior to the date hereof.

Nothing contained herein shall be deemed a waiver by the City of any governmental immunity defenses, statutory or otherwise. Further, any and all claims brought by the Owner, its successors or assigns, shall be subject to any governmental immunity defenses of the City and the maximum liability limits provided by Minnesota Statute, Chapter 466.

The Owner, for itself and its successors and assigns, does hereby warrant to and covenant with the City, its successors and assigns, that it is well seized in fee of the Owner's Property described on Exhibit A, and the Permanent Easement Area described on Exhibit B, and has good right to grant and convey the Permanent Easement herein to the City. In addition, the Owner, for itself and its successors and assigns, does hereby warrant to and covenant with the City, its successors and assigns, the right of after acquired title to the Permanent Easement granted and conveyed in this Agreement provided that the Owner receives title to all or part of the Permanent Easement Area after the recording of this Agreement.

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IN TESTIMONY WHEREOF, the Owner and the City have caused this Permanent Easement Agreement to be executed as follows:

Owner:

**AUTO-OWNERS LIFE INSURANCE COMPANY,
a Michigan Corporation**

Signature: By *Ian R. Ward*

Print Name: Ian R. Ward
Its: Senior Vice President

Signature: By *Eileen K. Phaner*

Print Name: Eileen K. Phaner
Its: Senior Vice President, Treasurer & CFO

STATE OF MICHIGAN)
) SS
COUNTY OF EATON)

The foregoing instrument was acknowledged before me this 31st day of March, 2016,
by Ian Ward and Eileen K. Phaner
the Senior Vice President and Senior Vice President, Treasurer & CFO respectively of Auto-Owners Life
Insurance Company, a Michigan corporation, on behalf of said corporation.

LORI A. MILLER
NOTARY PUBLIC - STATE OF MICHIGAN
COUNTY OF CLINTON
My Commission Expires November 10, 2020

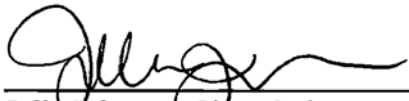
Lori A. Miller Notary Public
Clinton County, Michigan
Acting in Eaton County, Michigan
My Commission Expires: November 10, 2020



CITY OF LAKE ELMO

By: 
Mike Pearson, Mayor

ATTEST:

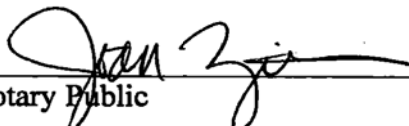

Julie Johnson, City Clerk



STATE OF MINNESOTA)
)
COUNTY OF WASHINGTON) ss.

On this 6th day of April, 2016, before me a Notary Public within and for said County, personally appeared Mike Pearson and Julie Johnsonsm, to me personally known, who being each by me duly sworn, each did say that they are respectively the Mayor and City Clerk of the **City of Lake Elmo**, a Minnesota municipal corporation, the municipality named in the foregoing instrument, and that the seal affixed to said instrument was signed and sealed on behalf of said municipality by authority of its City Council and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said municipality.




Notary Public

This instrument was drafted by:
David K. Snyder, Esq.
Johnson & Turner, P.A.
56 East Broadway Avenue, Suite 206
Forest Lake, MN 55025
651-464-7292

EXHIBIT A
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LEGAL DESCRIPTION OF
THE PERMANENT WATER MAIN EASEMENT AREA

An easement over, under and across that part of Lot 1, Block 1, HOA 3rd ADDITION, according to the recorded plat thereof, Washington County, Minnesota, described as commencing at the southwest corner of said Lot 1; thence on an assumed bearing of North, along the westerly line of said Lot 1, a distance of 219.13 feet; thence on a bearing of East 9.50 feet to the point of beginning of the easement to be described; thence on a bearing of North 43.50 feet; thence on a bearing of East 177.06 feet; thence on a bearing of North 25.50 feet; thence on a bearing of East 23.80 feet; thence North 45 degrees 00 minutes 00 seconds East 60.10 feet; thence North 22 degrees 30 minutes 00 seconds East 43.50 feet; thence on a bearing of North 24.57 feet; thence on a bearing of West 42.03 feet; thence North 45 degrees 00 minutes 00 seconds West 130.37 feet; thence North 45 degrees 00 minutes 00 seconds East 30.00 feet; thence South 45 degrees 00 minutes 00 seconds East 117.94 feet; thence on a bearing of East 54.10 feet; thence South 72 degrees 18 minutes 14 seconds East 25.80 feet to the easterly line of said Lot 1; thence southwesterly 70.48 feet, along said easterly line of Lot 1, along a curve concave to the southeast not tangential with the last described line, to a point of tangency; thence South 16 degrees 02 minutes 57 seconds West, tangent to said curve, along said easterly line of Lot 1, a distance of 27.53 feet to a point of curvature; thence southwesterly 25.37 feet along said easterly line of Lot 1, along a tangential curve concave to the northwest to a point of reverse curvature; thence southwesterly 58.80 feet, along said easterly line of Lot 1, along a reverse curve; thence South 45 degrees 00 minutes 00 seconds West 57.49 feet; thence on a bearing of South 41.77 feet; thence on a bearing of East 48.00 feet; thence North 65 degrees 00 minutes 00 seconds East 17.31 feet to said easterly line of Lot 1; thence southeasterly 39.00 feet, along said easterly line of Lot 1, along a curve concave to the northeast not tangential with the last described line, to an easterly corner of said Lot 1; thence South 1 degree 23 minutes 22 seconds East, along said easterly line of Lot 1, a distance of 3.93; thence South 65 degrees 00 minutes 00 seconds West 50.04 feet; thence on a bearing of West 84.66 feet; thence on a bearing of North 78.06 feet; thence on a bearing of West 121.49 feet; thence on a bearing of South 13.50 feet; thence on a bearing of West 30.00 feet to the point of beginning.

AUTO-OWNERS INSURANCE COMPANY
AUTO-OWNERS LIFE INSURANCE COMPANY
HOME-OWNERS INSURANCE COMPANY
OWNERS INSURANCE COMPANY
PROPERTY-OWNERS INSURANCE COMPANY
SOUTHERN-OWNERS INSURANCE COMPANY



BOX 30660, LANSING, MICHIGAN 48909-8160 517-323-1200
FAX 517-323-8796
WWW.AUTO-OWNERS.COM

May 27, 2016

The City of Lake Elmo
Attn: Planning Commission
3800 Laverne Avenue North
Lake Elmo, MN 55042

RE: EASEMENT VACATION: A request by the City of Lake Elmo to vacate watermain easement on property located at 8574 Eagle Point Circle N, City of Lake Elmo, Washington Count, MN, PID #33.029.21.43.0014

Members of the Planning Commission,

As owner of the property impacted by the referenced watermain easement, Auto-Owners Life Insurance Company fully supports vacating said easement, which is recorded document number 1238129 with the Office of the Registrar of Titles, Washington County, Minnesota. This document is enclosed for reference, as well as a diagram showing its location.

This easement to be vacated has already been replaced with a new watermain easement, which is recorded document number 1239943 with the Office of the Registrar of Titles, Washington County, Minnesota. The new easement was created to cooperate with the City's request to relocate a fire hydrant. The replacement easement and a diagram depicting it's location are also enclosed.

We appreciate your support in having the original watermain easement vacated from the Auto-Owners property.

Sincerely,

J. Daniel Keefe
Director, Real Estate Development & Acquisition

COPY

Easement To Be Vacated

Receipt# 310086
Attested Copy

EAS \$46.00
AT \$2.00
CRV Not Required
No Tax Due

Return to:
SUNDE LAND SURVEYING
LLC
9001 E BLOOMINGTON
FRWY #118
BLOOMINGTON MN 55420

1238129



Certified Filed and/or recorded on:

12/23/2015 1:41 PM

1238129

Certificate #: 73220

Office of the Registrar of Titles
Washington County, Minnesota
Jennifer Wagenius, Registrar of Titles
Kevin Corbid, Auditor Treasurer

PERMANENT WATER MAIN EASEMENT AGREEMENT

THIS PERMANENT WATER MAIN EASEMENT AGREEMENT shall be effective as of the date that the last party executes this Agreement, is made by and between Auto-Owners Life Insurance Company, a Michigan Corporation, hereinafter referred to as the "Owner," and the City of Lake Elmo, a Minnesota Municipal Corporation, hereinafter referred to as the "City."

The Owner owns the real property situated within Washington County, Minnesota as described on the attached **Exhibit A** (hereinafter "Owner's Property").

The Owner in consideration of one dollar (\$1.00) and other good and valuable consideration does hereby grant and convey to the City, its successors and assigns, the following:

1. A permanent easement for water main and, all such purposes ancillary, incident or related thereto (hereinafter "Permanent Easement") under, over, across, through and upon that real property identified and legally described on **Exhibit B**, (hereinafter the "Permanent Easement Area") attached hereto and incorporated herein by reference.

The Permanent Easement rights granted herein are forever and shall include, but not be limited to, the construction, maintenance, inspection, repair and replacement of water mains, pipes, hydrants, and all facilities and improvements ancillary, incident or related thereto, under, over, across, through and upon the Permanent Easement Area.

EXEMPT FROM STATE DEED TAX

The rights of the City also include the right of the City, its contractors, agents and servants:

- a.) to enter upon the Permanent Easement Area at all reasonable times for the purposes of construction, reconstruction, inspection, repair, replacement, grading, sloping, and restoration relating to the purposes of this Permanent Easement; and

- b.) to maintain the Permanent Easement Area, any City improvements and any underground pipes or mains, together with the right to excavate and refill ditches or trenches for the location of such mains; and
- c.) to remove from the Permanent Easement Area, trees, brush, herbage, aggregate, undergrowth and other obstructions interfering with the location, construction and maintenance of the pipes or mains; and
- d.) to remove or otherwise dispose of and replace as necessary all earth or other material excavated from the Permanent Easement Area as the City may deem appropriate.
- e.) to prohibit obstructions or interference with its use of the Easement Area.

The City shall not be responsible for any costs, expenses, damages, demands, obligations, penalties, attorneys' fees and losses resulting from any claims, actions, suits, or proceedings based upon a release or threat of release of any hazardous substances, petroleum, pollutants, and contaminants which may have existed on, or which relate to the Permanent Easement Area or the Owner's Property prior to the date hereof.

Nothing contained herein shall be deemed a waiver by the City of any governmental immunity defenses, statutory or otherwise. Further, any and all claims brought by the Owner, its successors or assigns, shall be subject to any governmental immunity defenses of the City and the maximum liability limits provided by Minnesota Statute, Chapter 466.

The Owner, for itself and its successors and assigns, does hereby warrant to and covenant with the City, its successors and assigns, that it is well seized in fee of the Owner's Property described on Exhibit A, and the Permanent Easement Area described on Exhibit B, and has good right to grant and convey the Permanent Easement herein to the City. In addition, the Owner, for itself and its successors and assigns, does hereby warrant to and covenant with the City, its successors and assigns, the right of after acquired title to the Permanent Easement granted and conveyed in this Agreement provided that the Owner receives title to all or part of the Permanent Easement Area after the recording of this Agreement.

This Permanent Easement Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN TESTIMONY WHEREOF, the Owner and the City have caused this Permanent Easement Agreement to be executed as follows:

Owner:
AUTO-OWNERS LIFE INSURANCE COMPANY,
a Michigan Corporation

Signature: By *Ian R. Ward*

Print Name: Ian R. Ward
Its: Senior Vice President

Signature: By *Eileen K. Phaner*

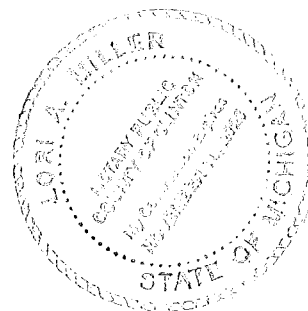
Print Name: Eileen K. Phaner
Its: Senior Vice President, Treasurer & CFO

STATE OF MICHIGAN)
) SS
COUNTY OF EATON)


The foregoing instrument was acknowledged before me this 24th day of November, 2015, by *Ian Ward*, and *Eileen K. Phaner* the SVP and CFO, respectively of Auto-Owners Life Insurance Company, a Michigan corporation, on behalf of said corporation.

LORI A. MILLER
NOTARY PUBLIC - STATE OF MICHIGAN
COUNTY OF CLINTON
My Commission Expires November 10, 2020

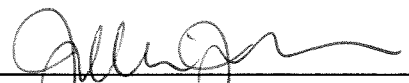
Lori A. Miller Notary Public
Clinton County, Michigan
Acting in *Eaton* County, Michigan
My Commission Expires: *November 10, 2020*

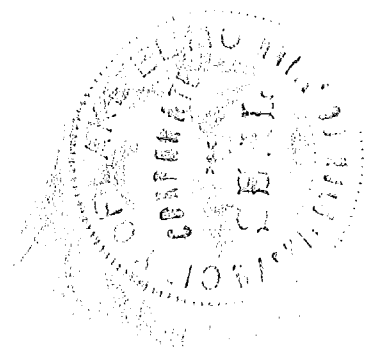


CITY OF LAKE ELMO

By: 
Mike Pearson, Mayor

ATTEST:


Julie Johnson, City Clerk



STATE OF MINNESOTA)
)
COUNTY OF WASHINGTON) ss.

