

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

**ORDINANCE NO. 97-203**

**AN ORDINANCE ADOPTING REGULATIONS TO GOVERN THE ISSUANCE  
OF INTERIM USE PERMITS IN THE CITY OF LAKE ELMO**

**Section 1.** The City Council of the City of Lake Elmo hereby ordains that Sections 154.019 and 154.020 and all associated subdivisions are hereby amended to read as follows:

Current Section 154.020 and its subdivisions are restated and incorporated herein as Section 154.021.

Current Section 154.019 and its subdivisions are restated and incorporated herein as Section 154.020.

**154.019 INTERIM USE PERMITS.**

- (A) *Purpose and Intent.* The purpose and intent of allowing interim uses is:
- (1) To allow a use for a brief period of time until a permanent location is obtained or while the permanent location is under construction.
  - (2) To allow a use that is presently acceptable, but that with anticipated development or redevelopment, will not be acceptable in the future or will be replaced by a permitted or conditional use allowed within the respective district.
  - (3) To allow a use which is reflective of anticipated long range change to an area and which is in compliance with the Comprehensive Municipal Plan provided that said use maintains harmony and compatibility with surrounding uses and is in keeping with the architectural character and design standards of existing uses and development.
- (B) *General Standards.* An interim use permit may be granted only if the City Council finds as follows:
- (1) The use is allowed as an interim use in the respective zoning district and conforms to standard zoning regulations.
  - (2) The use will not adversely impact nearby properties through nuisance, noise, traffic, dust, or unsightliness and will not otherwise adversely impact the health, safety, and welfare of the community.

- (3) The use will not adversely impact implementation of the comprehensive plan.
  - (4) The date or event that will terminate the use is identified with certainty.
  - (5) The applicant has signed a consent agreement agreeing that the applicant, owner, operator, tenant and/or user has no entitlement to future reapproval of the Interim Use Permit as well as agreeing that the interim use will not impose additional costs on the public if it is necessary for the public to fully or partially take the property in the future.
  - (6) The user agrees to all conditions that the City Council deems appropriate for permission of the use including the requirement of appropriate financial surety to cover the cost of removing the interim use and any interim structures upon the expiration of the interim use permit.
  - (7) There are no delinquent property taxes, special assessments, interest, or City utility fees due upon the subject parcel.
  - (8) The term of the interim use does not exceed two (2) years.
- (C) Recordkeeping. The Zoning Administrator shall maintain a record of all applications and all interim use permits issued, including information on the use, location, conditions imposed by the community, time limits, review dates, and such other information as may be appropriate.
- (D) Application. Applications for an interim use permit shall be made by the fee owner or authorized representative of the fee owner of the property upon which the interim use is proposed. All applications shall include the following:
- (1) A completed application form signed by the fee owner of the property or by the fee owner's authorized representative;
  - (2) Application fee;
  - (3) Proof of ownership or authorized representation for the property on which the interim use is requested;
  - (4) Development plans for the proposed use showing all information deemed necessary by the Administrator to ensure the community can determine whether the proposed development will meet all applicable development standards. Such information may include but shall not be limited to the following:
    - a) Site plan drawn to scale showing parcel and existing topography;
    - b) Location of all buildings and their size, including square footage;
    - c) Curb cuts, driveways, access roads, parking spaces, off-street loading areas, and sidewalks;