On this 14th day of December, 2015, before me a Notary Public within and for said County, personally appeared Mike Pearson and Adam Bell, to me personally known, who being each by me duly sworn, each did say that they are respectively the Mayor and City Clerk of the **City of Lake Elmo**, a Minnesota municipal corporation, the municipality named in the foregoing instrument, and that the seal affixed to said instrument was signed and sealed on behalf of said municipality by authority of its City Council and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said municipality.


Notary Public

This instrument was drafted by:
David K. Snyder, Esq.
Johnson & Turner, P.A.
56 East Broadway Avenue, Suite 206
Forest Lake, MN 55025
651-464-7292



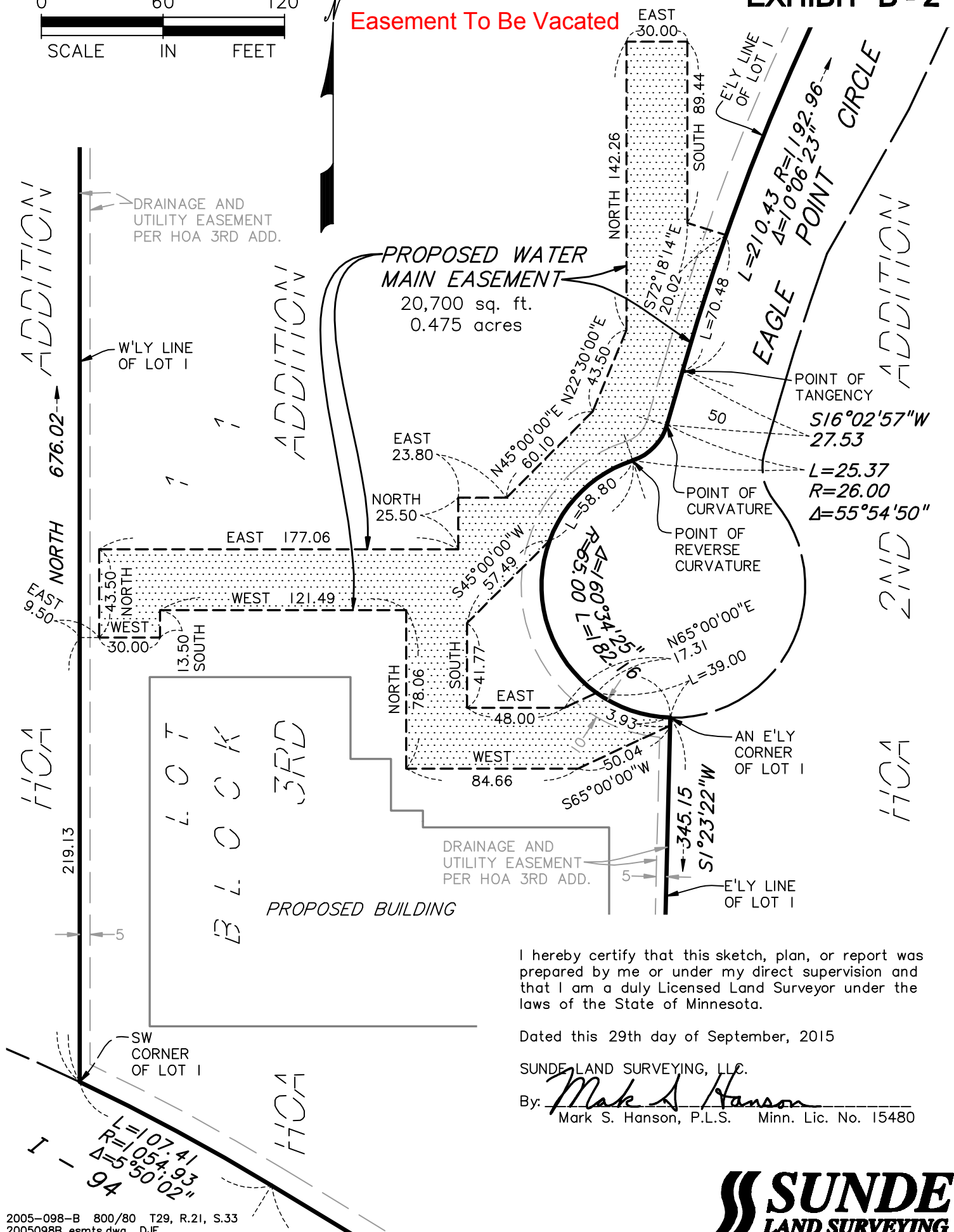
EXHIBIT A
LEGAL DESCRIPTION OF OWNER'S PROPERTY

Lot 1, Block 1, HOA 3rd ADDITION, according to the recorded plat thereof, Washington County, Minnesota.

EXHIBIT B
LEGAL DESCRIPTION OF
THE PERMANENT WATER MAIN EASEMENT AREA

An easement over, under and across that part of Lot 1, Block 1, HOA 3rd ADDITION, according to the recorded plat thereof, Washington County, Minnesota, described as commencing at the southwest corner of said Lot 1; thence on an assumed bearing of North, along the westerly line of said Lot 1, a distance of 219.13 feet; thence on a bearing of East 9.50 feet to the point of beginning of the easement to be described; thence on a bearing of North 43.50 feet; thence on a bearing of East 177.06 feet; thence on a bearing of North 25.50 feet; thence on a bearing of East 23.80 feet; thence North 45 degrees 00 minutes 00 seconds East 60.10 feet; thence North 22 degrees 30 minutes 00 seconds East 43.50 feet; thence on a bearing of North 142.26 feet; thence on a bearing of East 30.00 feet; thence on a bearing of South 89.44 feet; thence South 72 degrees 18 minutes 14 seconds East 20.02 feet to the easterly line of said Lot 1; thence southwesterly 70.48 feet, along said easterly line of Lot 1, along a curve concave to the southeast not tangential with the last described line, to a point of tangency; thence South 16 degrees 02 minutes 57 seconds West, tangent to said curve, along said easterly line of Lot 1, a distance of 27.53 feet to a point of curvature; thence southwesterly 25.37 feet along said easterly line of Lot 1, along a tangential curve concave to the northwest to a point of reverse curvature; thence southwesterly 58.80 feet, along said easterly line of Lot 1, along a reverse curve; thence South 45 degrees 00 minutes 00 seconds West 57.49 feet; thence on a bearing of South 41.77 feet; thence on a bearing of East 48.00 feet; thence North 65 degrees 00 minutes 00 seconds East 17.31 feet to said easterly line of Lot 1; thence southeasterly 39.00 feet, along said easterly line of Lot 1, along a curve concave to the northeast not tangential with the last described line, to an easterly corner of said Lot 1; thence South 1 degree 23 minutes 22 seconds East, along said easterly line of Lot 1, a distance of 3.93; thence South 65 degrees 00 minutes 00 seconds West 50.04 feet; thence on a bearing of West 84.66 feet; thence on a bearing of North 78.06 feet; thence on a bearing of West 121.49 feet; thence on a bearing of South 13.50 feet; thence on a bearing of West 30.00 feet to the point of beginning.

12960:00151:2414228-2



I hereby certify that this sketch, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Dated this 29th day of September, 2015

SUNDE LAND SURVEYING, LLC.

By: Mark S. Hanson
Mark S. Hanson, P.L.S. Minn. Lic. No. 15480



SUNDE
LAND SURVEYING

Return to:
CITY OF LAKE ELMO
3800 LAVERNE AVE NORTH
LAKE ELMO MN 55042

1239943



Certified Filed and/or recorded on:

4/19/2016 2:42 PM

1239943

Certificate #: 73220

Office of the Registrar of Titles
Washington County, MinnesotaJennifer Wagenius, Registrar of Titles
Kevin Corbid, Auditor Treasurer

Revised Easement

PERMANENT WATER MAIN EASEMENT AGREEMENT

THIS PERMANENT WATER MAIN EASEMENT AGREEMENT shall be effective as of the date that the last party executes this Agreement, is made by and between Auto-Owners Life Insurance Company, a Michigan Corporation, hereinafter referred to as the "Owner," and the City of Lake Elmo, a Minnesota Municipal Corporation, hereinafter referred to as the "City."

The Owner owns the real property situated within Washington County, Minnesota as described on the attached **Exhibit A** (hereinafter "Owner's Property").

The Owner in consideration of one dollar (\$1.00) and other good and valuable consideration does hereby grant and convey to the City, its successors and assigns, the following:

1. A permanent easement for water main and, all such purposes ancillary, incident or related thereto (hereinafter "Permanent Easement") under, over, across, through and upon that real property identified and legally described on **Exhibit B**, (hereinafter the "Permanent Easement Area") attached hereto and incorporated herein by reference.

The Permanent Easement rights granted herein are forever and shall include, but not be limited to, the construction, maintenance, inspection, repair and replacement of water mains, pipes, hydrants, and all facilities and improvements ancillary, incident or related thereto, under, over, across, through and upon the Permanent Easement Area.

EXEMPT FROM STATE DEED TAX

The rights of the City also include the right of the City, its contractors, agents and servants:

- a.) to enter upon the Permanent Easement Area at all reasonable times for the purposes of construction, reconstruction, inspection, repair, replacement, grading, sloping, and restoration relating to the purposes of this Permanent Easement; and

- b.) to maintain the Permanent Easement Area, any City improvements and any underground pipes or mains, together with the right to excavate and refill ditches or trenches for the location of such mains; and
- c.) to remove from the Permanent Easement Area, trees, brush, herbage, aggregate, undergrowth and other obstructions interfering with the location, construction and maintenance of the pipes or mains; and
- d.) to remove or otherwise dispose of and replace as necessary all earth or other material excavated from the Permanent Easement Area as the City may deem appropriate.
- e.) to prohibit obstructions or interference with its use of the Easement Area.

The City shall not be responsible for any costs, expenses, damages, demands, obligations, penalties, attorneys' fees and losses resulting from any claims, actions, suits, or proceedings based upon a release or threat of release of any hazardous substances, petroleum, pollutants, and contaminants which may have existed on, or which relate to the Permanent Easement Area or the Owner's Property prior to the date hereof.

Nothing contained herein shall be deemed a waiver by the City of any governmental immunity defenses, statutory or otherwise. Further, any and all claims brought by the Owner, its successors or assigns, shall be subject to any governmental immunity defenses of the City and the maximum liability limits provided by Minnesota Statute, Chapter 466.

The Owner, for itself and its successors and assigns, does hereby warrant to and covenant with the City, its successors and assigns, that it is well seized in fee of the Owner's Property described on Exhibit A, and the Permanent Easement Area described on Exhibit B, and has good right to grant and convey the Permanent Easement herein to the City. In addition, the Owner, for itself and its successors and assigns, does hereby warrant to and covenant with the City, its successors and assigns, the right of after acquired title to the Permanent Easement granted and conveyed in this Agreement provided that the Owner receives title to all or part of the Permanent Easement Area after the recording of this Agreement.

This Permanent Easement Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN TESTIMONY WHEREOF, the Owner and the City have caused this Permanent Easement Agreement to be executed as follows:

Owner:
AUTO-OWNERS LIFE INSURANCE COMPANY,
a Michigan Corporation

Signature: By 

Print Name: Ian R. Ward
Its: Senior Vice President


Signature: By 

Print Name: Eileen K. Phaner
Its: Senior Vice President, Treasurer & CFO

STATE OF MICHIGAN)
) SS
COUNTY OF EATON)

The foregoing instrument was acknowledged before me this 31st day of March, 2016, by Ian Ward, and Eileen K. Phaner the Senior Vice President and Senior Vice President, Treasurer & CFO respectively of Auto-Owners Life Insurance Company, a Michigan corporation, on behalf of said corporation.

LORI A. MILLER
NOTARY PUBLIC - STATE OF MICHIGAN
COUNTY OF CLINTON
My Commission Expires November 10, 2020

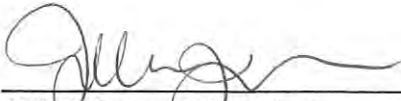

Clinton Notary Public
Acting in Eaton County, Michigan
My Commission Expires: November 10, 2020



CITY OF LAKE ELMO

By: 
Mike Pearson, Mayor

ATTEST:


Julie Johnson, City Clerk



STATE OF MINNESOTA)
)
COUNTY OF WASHINGTON) ss.

On this 6th day of April, 2016, before me a Notary Public within and for said County, personally appeared Mike Pearson and Julie Johnson, to me personally known, who being each by me duly sworn, each did say that they are respectively the Mayor and City Clerk of the **City of Lake Elmo**, a Minnesota municipal corporation, the municipality named in the foregoing instrument, and that the seal affixed to said instrument was signed and sealed on behalf of said municipality by authority of its City Council and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said municipality.




Notary Public

This instrument was drafted by:
David K. Snyder, Esq.
Johnson & Turner, P.A.
56 East Broadway Avenue, Suite 206
Forest Lake, MN 55025
651-464-7292

EXHIBIT A
LEGAL DESCRIPTION OF OWNER'S PROPERTY

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EXHIBIT B
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[illegible]

2005-098-B 800/80 T29, R.21, S.33
2005098B esmts R1.dwg DJF



PLANNING COMMISSION
DATE: JUNE 13, 2016
AGENDA ITEM: 4B – PUBLIC HEARING
CASE #2016-16

ITEM: Fence Easement Encroachment Requirement Amendment

SUBMITTED BY: Emily Becker, Planner

REVIEWED BY: Stephen Wensman, Planning Director
Jack Griffin, City Engineer

BACKGROUND:

Section 205, Subp. (D) (6) of the Zoning Code Fencing Regulations mandates that an easement encroachment agreement must be approved by the City Council, along with a fence permit, for any fence that will be installed within a City easement. This was first added to the Zoning Code in 2011.

This process takes up a significant amount of Staff time as Staff must prepare a report, have it reviewed and added to the City Council agenda as a Consent Agenda Item, and discuss the item if it is taken off the Consent Agenda. This is in addition to preparing the Easement Encroachment Agreement, having the owners sign and notarize the document, collect the document after it has been signed by the Mayor and City Clerk, and have it recorded by the County. Not only does this process take a significant amount of Staff time, but it also delays the approval process.

The current fee for an easement encroachment is \$150.00. This is in addition to the \$75.00 for a fence permit, bringing the cost of a permit for a fence to be erected in an easement \$225.00.

ISSUE BEFORE COMMISSION:

The Commission must determine if it is necessary that the City Council approve encroachments in to City easements or if approval from the Planning Director or his/her designee after approval from the City Engineer or his/her designee is sufficient.

PROPOSAL DETAILS/ANALYSIS:

Staff is proposing that fence easement encroachments be approved administratively. The approval process will be as follows:

- Applicant completes fence permit application, which will include a survey that delineates easements.
- Application will include the Easement Encroachment Agreement that the applicant will fill out and have notarized if the proposed fence is in a City easement.
- Planning and Engineering Staff will review the application and approve or deny based on compliance.
- If application is approved, Staff will issue the fence permit and file the Easement Encroachment Agreement with the County.

Staff is also proposing that Council reduce the fee for fence easement encroachments to \$50.00 when fees are approved next year. This will cover the cost of recording the easement encroachment agreement with the County. Fence permit application rarely require

FISCAL IMPACT:

Allowing the Fence Easement Encroachment Agreements to be approved administratively will reduce time Staff spends on processing fence permit applications that require Easement Encroachment Agreements. Additionally, because less time will be spent and because review of the fence permit application in and of itself requires minimal staff time, it is being proposed that the cost of recording a fence easement encroachment be reduced to \$50.00 next year to cover the cost of the fee of recording the easement encroachment agreement with the County.

RECOMMENDATION:

Staff is recommending the Planning Commission recommend approval of allowing Fence Easement Encroachment Agreements to be approved administratively by the Planning Director or his/her designee after review and approval by the City Engineer or his/her designee:

“Move to approve an ordinance amendment to Chapter 154: Zoning Code; Section 205: Fencing Regulations; Subp. (D) (6) to allow approval of a fence easement encroachment agreement by the Planning Director or his/her designee after review and approval by the City Engineer or his/her designee.”

ATTACHMENTS:

1. Draft Ordinance 08-__

ORDER OF BUSINESS:

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

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-____

SECTION 1. The City Council of the City of Lake Elmo hereby amends Article XV: Land Usage; Chapter 154: Zoning Code; Section 205: Fencing Regulations; Subd. 6: Easement Encroachment of the Lake Elmo Code of Ordinances to read the following:

6. *Easement Encroachment.* An easement encroachment agreement ~~must be approved by the City Council~~ must be approved by the Planning Director or his/her designee after review and approval from the City Engineer or his/her designee along with a fence permit, for any fence that will be installed within a City easement.

SECTION 2. Effective Date. This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 3. Adoption Date. This Ordinance 08-__ was adopted on this __ day of __, 2016, by a vote of __ Ayes and __ Nays.

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk

This Ordinance 08-__ was published on the ____ day of _____, 2016.



PLANNING COMMISSION

DATE: 6/13/2016

ITEM #: 4c-PUBLIC HEARING

CASE # 2016-17

AGENDA ITEM: Exempting Fish Houses from requirement that no accessory structure be constructed prior to principal structure on a lot and other amendments to accessory structure ordinance.

SUBMITTED BY: Emily Becker, Planner

REVIEWED BY: Stephen Wensman, Planning Director

SUMMARY AND BACKGROUND:

Staff is recommending the Planning Commission hold a public hearing and make a recommendation to the City Council on three changes pertaining to accessory structures.

The first amendment pertains to fishhouses. At its May 3, 2016 meeting, City Council directed Staff to amend the City's Accessory Structure ordinance to exempt "fish houses" that are 120 square feet or less in size from the requirement that principal structures be constructed or accessory use be located on lots prior to accessory structures in the Rural Single Family Zoning District.

The request was made due to a significant number of non-conforming lot sizes in the Rural Single Family Zoning District upon which a house would likely not meet setback requirements. Because a significant number of these lots could not be built upon without first obtaining a variance, the request was made so that these lots could be utilized for the recreational purpose a fish house would allow. Accessory structures are not allowed to be erected prior to the existence of or issuance of a building permit for a principal structure and variances cannot remedy the situation, so the only remedy is by a text amendment.

The second amendment pertains to Section 154.406, Subd. D, an exception provision that allows accessory structures to be located nearer to the front lot line than the principal structure. Staff is recommending the Planning Commission strike out the exception in Section 154.406, Subd. D by Resolution of the City Council. Staff believes the exception is a defacto variance without findings. The City Attorney has also given support for this amendment. The variance process is the appropriate mechanism to grant such exceptions. .

And the third amendment is an amendment to the definition of "Storage or Tool Shed" in Section 154.213. Staff recommends amending the defined size of the shed from 160 square feet to 200 square feet to align with MN State Building Code.

ISSUE BEFORE PLANNING COMMISSION:

The Planning Commission should consider the following:

- 1) If fish houses, with certain provisions, should be exempt from the requirement that principal structures be constructed on lots prior to accessory structures in the Rural Single Family Zoning District.
- 2) If the language in Section 154.406, Subd. D of the Zoning Code that allows accessory structures to be located nearer to the front lot line than the principal structure by Resolution of the City Council should be stricken. Striking this language will require applicants to go through the variance process.
- 3) If the definition of “Tool Shed” in Section 154.213, Subd B, should be amended to changing the defined size from 160 square feet to 200 square feet to align with MN State Building Code, and adding Tool shed to the list of structures exempt from the maximum allowed structure size and number requirements in residential districts.

PROPOSAL DETAILS/ANALYSIS:

Fish House Exemption:

Definition. The definition of water-oriented accessory structure or facility in Lake Elmo’s City Code lists fish houses as an example of such a structure. Water-oriented accessory structures are exempt from setback regulations of the Shoreland Overlay District if certain provisions are met including not exceeding a height of ten feet, not being over 250 square feet in size, being set back at least ten feet from the Ordinary High Water Level (OHWL) on a recreational development lake and 50 feet from the OHWL on a natural environment lake, being treated to reduce visibility as viewed from public waters, must not be used for human habitation or contain water supply or sewage treatment facilities. The Code does not currently clearly define fish houses.

Restriction. Because fish houses are classified as accessory structures, regulations of accessory structures must be met. The Shoreland Ordinance allows only one water oriented structure per lot. By City Code, no accessory structure can be constructed or accessory use be located until a building permit has been issued for a primary structure on a lot. The Code provision is typical in cities in order to maintain control over use of properties for storage and to protect the City against a proliferation of unwanted storage structures.

Logic Behind Zoning District Restriction. Staff recommends that if an exemption for fish houses from the requirement of a principal structure is considered, the exemption should be restricted only to the RS - Rural Single Family Zoning District for a number of reasons. First, there are a number of lots in this zoning district that are non-conforming, and on which a house could not be built without a variance. Additionally, many of the lots in the RS District are located adjacent to a lake, and allowing fish houses to exist on lots without primary structures would allow owners who do not wish to construct a primary structure to enjoy recreation on the lake without having to haul their fish house to the lake each winter season.

Potentially-Affected Parcels. There are currently 221 parcels located in the Rural Single Family District on which a principal structure does not exist. 191 of these parcels are non-conforming lots in that they do not comply with the 1.5 acre minimum lot size the Rural Single Family Zoning District requires. A map is included as an addendum to this report to illustrate the locations of these parcels.

Regulation. Fish houses are considered accessory structures and therefore will require a Certificate of Zoning Compliance, as any accessory structure located on a property that does not require a building permit

requires this Certificate. It is at this time that Staff will be able to determine if most of the requirements of a fish house outlined in its definition are met. Of course, some requirements will not easily be determined, and there may be need for code compliance investigations if complaints are received or it is observed by the City that a property is in violation.

Potential Impacts. There are a number of potential impacts that may result from allowing fish houses to exist on parcels without primary structures. First, fish houses may be used solely as storage. Even though the definition outlines that they may not be used for storage, it is hard to know and regulate what occurs inside a structure that is not viewable from the street without going through the proper processes. Also, the design of fish houses is not regulated nor do they require a building permit, so the appearance, safety and durability of the structure are at risk. Section 154.406 of the Zoning Code requires that accessory structures are required to be similar or compatible with the design and construction of the principal building, but without a principal building, there is nothing by which its exterior appearance can be regulated. Additionally, it is hard to regulate fish houses from being used as dwellings, even though the definition does not allow this. On the other hand, allowing fish houses to be constructed/located on a lot without a primary structure would increase the utility of the lot for the owner without them having to go through a variance process and constructing a primary structure and could potentially benefit neighboring properties as adjacent lots can remain mostly vacant, increasing their peace and privacy. The extra requirements; that a fish house is located on a lot with direct access to a water body; maintains a current license with the Minnesota Department of Natural Resources regardless if it is left on a water body overnight; is 120 square feet or less; and complies with Shoreland regulations and RS Rural Single Family setback requirements, are intended to limit some of the potential impacts.

Requiring the Variance Process for an Accessory Structure to be Located Nearer to the Front Lot Line than the Principal Structure:

Variance Process. The Board of Adjustment has the power to grant variances to the provisions of this chapter under certain procedures and standards. All requests for variances shall be reviewed in accordance with the required findings. A public hearing is to be held by the Planning Commission, after which findings are considered and a recommendation is made to the Board of Adjustment. The current process of allowing accessory structures to be located nearer the front lot line than the principal structure does not follow this process outlined in Section 154.109: Variances of the Zoning Code.

History. Since 1993, Staff has found that approximately 29 approvals for accessory structures to be located nearer to the front line than the principal structures have been made by Resolution of City Council.

Storage or Tool Shed Definition:

This ordinance amendment was an opportunity to fix the definition of “Storage or Tool Shed” to align the square footage in the definition to the square footage threshold in the Building Code where building permits are required. Below 200 square feet, no building permits are required. In addition, the current text allows one Storage or Tool Shed per property in addition to the number of allowed accessory structures, but does not exempt them from the square footage requirements. The text and application of this is confusing and has not been correctly administered by Staff as a result. To remove the confusing language, Storage or Tool Sheds will be added to the structures exempt from the maximum allowed structure size and number requirements in residential districts.

FISCAL IMPACT:

Allowing fish houses to be located on lots in the absence of principal structures may increase the amount of time Staff spends in response to code compliance complaints as fish houses may be used for storage or habitation as is not allowed per the proposed ordinance.

Requiring the variance process for accessory structures to be located nearer to the front line than the principal structure may increase the amount of time Staff spends on such requests, though the cost of a variance is much higher than the cost of the request of Resolution by City Council (\$750.00 vs. \$200.00, respectively). The change may also reduce the number of requests.

RECOMMENDATION:

Staff recommends that the Planning Commission hold a public hearing and recommend approval to Ordinance ____ with the following motion:

“Move to recommend the City Council approve Ordinance __ pertaining to fishhouses, the exception to 154.406, Subd. D, and the definition of “Storage or Tool Shed.”

ATTACHMENTS:

- Draft Ordinance Amendment.
- Quick notes on other cities’ fish house requirements.
- Map depicting potentially affected parcels (fish house).