- d) Landscaping and screening plans, including species and size of trees and shrubs proposed;
  - e) Finished grading and drainage plan sufficient to drain and dispose of all surface water accumulated;
  - f) Type of business or activity and proposed number of employees;
  - g) Proposed floor plan and elevations of any building with use indicated;
  - h) Sanitary sewer and water plan with estimated flow rates;
  - i) Soil type and soil limitations for the intended use. If severe soil limitations for the intended use are noted, a plan or statement indicating the soil conservation practice or practices to be used to overcome the limitation shall be made part of the application;
  - j) A location map showing the general location of the proposed use within the community;
  - k) A map showing all principal land use within 500 feet of the parcel for which the application is being made;
  - l) The applicant shall supply proof of ownership of the property for which the conditional use permit is requested, consisting of an abstract of title or registered property certificate, certified by a licensed abstractor, together with any unrecorded documents whereby the petitioners acquired legal or equitable ownership; and
  - m) The application form shall be accompanied by an accurate list showing the names and the mailing address of the record owners of all property within a minimum of 350 feet of the property for which the conditional use permit is sought; verified as to accuracy by the applicant.
- (5) A letter from the applicant explaining the proposal and stating the date or event that will terminate the use;
- (6) A signed consent agreement, provided by the City of Lake Elmo, agreeing:
- a) that the applicant, owner, operator, tenant and/or user has no entitlement to future reapproval of the Interim Use Permit;
  - b) that the interim use will not impose additional costs on the public if it is necessary for the public to fully or partially take the property in the future; and
  - c) that the applicant, owner, operator, tenant and/or user will abide by conditions of approval that the City Council attaches to the Interim Use Permit.
- (7) A location map showing the general location of the proposed use within the community;

- (8) A map showing all principal land uses within five hundred (500) feet of the parcel on which the interim use is proposed;
- (9) A certified list of property owners located within three hundred fifty (350') feet of the subject property obtained from and certified by a licensed abstractor.
- (10) Any other information that may be reasonably required by the City to evaluate the application.

(E) *Planning Commission Review and Public Hearing.* The Zoning Administrator shall refer complete applications to the Planning Commission for consideration and a public hearing at the next available regular meeting as determined by staff. Prior to the meeting, the Zoning Administrator shall complete the following:

- (1) Distribute the application to appropriate city departments and commenting agencies to receive feedback;
- (2) Publish notice of the purpose, time and place of the public hearing in the official newspaper of the community, and mail notices to all property owners located within a minimum of 350 feet of the property described in the application, at least 10 days prior to the date of the hearing. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the responsible person and shall be made a part of the records of the proceedings. Failure to give mailed notice to individual property owners or defects in the notice shall not invalidate the proceedings, provided a bone fide attempt to comply with the provisions of this section has been made.
- (3) Prepare a staff report analyzing the request under city code requirements for consideration by the Planning Commission.

After considering the application, the staff report, testimony from the applicant and the public and any other relevant information; the Planning Commission shall recommend approval, approval with conditions, or denial. The recommendation of the Planning Commission shall be forwarded to the City Council as soon as practical, and in a manner which allows the City Council time to make a final determination on the request within the state mandated timelines for reviewing land use applications.

(F) *City Council Action.* After considering the application, recommendation of the Planning Commission, any staff reports, testimony from the public hearing and any other relevant information; the City Council shall take action on the application through approval, approval with conditions, or denial. Should the City Council approve the application, the City Council shall make findings on conformance to the IUP general standards, specify the term of the Interim Use

Permit, the event(s), circumstances or conditions that shall cause termination, and any conditions of approval.