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-

AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES BY EXEMPTING FISH HOUSES FROM REQUIREMENT THAT NO ACCESSORY STRUCTURE BE CONSTRUCTED PRIOR TO PRINCIPAL STRUCTURE ON LOT AND STRIKING LANGUAGE THAT ALLOWS ACCESSORY STRUCTURES TO BE LOCATED NEARER TO THE FRONT LINE THAN PRINCIPAL STRUCTURES BY RESOLUTION OF THE CITY COUNCIL

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title I: General Provisions; Chapter 11: General Code Provisions by adding the following definition:

FISH HOUSE. A water-oriented structure meant to provide periodic shelter during the winter months while atop a frozen lake for use in fishing. A structure will be considered a fish house only if it is constructed with sleds, wheels or similar means to allow transport on to a frozen lake; is not used on land for human habitation; and is not used for boat storage.

SECTION 2. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code; Article 5. General Regulations; Section 213: Accessory Buildings and Structures, Generally; Subd. B: Definitions and Subd. D: Principle Structure Necessary to read the following:

- B. *Definitions.* The following words, terms and phrases, when used in this section, and all sections pertaining to accessory buildings or structures, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

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

Detached Domesticated Farm Animal Building. A 1-story accessory building used or intended for the shelter of domestic farm animals and/or related feed or other farm animal supportive materials. The building may require a Minnesota Pollution Control Agency feedlot permit in addition to site and building plan approval.

Fish House. A water-oriented structure meant to provide periodic shelter during the winter months while atop a frozen lake for use in fishing. A structure will be considered a fish house only if it is constructed with sleds, wheels or similar means to allow transport on to a frozen lake; is not used on land for human habitation; and is not used for boat storage.

Detached Residential Accessory Building. A 1-story accessory building primarily used or intended for the storage of automobiles and other miscellaneous equipment. No door or other access opening shall exceed 14 feet in height.

Storage or Tool Shed. A 1-story accessory building of less than ~~460~~200 square feet gross area with a maximum roof height of 12 feet.

- C. *Permit Required.* All accessory building and structures require either a certificate of zoning compliance or a building permit as determined by the Minnesota State Building Code.
- D. *Principal Structure Necessary.* No accessory building or structures shall be constructed nor accessory use located on a lot until a building permit has been issued for the principal structure to which it is accessory. Fish houses as defined in this Code and located in the RS Rural Single Family District are exempt from this requirement provided the following criteria are met: must be located on a lot with direct access to a water body; must maintain a current Fishhouse license with the Minnesota Department of Natural Resources regardless if it is left on a water body overnight; is 120 square feet or less; and complies with Shoreland regulations and RS Rural Single Family setback requirements. One fish house per lot may exist without a principal structure.
- E. *Proximity to Principal Structure.* Accessory buildings shall maintain a six (6) foot setback from the principal structure. An accessory building or structure will be considered as an integral part of the principal building if it is located six (6) feet or less from the principal structure.
- ~~F. *Storage or Tool Sheds.* A storage or tool shed as defined in this section may be placed on any lot in addition to the permitted number of accessory buildings.~~
- F. *Exempt Structures.* The following residential improvements shall be exempt from the maximum allowed structure size and number requirements in residential districts:
 1. Unenclosed playhouses
 2. Gazebos up to a total of 120 square feet in size and a maximum of twelve (12) feet in overall height
 3. Detached decks over thirty (30) inches in height up to a total of 120 square feet in size
 4. Outdoor swimming pools
 5. Patios
 6. Tennis and sport courts
 7. Structures, sheds or coops up to a total of two hundred (200) square feet in size used to house permitted animals, such as chickens, horses, or other livestock. These structures must not exceed twelve (12) feet in height and must meet all required setbacks **per MPCA guidelines and the City's animal ordinances.**
 8. **Water oriented accessory structures as permitted in accordance with the City's Shoreland Ordinance.**
 9. One Storage or Tool Shed per residential lot.

SECTION 3. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code; Section 405: Accessory Uses and Structures to read the following:

- A. *Phasing.* No accessory use or structure shall be constructed or established on any lot prior to the time of construction of the principal use to which it is accessory.
- B. *Incidental to Principal Use.* The accessory use or structure shall be incidental to and customarily associated with the principal use or structure served.
- C. *Subordinate to Principal Use.* The accessory use or structure shall be subordinate in area, extent, and purpose to the principal use or structure served.

- D. *Function.* The accessory use or structure shall contribute to the comfort, convenience, or necessity of the occupants of the principal use or structure served.
- E. *Location.* The accessory use or structure shall be located on the same zoning lot as the principal use or structure.
- F. *Exemption.* Fish houses as defined in this Code and located in the RS Rural Single Family District are exempt from this requirement provided the following criteria are met: must be located on a lot with direct access to a water body; must maintain a current Fishhouse license with the Minnesota Department of Natural Resources regardless if it is left on a water body overnight; is 120 square feet or less; and complies with Shoreland regulations and RS Rural Single Family setback requirements. One fish house per lot may exist without a principal structure.
- G. *If a current Minnesota Department of Natural Resources Fishhouse License is not obtained for the structure, the structure must be removed from the property within 60 days.*

SECTION 4. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code; Section 404: Accessory Structures, Rural Districts., Subd. D to read the following:

- D. *Structure Location, Rural Districts.* No detached garages or other accessory buildings shall be located nearer to the front lot line than the principal building on that lot. ~~unless, by Resolution of the City Council, an exception is made to permit a detached garage or accessory structure nearer the front lot line than the principal building.~~

SECTION 5. Effective Date. This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 6. Adoption Date. This Ordinance 08-____ was adopted on this ____ day of _____, 2016, by a vote of ____ Ayes and ____ Nays.

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk

This Ordinance 08-____ was published on the ____ day of _____,
2016.

Pequot City:

102. **Fish House.** A structure placed on a lake during the winter for use in fishing. A structure will only be considered a fish house if it is 160 square feet or less, is moveable and has a current license.

Oronoco:

Defines gazebos, screen houses, **fish houses**, pump houses, and detached decks as accessory structures

Brianer:

Water-oriented accessory structure or facility" means a small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.

515-17-2: Dwelling Unit Restriction. No cellar, garage, tent, travel trailer, motor home, fish house, basement with unfinished structure above, or accessory building shall at any time be used as a dwelling unit.

Mounds View:

Ordinance allows the storage of fish houses in residential front yard areas.

East Bethel:

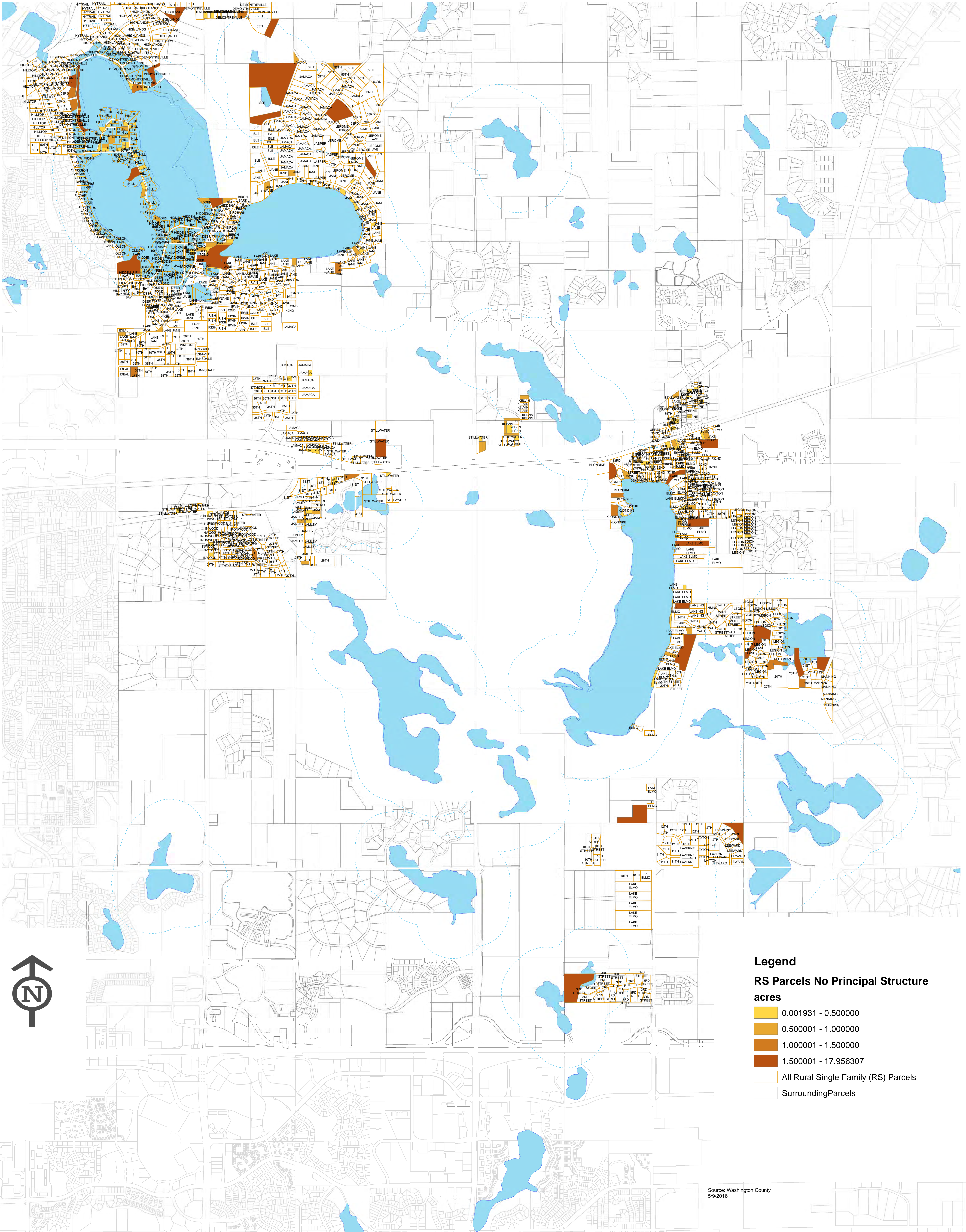
Fish houses shall be included in the calculation of the gross maximum square footage for detached accessory structures. No more than one fish house shall be permitted on a lot. Fish houses must meet all required accessory structure setbacks.

Chanhassen:

Water-oriented structures (e.g. boathouses, gazebos, screen houses, fish houses, etc.) must maintain the minimum 10-foot setback from the ordinary high water mark. Water-oriented structures are permitted to be a maximum of 250 sq. ft., 10 ft. in height, and must not occupy more than 30% of the rear yard.

Rural Single Family Lots - No Principal Structure

This map outlines parcels located in the Rural Single Family Zoning District on which a principal structure is not currently located. It also depicts the size of such parcels through color grading.





PLANNING COMMISSION
DATE: 6/13/16
AGENDA ITEM: 4D – PUBLIC HEARING
CASE # 2016-19

ITEM: Comprehensive Plan Text Amendment to Rural Single Family Land Use Designation

SUBMITTED BY: Stephen Wensman, Planning Director

REVIEWED BY: Emily Becker, City Planner
Lisa Barajas, Metropolitan Council

SUMMARY AND ACTION REQUESTED:

The Planning Commission is requested to review a Comprehensive Plan Text Amendment to bring the planned official land use plan category, Rural Single Family, into compliance with the Comprehensive Plan's Wastewater Facilities Plan as recently amended. Staff is recommending the Planning Commission recommend approval of the Comprehensive Plan Text Amendment.

GENERAL INFORMATION

Applicant: City of Lake Elmo

Location: Areas guided as Rural Single Family

Request: A Comprehensive Plan Text Amendment to bring the planned official land use plan category, Rural Single Family, into compliance with the Comprehensive Plan's Wastewater Facilities Plan as recently amended.

History: On 4/19/16, the City Council approved an amendment to the Village MUSA to add three properties. The Metropolitan Council requested that the Rural Single Family land use designation be amended to be in compliance with areas guided for sewer.

REQUEST DETAILS:

The Lake Elmo City Council, on April 19, 2016, approved a Comprehensive Plan Text Amendment to the City's Wastewater Facilities Plan by adding three properties to the Village MUSA. The Metropolitan Council, upon reviewing the amendment, requested that the Rural Single Family land use designation be amended to be in compliance with areas guided for sewer. Presently, there are two areas where properties guided for Rural Single Family are within a MUSA area; the Old Village and in the Tri-Lakes area near Oakdale.

The current Rural Single Family planned land use category reads:

RURAL SINGLE FAMILY – This category defines a large portion of the City that was historically platted for conventional subdivision prior to 2005, but has been and will continue to be serviced by private on-site well and septic systems. Limited locations within this classification are allowed to have two-family dwellings based on zoning. [Corresponding Zoning District(s): R-1, R-2]

The category as defined is served by private on-site well and septic systems. In addition, the definition references zoning districts that are no longer in existence. The corresponding zoning district is RS - Rural Single Family. The proposed definition will allow on-site well and septic systems, unless the City Council considers connection to the sanitary sewer practicable. The corresponding zoning district is RS - Rural Single Family. The proposed Rural Single Family planned land use category reads (inserted text is underlined):

RURAL SINGLE FAMILY – This category defines a large portion of the City that was historically platted for conventional subdivision prior to 2005, but has been and will continue to be serviced by private on-site well and septic systems unless within a Metropolitan Urban Service Area (MUSA). If within a MUSA, the City Council may consider connection to the sanitary sewer system where practical. Limited locations within this classification are allowed to have two-family dwellings based on zoning. [Corresponding Zoning District(s): RS – Rural Single Family]

ANALYSIS:

The RS-Zoning District as defined in City Code Section 154.400, D. reads:

RS Rural Single Family District. The RS District is established for lands that have already been platted as conventional residential subdivisions prior to the 2005 adoption of the Comprehensive Land Use Plan. This district provides an environment of predominantly single-family detached dwellings on moderately sized lots in areas that have typically not been provided with public sanitary sewer services.

Staff believes the definition of RS - Rural Single Family suggests on-site septic systems, but does not preclude them from connecting to public sewer. No change to the RS Rural Single Family definition is needed and the proposed Comprehensive Plan Text Amendment will bring the Land Use Plan in compliance with the Wastewater Facilities Plan without changing existing densities, setbacks, etc.

DRAFT FINDINGS:

The City Code does not require specific findings for comprehensive plan amendments, however, Staff is suggesting the following findings in support of the amendment:

1. The comprehensive plan text amendment will bring the Lake Elmo Comprehensive Land Use Plan into conformity with the Comprehensive Wastewater Facilities Plan.
2. The comprehensive plan text amendment will not affect underlying density or zoning code regulations.

3. The Metropolitan Council has administratively reviewed the amendment, has no objection, and had waived adjacent jurisdictional review.

RECOMMENDATION:

Staff is recommending the Planning Commission recommend approval of the Comprehensive Plan Text Amendment with the following motion:

“Move to recommend the City Council approve the comprehensive plan text amendment to amend the planned land use category in the Comprehensive Land Use Plan to read:

RURAL SINGLE FAMILY – This category defines a large portion of the City that was historically platted for conventional subdivision prior to 2005, but has been and will continue to be serviced by private on-site well and septic systems unless within a Metropolitan Urban Service Area (MUSA). If within a MUSA, the City Council may consider connection to the sanitary sewer system where practical. Limited locations within this classification are allowed to have two-family dwellings based on zoning. [Corresponding Zoning District(s): RS – Rural Single Family]

ATTACHMENTS:

- None

ORDER OF BUSINESS:

- IntroductionPlanning Staff
- Report by StaffPlanning Staff
- Questions from the Commission Chair & Commission Members
- Open the Public HearingChair
- Close the Public Hearing.....Chair
- Discussion by the Commission Chair & Commission Members
- Action by the Commission..... Chair & Commission Members



PLANNING COMMISSION

DATE: 06/13/2016

ITEM #: 5a -DISCUSSION ITEM

CASE # 2016-14

AGENDA ITEM: Rezoning Old Village GB – General Business District to VMX – Village Mixed Use District

SUBMITTED BY: Emily Becker, Planner

REVIEWED BY: Stephen Wensman, Planning Director

SUMMARY AND BACKGROUND:

In November of 2013, creation of the Village Mixed Use District was approved in support of the 2030 Comprehensive Plan update for the Village Planning Area. The Village Mixed Use District was created to replace the existing intermingling of commercial, residential, and public zoning classifications within the central portion of the Village area. While the creation of the District was approved, the area for which it was meant for has not yet been rezoned. Currently, the majority of the parcels that are planned for VMX - Village Mixed Use zoning are zoned GB – General Business. In late 2015, the Arbor Glen Senior Living property was the first General Business property to be rezoned to VMX. It is not clear from the data currently available to Staff why this area has not yet been rezoned.

A major component of the land use plan for the Village Planning Area is the creation of a mixed-use development area around the existing downtown core. The intent of the VMX ordinance is to facilitate development that is consistent with a compact, walkable environment that builds upon the historical land use patterns of the Village. It has also been designed to allow a wide range of uses and activities and encourages the mixing of different use types. The ordinance includes standards for specific development types with provisions that address the unique character of the Village.

Currently, the only parcels zoned GB – General Business are located in the Old Village. Rezoning these parcels to VMX – Village Mixed Use will leave the GB – General Business District non-existent on the Zoning Map. Therefore, Staff is recommending that Section 034, GB – General Business be removed along with all other references to this zoning district. Staff has

also taken this opportunity to amend some inconsistencies in the numbering of the Table of Contents as it relates to numbering of the Sections in the body of the Zoning Code.

ISSUE BEFORE PLANNING COMMISSION:

The Planning Commission should consider rezoning the parcels currently zoned GB - General Business District to VMX - Village Mixed Use. It should also consider removal of 154.034: GB – General Business from the Zoning Code, as this district will no longer exist on the Zoning Map.

PROPOSAL DETAILS/ANALYSIS:

In general, the proposed rezoning will allow a much higher degree of flexibility for building and activity in the Village than is presently permitted under current ordinances. Attached are tables that outline differences in lot dimensions, setback requirements, and permitted uses in the two districts. Staff has also provided a complete draft the GB and VMX District regulations.

Staff has received a number of inquiries from occupants of parcels located in the GB – General Business District. As shown on the comparison tables, the regulations in these two districts are quite different, and it is difficult for Staff to determine which regulations should be applied. Rezoning will help clarify this.

A careful analysis of the properties currently zoned GB – General Business was conducted and within the district there are 2 residential properties, 3524 Lake Elmo Avenue and 11178 Upper 33rd Street, and two vacant lots near 11018 Upper 33rd Street, and 6 vacant lots north of Stillwater Boulevard. To the concerns of the Commission about creating nonconformities, the VMX Zoning District is generally more permissive than the GB District, except for religious institutions, schools, drive-through facilities, churches, medical facilities, garden centers, etc., which are conditional uses in order to mitigate issues related to traffic, noise or other issues related to the use. Dimensionally, the VMX has lesser setbacks, and allows more impervious area. In general, the VMX District has been designed to accommodate the mixed use nature of the Old Village businesses, and in many cases will rid properties of some or all of their nonconforming lot status. The GB-General Business standards make most of the lots within the Old Village nonconforming because of the setbacks and impervious limits.

Staff is also cognizant of the fact that the Planning Commission is in support of implementing a Form Based Zoning for the VMX District, as is supported in the Comprehensive Plan. The Form Based Zoning is currently on the 2016 Planning Department Workplan. The Commission should

consider how plans for a potential form based zoning in the VMX District pertain to this rezoning.

FISCAL IMPACT:

Rezoning the subject area to Village Mixed Use zoning will provide greater flexibility, which may bring in new or different businesses and/or activity to the Old Village.

OPTIONS:

The Planning Commission has the following options:

- 1) Rezone all of the parcels located in the GB – General Business District to VMX – Village Mixed Use and strike Section 154.034 from the Zoning Code.
 - 2) Not rezone any of the parcels located in the GB – General Business District to VMX – Village Mixed Use at this time and leave Section 154.034 in the Zoning Code for the time being.
-

RECOMMENDATION:

Staff recommends that the Planning Commission discuss the proposed rezoning of the parcels located in the GB – General Business District to VMX – Village Mixed Use and striking Section 154.034 from the Zoning Code.

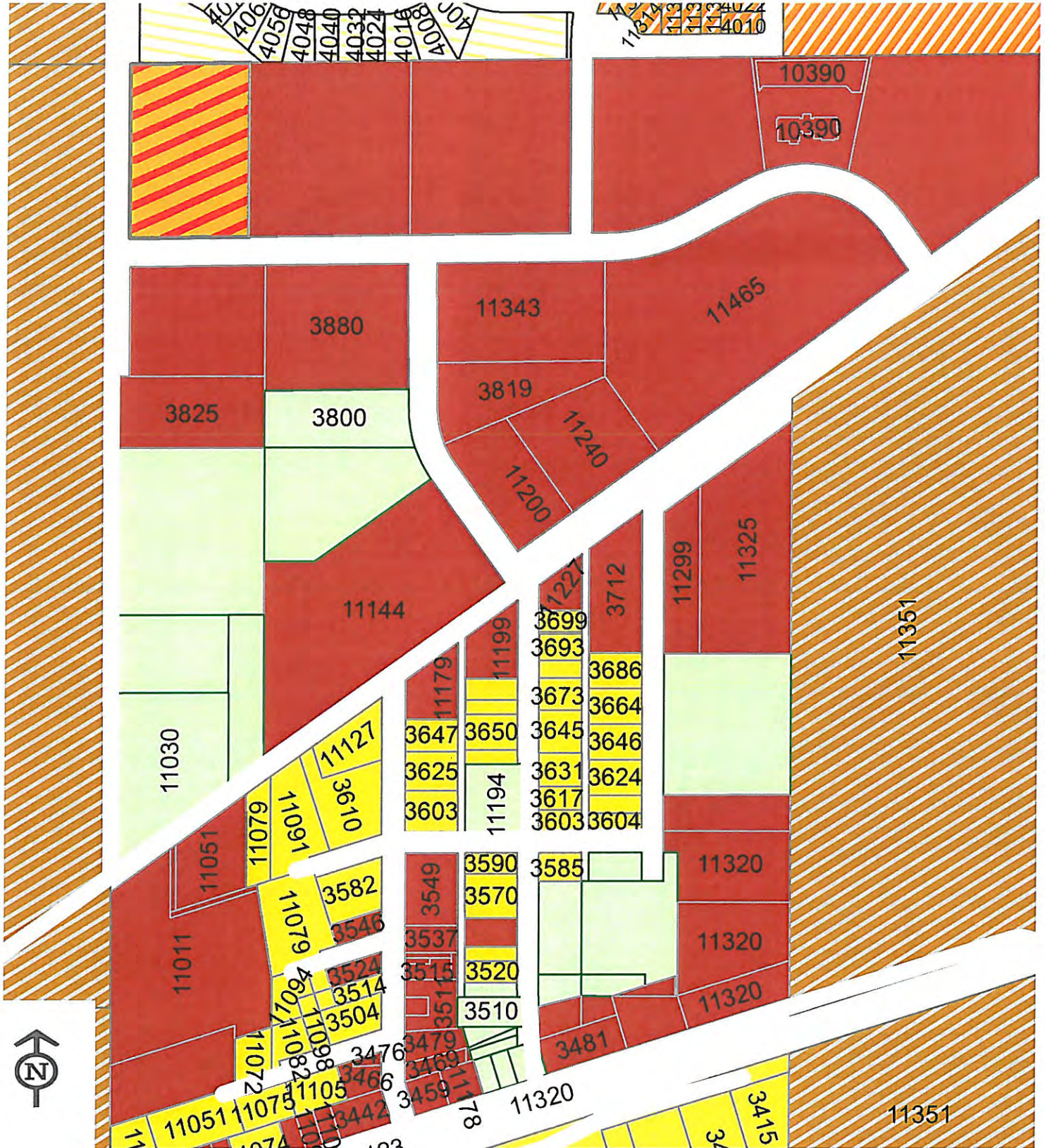
ATTACHMENTS:

- Old Village Zoning Map
- GB and VMX Lot Dimension and Setback Requirements Comparison Table.
- GB and VMX Permitted and Conditional Uses Comparison Table.
- GB District Regulations
- VMX District Regulations
- Ord. 08-___ omitting Section 154.034 from the Zoning Code.