- (G) *Termination.* An interim use shall terminate on the happening of any of the following events, whichever occurs first:
- (1) The date stated in the permit.
  - (2) Upon violation of conditions under which the permit was issued.
  - (3) Upon change in the City's zoning regulations which renders the use nonconforming.
  - (4) The redevelopment of the use and property upon which it is located to a permitted or conditional use as allowed within the respective zoning district.
- (H) *Suspension and Revocation.* The City Council may suspend or revoke an Interim Use Permit upon finding that the activities allowed under the permit adversely affect the public health, safety, or welfare in ways not anticipated during approval of the permit. A suspension or revocation of an Interim Use Permit shall be preceded by written notice to the permittee and a hearing. The notice shall provide at least ten (10) days notice of the time and place of the hearing and shall state the nature of the violations. The notice shall be mailed to the permittee at the most recent address listed on the application. The hearing of a contested case may, at the City Council's option, be before the City Council or in accordance with Minnesota Statutes, Section 14.57 to 14.60, but informal disposition of a contested case by stipulation, pursuant to Minnesota Statutes, Section 14.59, may provide an adequate basis for imposition of sanctions.
- (I) *Amendments.* All requested amendments to an existing interim use permit shall be processed in the same manner as a new application.
- (J) *Renewal.* The following process may be used to renew an active interim use permit that is set to expire. Terminated or suspended interim use permits cannot be renewed.
- (1) *Application.* Application requirements for renewal of an existing interim use permit be the same as for a new application.
  - (2) *Review.* Upon receiving a complete application for an interim use permit renewal, the Zoning Administrator shall send notice of the requested renewal to all property owners within three hundred fifty (350) feet of the parcel(s) containing the interim use. If any objections are raised within ten (10) days of the mailed notice, the application shall be processed in the manner of a new application. If no objections are raised, the Zoning Administrator shall prepare a resolution of approval outlining the

conditions and stipulations of the renewal for consideration by the City Council. Council—at its discretion—may approve or deny the request with findings. Denial of a renewal request does not constitute termination of the existing interim use permit.


**Section 2. Adoption Date**

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

This Ordinance No. <sup>97-203</sup> was adopted on this 4th day of December, 2007, by a vote of 5 Ayes and 0 Nays.

  
Mayor Dean Johnston

ATTEST:

  
\_\_\_\_\_  
Susan Hoyt  
Administrator

This Ordinance No. <sup>97-203</sup> was published on the 27<sup>th</sup> day of Dec, 2007.

This ordinance was adopted by the City Council of the City of Lake Elmo on the 4th day of December 2007, by a vote of 5 Ayes and 0 Nays.

Mayor Johnston - Aye  
Council Member DeLapp - Aye  
Council Member Johnson - Aye  
Council Member Park - Aye  
Council Member Smith - Aye

## CONSENT AGREEMENT

WHEREAS, on \_\_\_\_\_, 2007 the City Council of the City of Lake Elmo adopted Ordinance No. \_\_\_\_\_, which establishes a framework for regulating temporary use of land through the issuance of interim use permits; and

WHEREAS, Section \_\_\_\_\_ of this Ordinance requires an applicant for an interim use permit to sign a Consent Agreement wherein the applicant acknowledges and agrees that the proposed interim use will not impose additional costs on the public if there is a future need for public acquisition of the applicant's property through eminent domain and that the applicant has no entitlement to future reapproval of the interim use permit;

NOW, THEREFORE, \_\_\_\_\_, as applicant for an interim  
use permit for \_\_\_\_\_ at  
\_\_\_\_\_, agree as follows:  
(Name)  
(use of property)  
(Location)

1. If this application is approved by the Lake Elmo City Council and an interim use permit is issued, the interim use of the property will not impose additional costs on the City or any other public entity if it is necessary to acquire the property or a portion thereof after issuance of the interim use permit.
2. The applicant acknowledges that the proposed use is temporary and terminates upon expiration of the interim use permit. The applicant has no legal or equitable right to future reapproval of the interim use permit and must file an application for that purpose.
3. The applicant will comply with all conditions imposed by the City Council on the interim use permit.
4. This Consent Agreement shall be binding on any owner, operator, tenant and/or user of the property for which the interim use permit has been granted and the applicant is authorized to sign this Consent Agreement on behalf of said owner, operator, tenant and/or user of the property.

DATED: \_\_\_\_\_  
Applicant (Applicant must be the Property Owner)

STATE OF MINNESOTA     )  
  ) SS  
COUNTY OF HENNEPIN    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_,  
by \_\_\_\_\_, the \_\_\_\_\_ of  
\_\_\_\_\_, a Minnesota \_\_\_\_\_, on  
behalf of said company.

\_\_\_\_\_  
Notary Public