GB and VMX Lot Dimension and Setback Requirements Comparison Table

Requirements	General Business	VMX
Minimum Lot Area - Non-Residential Use	1.5 acres (65,340 sf)	None
Minimum Lot Area - Single Family Detached Dwelling		5000 sf (-1/8 acre)
Minimum Lot Area - Two-Family Dwelling (per unit)		3000 sf (1/18 acre)
Minimum Lot Area - Single-Family Attached (per unit)		2500 sf (1/19 acre)
Minimum Lot Area - Multi-Family Dwelling (per unit)		1800 sf
Minimum Lot Area - Secondary Dwelling		7500 sf (1/6 acre)
Minimum Lot Area - Live-Work Unit		3000 sf
Minimum Lot Area - Congregate Housing		
Minimum Lot Area - Other Structures		3500 sf
Maximum Lot Area – Residential Structures	N/A	N/A
Maximum Lot Area – Other Structures		5 acres
Minimum Lot Width - Single Family Detached Dwelling	150 ft	50 ft
Minimum Lot Width – Two-Family Dwelling (per unit)		50 ft
Minimum Lot Width – Single-Family Attached (per unit)		30 ft
Minimum Lot Width – Multi-Family Attached (per unit)		25 ft
Minimum Lot Width – Live-Work Unit		75 ft
Maximum Height	35 ft	35 ft
Maximum Impervious Coverage – Residential Structures	25% - 40% depending on acreage	75%
Maximum Impervious Coverage – Other Structures		None

Lake Elmo Zoning Map



THE CITY OF
LAKE ELMO

Zoning Districts

A	LC	MDR	RE
BP	LC-PUD	MDR-PUD	RR
C	LDR	HDR	RS
CC	LDR-PUD	OP	RT
GB	R2-PUD	PF	VMX

General

Village_Area
Lakes
Lake Elmo Boundary
Shoreland District Boundary

Watershed Districts

Browns Creek
South Washington
Valley Branch

GB and VMX Permitted and Conditional Uses Comparison Table

	GB	VMX
Single Family Detached	-	P
Single Family Attached	-	P
Two Family	-	P
Multi Family	-	C
LiveWork Unit	-	P
Secondary Dwelling	-	C
Group Home	P	P
Group Residential Facility	P - allows Boarding Care Facility with 15 residents max.	C
Community Services	P	P
Congregate Housing	-	C
Semi-Transient Accommodations	-	C
Day Care	P	P
Public Assembly	P	C
Religious Institutions	P	C
Schools	-	C
Business Services	P	P
Business Center	P	P
Offices	P - specifies types of office uses	P
Communications Services	P	P
Education Services	P	P
Financial Institution	P	P
Funeral Home	-	C
Lodging	-	C
Medical Facility	P	C
Membership Organization	P	C
Nursing and Personal Care	P - allows Boarding Care Facility with 15 residents max.	C
Personal Services	Allows Beauty Shops, Barber Services, Apparel Cleaning Pick-Up Stations, Apparel Repair and Alterations, Shoe Repair, Jewelry Repair, Fitness Studio (all defined as Personal Services)	P
Repair and Maintenance Shop	P - specifies types of repair services allowed	C
Trade Shop	-	C
Veterinary Services	P	C
Standard Restaurant	P	P
Restaurant with Drive-through	P - menu boards and intercom systems prohibited	C
Drinking and Entertainment	-	P
Retail Trade	P - Allows Antiques and Secondhand Merchandies, Bicycles, Art Gallery, Books, Electrical supplies, Flowers and Floral Accessories, Sporting Goods, Jewelry, Specialty foods, Drugs and Proprietary Items, Camera and Photographic Supplies, Furniture, Food and Grocery Products, Home Furnishings and Related Equipment, Apparel and Related Accessories, Liquor, Building Supplies, Household Appliances, Bakeries	P
Farmer's Market	-	C
Garden Center	P	C

Neighborhood Convenience Store	P	P
Shopping Center	P - does not specify shopping center but allows certain retail uses	C
Wayside Stand	-	P
Automobile Maintenance Service	P	C
Automobile Parts/Supply	P	P
Gasoline Station	-	C
Parking Facility	-	C
Sales and Storage Lots	P	C
Outdoor Recreation Facility	-	C
Parks and Open Areas	-	P
Indoor Athletic Facility	-	C
Indoor Recreation	P - allows Family Entertainment Centers (not defined)	C
Broadcasting or Communications Facility	-	C
Home Occupation	P	P
Bed and Breakfast	P - 15 beds maximum	C
Domestic Pets	P	P
Family Day Care	P - allows Boarding Care Facility with 15 residents max.	P
Group Family Day Care	P - allows Boarding Care Facility with 15 residents max.	C
Temporary Sales	-	P
Parking Facility	-	P
Solar Equipment	-	P
Swimming Pools, Hot Tubs, Etc.	P	P
Other Structures Typically Incidental and Clearly Subordinate to Permitted Uses	P	P
Governmental Offices	P	-
Libraries	P	-
Therapeutic Massage	P	-
Kennels	P	-

C = Conditional Use

P = Permitted Use

- = use not addressed

§ 154.034 GB – GENERAL BUSINESS.

A. Permitted uses and structures.

1. The following service/office uses:

<i>General Business – Service/Office</i>	
Accounting	
Advertising	(Sign fabrication not permitted use)
Alterations	
Apparel Cleaning Pick-up Stations	
Apparel Repair and Alterations	
Architectural	
Art Gallery	
Auditing	
Bakeries	(With production of bakery goods limited to retail sales)
Barber Services	
Beauty Shops	
Bookkeeping	
Business and Management Consultant Offices	
Business Associations	
Cafes and Restaurants - Drive-up window	(Menu boards and intercom systems prohibited; Adequate vehicle stacking must be provided)
Cafes and Restaurants	(Limited to full table service operations)
Charitable	
Chiropractic	
Civic, Social and Fraternal Association Offices and Halls	
Collection and Adjustment Services	
<i>General Business – Service/Office</i>	
Credit Reporting (Consumer and Mercantile)	
Dental	

Detective and Protective Agencies	
Duplication	
Educational	
Employment Agencies	
Engineering	
Finance	
Galleries	
Governmental Offices	
Insurance	
Investment	
Labor Unions	
Legal	
Libraries	
Mailing	
Medical	
Medical Services	(The compounding, dispensing or retail sale of drugs, prescription items, patient or proprietary medicine, sick room supplies, prosthetic devices or items relating to any of the foregoing when conducted in the building occupied primarily by medical, dental, osteopathic, chiropractic or optometric offices)
Optometric	
Osteopathic	
Photo Gallery	
Professional Membership Organizations	
Real Estate	
Religious	
Scientific Research	(Excluding laboratory facilities)
Shoe Repair	
<i>General Business – Service/Office</i>	
Stenographic Service	
Therapeutic Massage	(See licensing requirements in § 114.01)

Welfare Offices	
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(Am. Ord. 97-170, passed 5-2-2006; Am. Ord. 2012-064, passed 12-4-2012)

2. The following retail uses:

<i>General Business - Retail</i>
Antiques and Secondhand Merchandise
Apparel and Related Accessories
Automobile Repair and Services
Automobiles and Automobile Accessories
Bicycles
Books
Building Supplies
Cameras and Photographic Supplies
Cigars and Cigarettes
Drugs and Proprietary Items
Electrical Supplies
Flowers and Floral Accessories
Food and Grocery Products
Furniture
Gifts, Novelties and Souvenirs
Glass
Heating Equipment
Home Furnishings and Related Equipment
Jewelry
Liquors
Marine Craft and Accessories
Newspapers and Magazines
Nursery and Garden Supplies
<i>General Business – Retail</i>
Optical Goods
Paint

Pets
Plumbing Equipment
Sporting Goods
Stationery
Wallpaper

3. The following repair/service uses:

<i>General Business – Repair/Service</i>
Clock Repair
Electrical Repair and Supplies
Equipment–Rental and Leasing
Food Catering
Furniture Repair
Heating
Household Appliances
Jewelry Repair
Landscaping
Plumbing
Radio
Reupholstery
Television
Watch Repair

4. The following office uses (excluding equipment storage):

<i>General Business - Office</i>
Air Conditioning Contractor
Building Construction Contractor
Carpentry Contractor
<i>General Business - Office</i>
Decorating Contractor
Heating Contractor

Masonry Contractor
Painting Contractor
Plastering Contractor
Plumbing Contractor
Roofing Contractor
Sheet Metal Contractor
Stone Work Contractor
Tile Setting Contractor
Wallpaper Contractor
Water Well Drilling Contractor
Wood Flooring Contractor

5. Uses permitted by conditional use permit.

<i>General Business - Conditional Use</i>	
Bed and Breakfast Facility	15 Beds Maximum
Boarding Care Facility	15 Residents Maximum
Day Care Centers	40 Children Maximum
Family Entertainment Centers	
Fitness Studio	Maximum floor area not to exceed 5,000 square feet
Kennels	
Nursing Care Facility	15 Residents Maximum
Open Sales Lots	
Manufacturing	Any industrial manufacturing operation in existence within the city at the effective date of this chapter, including manufacture of wood products and plastic products, may continue the use as a conforming use without a conditional use permit. Nothing in this provision shall otherwise be construed to require the city to authorize any manufacturing use in the General Business Zone after the effective date of this chapter.
<i>General Business - Conditional Use</i>	
Veterinary Clinics	

(Am. Ord. 97-20, passed 10-21-1997; Am. Ord. 97-86, passed 10-2-2001; Am. Ord. 97-88, passed 10-2-2001; Am. Ord. 97-138, passed 9-7-2004; Am. Ord. 2012-064, passed 12-4-2012)

6. General requirements.

- a. All storage, services, repair or processing shall be conducted wholly within an enclosed building or behind opaque fence or wall not less than 6 feet high, except the outdoor display of merchandise;
- b. Incineration of waste matter shall be conducted in approved equipment located within the building wherein the permitted use is conducted;
- c. Where a proposed GB development abuts on RR, R-1, R-2, R-3, R-4, or RE district other than at a public street line, buffer provision shall be established. There shall be provided a protective strip of not less than 35 feet in width. The protective strip shall not be used for parking, off- street loading or storage and shall be landscaped. The protective strip must be approved by the Council as being in harmony with the residential neighborhood and providing sufficient screening of the commercial area;
- d. All lots must have at least 1 acre of land suitable for septic drainfields and area sufficient for 2 separate and distinct drainfield sites. Placement of the second required drainfield between the trenches of the first drainfield is prohibited; and
- e. Must meet all requirements of §§ 51.002 through 51.008.

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

(Am. Ord. 97-38, passed 11-17-1998)

C. Minimum district requirements.

1. The Old Village District shall be defined as the Old Village Sign District described in § 151.117(S)(1)(a).

General Business	
Lot Size	1-1/2 acres (except as required by Interstate Corridor Overlay District, §§ 150.230 - 150.238)
Lot Width	150 Feet Minimum
Building Setback from property lines: (Also see § 154.082)	
Front:	10 Feet Minimum No setback required for properties located in the Old Village District and south of Minnesota State Highway 5
Side (Interior):	20 Feet Minimum No setback required for properties located in the Old Village District and south of Minnesota State Highway 5
Side (Corner):	50 Feet Minimum
Rear:	50 Feet Minimum

Building Height (Also see § 154.083)	35 Feet Maximum
Maximum area to be covered by buildings, parking lots, driveways and other hard surfaces:	
Up to 4 acres	40% of lot size
Larger than 4 acres to 8 acres	35% of lot size
Larger than 8 acres	25% of lot size
Lot Configuration	Maximum lot depth to width dimension ratio shall be no more than 3:1
Lot Size	Covered Area
Lot Configuration	
Maximum Width of Driveways	See § 93.26
Signage	See §§ 154.212
Septic Drainage Regulation (Also see §§ 51.002 through 51.008)	<p>All newly subdivided lots shall have a minimum of 20,000 square feet of land dedicated for septic system use and suitable for that use. This land may comprise up to 2 separate areas, each of which is contiguous to the 1.25-acre building site or contained within it, and each of which contains at least 10,000 contiguous square feet.</p> <p>Placement of the second required drainfield between the trenches of the first drainfield is prohibited.</p>

(1997 Code, § 300.07 Subd. 4.H) (Am. Ord. 08-030, passed 10-5-2010)

D. Performance standards.

1. Purpose and intent.
 - a. It is the purpose and intent of the city, by the adoption of the performance standards of this division, to ensure commercial buildings constructed within the city are of a high quality of exterior appearance, consistent with the terms of Non-Residential Development Policy #5 of the 2000-2020 Lake Elmo Comprehensive Plan. It is the finding of the city that a limited selection of primary exterior surfacing materials meets this standard of quality.
 - b. It is the further finding of the city that several specific exterior surfacing materials are appropriate, and of sufficient quality, to be utilized only as accent materials in varying percentages. The variations of percentage of specific accent materials relates to a finding by the city as to the relative quality and rural character of those respective accent materials.
2. Architectural and site plan submittals. New building proposals shall include architectural and site plans prepared by registered architect and shall show the following as a minimum:
 - a. Elevations of all sides of the buildings;
 - b. Type and color of exterior building materials;

- c. Typical general floor plans;
 - d. Dimensions of all structures; and
 - e. Location of trash containers, heating, cooling and ventilation equipment and systems.
3. Applicability – structure additions and renovation.
- a. Additions to existing structures resulting in an increase of gross floor area of the structure of less than 100%; and/or installation of replacement exterior surfacing of any portion of an existing structure shall be exempt from the standards of this division where it is found that the new or replacement exterior surfacing proposed is identical to that of the existing structure.
 - b. Where additions to an existing structure result in an increase in the gross floor area of the existing structure of 100% or greater, the entire structure (existing structure and structure addition) shall be subject to the standards of this division.
4. Performance standards – primary exterior surfacing.
- a. The primary exterior surfacing of structures shall be limited to natural brick, stone, or glass. Artificial or thin veneer brick or stone less than nominal 4 inches thick shall not qualify as complying with this performance standard.
 - b. Primary exterior surface shall be defined as not less than 70% of the sum of the area of all exterior walls of a structure nominally perpendicular to the ground. All parapet or mansard surfaces extending above the ceiling height of the structure shall be considered exterior surface for the purposes of this division. Windows and glass doors shall be considered a primary surface, but the sum area of this glass shall be deducted from the wall area for purposes of the 70% primary/30% accent formulas of this chapter. Doors of any type of material, except glass, shall not be considered a primary exterior surface.
 - c. Each wall of the structure shall be calculated separately and, individually comply with the 70/30 formula.
5. Performance standard – exterior surfacing accents. Not more than 30% of the exterior wall surfacing, as defined by division (D)(4) above, may be of the following listed accent materials, but no single accent material, except natural wood, may comprise more than 20% of the total of all accent materials; and, no combustible materials shall be used:
- a. Cedar, redwood, wood siding;
 - b. Cement fiber board;
 - c. Standing seam metal;
 - d. Architectural metal;
 - e. Stucco;
 - f. Poured in place concrete (excluding “tilt-up” panels);

g. Architectural metal panels; and

(Am. Ord. 97-175, passed 6-20-2006)

h. Porcelain or ceramic tile.

6. *Performance Standard – Accessory Structures.* All accessory structures shall comply with the exterior surfacing requirements specified by this division (D).
7. *Performance Standard – HVAC Units and Exterior Appurtenances.* All exterior equipment, HVAC and trash/recycling and dock areas shall be screened from view of the public with the primary exterior materials used on the principal structure.
8. *Performance Standard – Visible Roofing Materials.* Any roofing materials that are visible from ground level shall be standing seam metal, fire-treated cedar shakes, ceramic tile, clay tile, concrete or slate.
9. *Applicability – New Construction.* The standards of this division shall be applicable to all structures and buildings constructed in the city, on and after the effective date of this chapter. The performance standards of this division shall not be in any manner minimized by subsequent planned unit development plans or agreement.

(Am. Ord. 97-108, passed 5-7-2002; Am. Ord. 97-192, passed 6-19-2007)

ARTICLE I. VILLAGE MIXED USE DISTRICT

§ 154.500 PURPOSE AND DISTRICT DESCRIPTION

The purpose of the VMX district is to provide an area for compact, mixed use development made mutually compatible through a combination of careful planning and urban design and coordinated public and private investment. This district is intended to continue the traditional mixed use development that has occurred in the Village area by allowing retail, service, office, civic and public uses as well as residential units. The mixture of land uses within the district is essential to establishing the level of the level of vitality and intensity needed to support retail and service uses. The placement of building edges and treatment of building, parking, landscaping, and pedestrian spaces is essential to creating the pedestrian friendly environment envisioned for the VMX district. The standards in this chapter are intended to implement and effectuate the principles and relationships established in the Village Master Plan, which will be carried out through specific standards related to site planning, signage, architecture, building materials, and landscaping. Renovation and infill of traditional storefront-type buildings is encouraged, and parking standards may be waived to recognize the availability of on-street and shared parking facilities.

(Ord. 08-091, passed 11-13-2013)

§ 154.501 PERMITTED AND CONDITIONAL USES

Table 11-1 lists all permitted and conditional uses allowed in the urban residential districts. "P" indicates a permitted use, "C" a conditional use. Uses not so indicated shall be considered prohibited. Cross-references listed in the table under "Standards" indicate the location within this Ordinance of specific development standards that apply to the listed use.

A. *Combinations of Uses.* The following use types may be combined on a single parcel:

1. Principal and accessory uses may be combined on a single parcel.
2. A principal and secondary dwelling unit may be combined according to the standards of Section 155.137.
3. Single-family attached or multi-family complexes designed for rental or condominium occupancy, since these typically include multiple units and buildings on a single parcel.
4. Other permitted or conditional uses allowed within the district may be combined on a single parcel, provided that a unified and integrated site plan is approved. The entire development must be approved as a conditional use.
5. A mixed-use building that combines permitted or conditionally permitted residential, service, retail and civic uses may be developed meeting the form standards of this Article. Office or studio uses on upper stories are encouraged.

Table 11-1: Permitted and Conditional Uses, VMX Districts

	VMX	Standard
Residential Uses		
Household Living		
Single-family detached dwelling	P*	* See Restrictions in 155.504.A
Two-family dwelling	P	* See Restrictions in 155.504.A
Single-family attached dwelling	C	154.505.B
Multifamily dwelling	C	154.505.C
Secondary dwelling	C	154.505.D
Live-work unit	P	155.505.J
Group Living		
Group Home	P	155.102.C
Group Residential Facility	C	155.102.D
Congregate Housing	C	155.102.E
Semi-Transient Accommodations	C	155.102.F
Public and Civic Uses		
Community Services	P	155.103.C
Day Care Center	P	155.103.D
Public Assembly	C	155.505.M
Religious Institutions	C	155.505.N
Schools, Public and Private	C	155.505.O
Services		
Business Services	P	
Business Center	P	
Offices	P	
Communications Services	P	
Education Services	P	
Financial Institution	P	155.505.P
Funeral Home	C	
Lodging	C	155.505.Q
Medical Facility	C	155.505.R
Membership Organization	C	155.505.N
Nursing and Personal Care	C	155.104.C
Personal Services	P	
Repair and Maintenance Shop	C	155.505.E
Trade Shop	C	155.505.F
Veterinary Services	C	154.505.G
	VMX	Standard
Food Services		

Standard Restaurant	P	155.505.S
Restaurant with Drive-through	C	155.505.S
Drinking and Entertainment	P	155.505.S
Sales of Merchandise		
Retail Trade ¹	P	155.505.T
Farmer's Market	C	155.505.AA
Garden Center	C	155.505.U
Neighborhood Convenience Store	P	155.505.V
Shopping Center	C	155.505.W
Wayside Stand	P	
Automotive/Vehicular Uses		
Automobile Maintenance Service	C	155.505.X
Automobile Parts/Supply	P	155.505.X
Gasoline Station	C	155.505.X
Parking Facility	C	155.505.X
Sales and Storage Lots	C	155.505.X
Outdoor Recreation		
Outdoor Recreation Facility	C	155.505.Y
Parks and Open Areas	P	
Indoor Recreation/Entertainment		
Indoor Athletic Facility	C	155.505.Z
Indoor Recreation	C	155.505.Z
Transportation and Communications		
Broadcasting or Communications Facility	C	155.110.B
Accessory Uses		
Home Occupation	P	155.111.A,B
Bed and Breakfast	C	155.111.C
Domestic Pets	P	
Family Day Care	P	155.111.G
Group Family Day Care	C	155.111.G
Temporary Sales	P	155.107.B
Parking Facility	P	
Solar Equipment	P	155.111.I
Swimming Pools, Hot Tubs, Etc.	P	155.111.J
Other Structures Typically Incidental and Clearly Subordinate to Permitted Uses	P	

Note: Standards listed in Table 11-1 are listed by Article, Section and Subsection.

1. Retail Trade in the VMX District includes all uses and activities defined as Retail Trade in §154.012.B.5 with the exception of building supplies sales and warehouse club sales.
(Ord. 08-091, passed 11-13-2013)

§ 154.502 LOT DIMENSIONS AND BUILDING BULK REQUIREMENTS

Lot area and setback requirements shall be as specified in Table 11-2, Lot Dimension and Setback Requirements.

Table 11-2: Lot Dimension and Setback Requirements, VMX District

	VMX
Minimum Lot Area (sq. ft.)^a	
Non-Residential Use	None
Single Family Detached Dwelling	5,000
Two-Family Dwelling (per unit) ^b	3,000
Single-Family Attached (per unit) ^c	2,500
Multi-Family Dwelling (per unit)	1,800
Secondary Dwelling	See 154.454.C
Live-Work Unit	3,000
Congregate Housing	See 155.102
Other Structures	3,500
Maximum Lot Area (acres)	
Residential Structures	N/A
Other Structures	5
Minimum Lot Width (feet)	
Single Family Detached Dwelling	50
Two-Family Dwelling (per unit) ^b	30
Single-Family Attached (per unit) ^c	25
Multi-Family Dwelling (per building)	75
Live-Work Unit	25
Maximum Height (feet/stories)	
	35/3 ^d
	VMX

Maximum Impervious Coverage	
Residential Structures	75%
Other Structures	No Limit
Minimum Building Setbacks (feet)	
Front Yard ^e	See 155.506
Interior Side Yard ^f	10
Corner Side Yard ^g	0
Rear Yard	10

Notes to VMX District Table

- a. No development may exceed the residential density range as specified in the Comprehensive Plan for the Village Mixed Use land use category
- b. Two-family units may be side-by-side with a party wall between them (“twin”) or located on separate floors in a building on a single lot (“duplex”). The per-unit measurements in this table apply to “twin” units, whether on a single lot or separate lots. The standards for single-family detached dwelling shall apply to a “duplex” containing two vertically-separated units on a single lot.
- c. In the case of single-family attached dwellings that are not situated on individual lots, minimum lot size shall be applied to each unit as a measure of density; i.e. 1 unit per 2,500 square feet. This standard is also used for multifamily dwellings.
- d. Buildings up to 45 feet in height may be permitted as part of a PUD.
- e. The front yard setback for single family homes shall be 25 feet.
- f. Side yard setbacks in the VMX District apply only along lot lines abutting residentially zoned parcels or those parcels with residential uses as the sole use.
- g. Corner properties: the side yard façade of a corner building adjoining a public street shall maintain the front setback of the adjacent property fronting upon the same public street, or the required front yard setback, whichever is less. If no structure exists on the adjacent property, the setback shall be shown in the table.

(Ord. 08-091, passed 11-13-2013)

§ 154.503 DIMENSIONAL REQUIREMENTS AND PRESERVATION OF OPEN SPACE

- A. *Averaging of Lot Area.* When lots are clustered within a development to provide common open space, the open space may be used to calculate an average density per lot to determine compliance with the individual lot are requirements.

- B. *Lot Dimension Reductions.* Other reductions in dimensional standards may be considered as part of a Planned Unit Development if these reductions provide for common open space within a development.

(Ord. 08-091, passed 11-13-2013)

§ 154.504 GENERAL SITE DESIGN CONSIDERATIONS – LMX DISTRICT

Development of land within the VMX District shall follow established standards for traffic circulation, landscape design, and other considerations as specified in Article 5, 6 and 7.

- A. *Circulation.* New access points to State Highway 5 may be refused or restricted to right-in right-out movement if alternatives exist. Internal connections shall be provided between parking areas on adjacent properties wherever feasible.
1. The number and width of curb-cuts shall be minimized. To promote pedestrian circulation, existing continuous curb-cuts shall be reduced to widths necessary for vehicular traffic, and unnecessary or abandoned curb cuts shall be removed as parcels are developed.
- B. *Fencing and Screening.* Fencing and screening walls visible from the public right-of-way shall be constructed of materials compatible with the principle structure.
- C. *Lighting Design.* Lighting shall be integrated into the exterior design of new or renovated structures to create a greater sense of activity, security, and interest to the pedestrian, and shall comply with §150.035-150.038 Lighting, Glare Control, and Exterior Lighting Standards.
- D. *Exterior Storage.* Exterior materials storage must be screened from view from adjacent public streets and adjacent residential properties, by a wing of the principal structure or a screen wall constructed of the same materials as the principal structure. Height of the structure or screen wall must be sufficient to completely conceal the stored materials from view at eye level (measured at six feet above ground level) on the adjacent street or property.
- E. *Screening of Existing Residential Structures.* When a new development is proposed adjacent to an existing single family residential structure, screening shall be provided in accordance with §154.258.F. The City may require buffering or screening above and beyond this section in cases where the required screening will not provide an adequate separation between incompatible uses.

(Ord. 08-091, passed 11-13-2013)

§ 154.505 DEVELOPMENT STANDARDS FOR SPECIFIC USES

Development of land within the VMX district shall follow established standards for traffic circulation, landscape design, parking, signs and other considerations as specified in Articles 5, 6 and 7. The following standards apply to specific uses; other standards related to design and building type may be found at §154.506.

- A. Single-Family and Two-Family Dwellings

1. Single-Family Dwellings are limited to those existing at the time of adoption of this Ordinance. Existing single-family dwellings shall be considered permitted uses, rather than nonconforming uses.
2. Unless otherwise specified in this Article, Single and Two Family Dwellings in the VMX district shall adhere to the MDR district setbacks as specified in §154.452.

B. Single-Family Attached Dwellings

1. A maximum of eight (8) units shall be permitted within a single building.
2. Townhouse dwellings shall be located on lots in such a way that each individual unit has a minimum of twenty-five (25) feet of public street frontage. No parking shall be located in the front yard or between the front façade and the street.
3. The primary entrance to each unit shall be located on the façade fronting a public street; an additional entrance may be provided on the rear or side façade.
4. Common open space for use by all residents or private open space adjacent to each unit shall be provided. Such open space shall compromise a minimum of three hundred (300) square feet per unit.

C. *Multi-Family Dwelling Units*. Dwelling units (both condominium and rental) are restricted to the upper floors or rear or side ground floors of a mixed use building.

1. No parking shall be located in the front yard or between the front façade and the street.

D. *Secondary Dwellings*. Restricted to lots occupied by single-family dwellings, and must meet the standards for secondary dwellings in residential districts, §154.134.C.

E. *Repair and Maintenance Shop*. No outdoor storage is permitted unless fully screened from public view.

F. *Trade Shop*. Exterior materials storage must be totally screened from view from adjacent public streets and adjacent residential properties by a wall of the principal structure or a screen wall constructed of the same materials as the principal structure.

G. *Veterinary Services*. All activities must be conducted within an enclosed building.

H. Garden Center

1. The storage or display of any materials or products shall meet all setback requirements of a structure, and shall be maintained in an orderly manner. Screening along the boundaries of adjacent residential properties may be required, meeting the standards of Article 6, Section 155.89.F.
2. All loading and parking shall be provided off-street.
3. The storage of any soil, fertilizer or other loose, unpackaged materials shall be contained so as to prevent any effects on adjacent uses.

I. Automobile Maintenance Service and Automobile Parts/Supply

1. All vehicle repairs shall be conducted in a completely enclosed building

2. The storage or display of inoperable or unlicensed vehicles or other equipment shall meet all setback requirements of a structure, and shall be totally screened from view from adjacent public streets and adjacent residential properties.
- J. *Live-Work Unit*. The purpose of a live-work unit is to provide a transitional use type between a home occupation and a larger commercial enterprise, and to provide neighborhood-oriented commercial services, while maintaining a generally residential character in which the work space is subordinate to the residential use.
1. The work space component shall be located on the first floor or basement of the building.
 2. The dwelling unit component shall maintain a separate entrance located on the front or side façade and accessible from the primary abutting public street.
 3. The work space component of the unit shall not exceed thirty (30) percent of the total gross floor area of the unit.
 4. A total of two (2) off-street parking spaces shall be provided for a live-work unit, located to the rear of the unit, or underground/enclosed.
 5. The size and nature of the work space shall be limited so that the building type may be governed by residential building codes. An increase in size or intensity beyond the specified limit on floor area would require the building to be classified as a mixed-use building.
 6. The business component of the building may include offices, small service establishments, home crafts which are typically considered accessory to a dwelling unit, or limited retailing (by appointment only) associated with fine arts, crafts, or personal services. It may not include a wholesale business, a commercial food service requiring a license, a limousine business or auto service or repair for any vehicles other than those registered to residents of the property.
 7. The business of the live-work unit must be conducted by a person who resides on the same lot. The business shall not employ more than two (2) workers on-site at any one time who live outside of the live-work unit.
- K. *Parking Facility*. Structured parking is permitted as a ground floor use within a mixed-use building, provided that it is located on side or rear facades, not facing the primary abutting street. The primary street-facing façade shall be designed for retail, office or residential use. The primary street façade may include an entrance into the parking facility.
- L. *Outdoor Dining Accessory to Food Services*. Outdoor dining is allowed as an accessory use in the commercial districts, provided that tables do not block the sidewalk. A minimum of five (5) feet of sidewalk must remain open.

(Ord 08-091, passed 11-13-2013)

§ 154.506 VMX DISTRICT DESIGN AND DEMOLITION REVIEW

A. *Review of Design.* 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. A separate process for design review is not established.

1. *Review Authority and Process.* Design 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 by the applicant, and shall not exceed \$1,000 unless otherwise agreed to by the applicant.
3. *Development Activity Defined.* Development Activity consists of new construction and redevelopment activities, including remodeling that expands the footprint of a structure, altering, or repairing a structure in a manner that will change the exterior appearance of said structure. Development activity also includes the construction of a new parking lots and installation of signage.
 - a. *Exempt Activities.* The following activities shall be exempt from under review of 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, duplex, or two-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.

(Ord 08-091, passed 11-13-2013)

§ 154.507 ACCESSORY USES AND STRUCTURES

Accessory uses are listed in the VMX District Use Table as permitted or conditional accessory uses. Accessory uses and structures in the VMX District shall comply with the following standards and all other applicable regulations of this ordinance:

- A. *Phasing.* No accessory use or structure shall be constructed or established on any lot prior to the time of construction of the principal use to which it is accessory.
- B. *Incidental to Principal Use.* The accessory use or structure shall be incidental to and customarily associated with the principal use or structure served.
- C. *Subordinate to Principal Use.* The accessory use or structure shall be subordinate in the area, extent, and purpose to the principal use or structure served.
- D. *Function.* The accessory use or structure shall contribute to the comfort, convenience, or necessity of the occupants of the principal use or structure served.
- E. *Location.* The accessory use or structure shall be located on the same zoning lot as the principal use or structure.

(Ord 08-091, passed 11-13-2013)

§154.508 RESIDENTIAL ACCESSORY STRUCTURES, VILLAGE MIXED-USE DISTRICT

- A. *Attached Structures, Village Mixed-Use District.* An accessory structure shall be considered attached, and an integral part of, the principal structure when it is connected by an enclosed passageway. All attached accessory structures shall be subject to the following requirements:
 - 1. The structure shall meet the required yard setbacks for a principal structure, as established for the zoning district in which it is located.
 - 2. The structure shall not exceed the height of the principal building to which it is attached.
- B. *Attached Garages, Mixed-Use District*
 - 1. Attached garages are encouraged to be side or rear loaded. If facing the primary street, garages shall be designed using one of the following techniques, unless specific physical conditions on the lot in question require a different approach:
 - a. The front of the garage is recessed at least four (4) feet behind the plane of the primary façade; or
 - b. The front of the garage is recessed at least four (4) feet behind a porch if the garage is even with the primary façade.
 - 2. The width of the attached garage shall not exceed 40% of the width of the entire principal building façade (including garage) fronting the primary street.
 - 3. Attached garages shall not exceed one thousand (1,000) square feet in area at the ground floor level except by conditional use permit.

4. Garage doors or openings shall not exceed fourteen (14) feet in height.
- C. *Detached Structures, Village Mixed-Use District.* Detached accessory structures that are accessory to permitted residential structures in the VMX District shall adhere to the following requirements:
1. Detached accessory structures shall be located to the side or rear of the principal building, and are not permitted within the required front yard or within a side yard abutting a street.
 2. Detached garages shall not exceed one thousand (1,000) square feet at ground floor level and shall not exceed a height of twenty-two (22) feet or the height of the principal structure. The maximum size and height may be increased upon approval of a conditional use permit, provided that lot coverage requirements are satisfied.
 3. Pole barns, as defined herein, shall be prohibited.
 4. No more than thirty (30) percent of the rear yard area may be covered by accessory structures.
 5. Garage doors or openings shall not exceed fourteen (14) feet in height.
- D. *Exterior Design and Color, All Accessory Structures.* The exterior building materials, design and color of all accessory building or structures shall be similar to or compatible with the principal building, with the exception of the following accessory building or structures:
1. Gazebos
 2. Swimming pools
 3. Tennis and sport courts
 4. Other structures in which the required design is integral to the intended use, such as a greenhouse.

(Ord. 08-104, passed 3-18-2014) Penalty, see § 154.999

§ 154.509 ACCESSORY USES

- A. *Exterior Storage on Residential Parcels.* All materials and equipment shall be stored within a building or be fully screened so as not to be visible from adjoining properties, except for the following:
1. Laundry drying
 2. Construction and landscaping materials and equipment currently being used on the premises. Materials kept on the premises for a period exceeding six (6) months shall be screened or stored out of view of the primary street on which the house fronts.
 3. Agricultural equipment and materials, if these are used or intended for use on the premises.

4. Off-street parking and storage of vehicles and accessory equipment, as regulated in Article 5, Section 155.67.
5. Storage of firewood shall be kept at least ten (10) feet from any habitable structure and screened from view of adjacent properties.
6. Outdoor parking

- B. *Temporary Sales.* Temporary sales, also known as yard or garage sales, are permitted in all residential districts, limited to two (2) per calendar year per residence, not to exceed four (4) days in length for each event.

(Ord 08-091, passed 11-13-2013)

§ 154.510 ACCESSORY USES AND STRUCTURES NOT LISTED

Standards for accessory uses and structures that are permitted in all districts, or in all residential buildings in any district, are listed in Article 7, Specific Development Standards. These include uses such as family and group family day care, bed and breakfast facilities, and home occupations, and structures such as swimming pools and solar equipment.

(Ord 08-091, passed 11-13-2013)

**CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA**

ORDINANCE NO. 08-

**AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES BY
AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF LAKE ELMO AND AMENDING
THE ZONING CODE BY OMITTING SECTION 034: GB - GENERAL BUSINESS**

SECTION 1. The City Council of the City of Lake Elmo hereby ordains the following properties to be rezoned from GB - General Business to VMX - Village Mixed Use:

PIDs:

1302921120009	1302921220016	1302921230056	1302921220011
1302921220018	1302921210006	1302921230057	1302921220010
1302921220021	1302921210007	1302921230059	1302921220002
1302921220023	1302921210008	1302921320025	1302921230004
1302921220020	1302921210002	1302921320026	1302921230037
1302921220017	1302921240016	1302921320027	1302921230038
1302921220019	1302921240017	1302921320041	1302921230053
1302921220022	1302921240025	1302921320042	1302921230054
1302921120011	1302921230007	1302921310016	1302921240022
1302921120013	1302921230065	1302921320082	1302921240019
1302921120014	1302921230046	1302921310003	1302921320001
1302921120015	1302921230067	1302921310017	1302921320005
1302921120016	1302921230071	1302921240020	1302921230037
1302921120010	1302921320012	1302921240024	1302921320032
1302921120012	1302921320052	1302921240021	1302921320088
1302921210009	1302921320051	1302921220014	1302921320046
1302921210016	1302921320049	1302921220013	1302921320019
1302921210010	1302921320048	1302921220012	1302921320021
1302921210007	1302921320047		

SECTION 2. The City Council of the City of Lake Elmo also hereby ordains that the Zoning Administrator shall make the applicable changes to the official Zoning Map of the City of Lake Elmo.

SECTION 3. The City Council of the City of Lake Elmo hereby strikes Title XV: Land Usage; Chapter 154: Zoning Code; by repealing Section 051: GB - General Business in its entirety.

SECTION 4. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code Table of Contents to read the following:

Zoning Districts

<i>Zoning Districts</i>	
154.030	Classifications
154.031	Boundaries
154.032	Zoning district map
154.033-154.044	R-2 One- and Two-Family Residential
154.034	GB—General Business
154.035-154.064	OP – Open Space Preservation District
154.036-154.065	OZD – Overlay Zoning Use District

SECTION 5. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code; Section 030: Classifications by eliminating the following:

§ 154.030 CLASSIFICATIONS.

For the purpose of this chapter, all land in the city is divided into zoning districts. The zoning districts shall be identified by the following classifications, including those districts identified in § 154.350:

- (A) R-2 One- and Two-Family Residential
- ~~(B)~~ ~~GB~~ ~~General Business~~
- ~~(C)~~ ~~B~~ OP Open Space Preservation District
- ~~(D)~~ ~~C~~ OZD Overlay Zoning Use District

SECTION 6. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code; Section 212: Sign Regulations; Table 5-3 to read the following:

Ground Signs				
Zoning Districts		Aa, LDR, OP, RE, RS, RRa, RTa	MDR, HDR	BP, C, CC, GB , LC, VMX
No. of Total 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

SECTION 7. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 150.116: [Wireless Communications] Zoning Requirements to read the following:

§ 150.116 ZONING REQUIREMENTS.

(A) Wireless communications facilities that require a conditional use permit, including the installation of a new tower, shall be permitted in the following districts and subject to the following height restrictions provided they meet all other requirements of this subchapter.

<i>Zoning District</i>	<i>Maximum Height (in feet)</i>	<i>Minimum Parcel Area</i>
A- Agriculture	125	10
RR - Rural Residential Zoning	125	5
R-1, R-2, R-3 and R-4 Urban Residential	125	2.5
OP - Open Space	125	2.5
RE - Residential Estates	125	2.5
GB , LB, CB, HB - Business	125	5
BP - Business Park	125	5
PF - Public Facility	125	None

SECTION 8. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 153.14: Park Land Dedication Requirements to read the following:

<i>Zoning Districts</i>	<i>Minimum Required Land Dedication</i>
GB , LB, HB , BP, CB ,	Fee as set by Council resolution
C, CC, LC, VMX	Fee as set by Council resolution

RR and AG with OP Conditional Use Permit	7%
RR and AG with OP-A Conditional Use Permit	10%

SECTION 9. Effective Date. This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 10. Adoption Date. This Ordinance 08-____ was adopted on this ____ day of _____, 2016, by a vote of ____ Ayes and ____ Nays.

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk

This Ordinance 08-____ was published on the ____ day of _____, 2016.