

NOTICE OF MEETING

The City of Lake Elmo
Planning Commission will conduct a meeting on
Monday, June 10, 2013 at 7:00 p.m.

AGENDA

1. Pledge of Allegiance
2. Approve Agenda
3. Approve Minutes
 - a. May 29, 2013
4. Public Hearing (cont.)
 - a. ZONING TEXT AMENDMENT – ADMINISTRATION. The Planning Commission will continue a public hearing to consider a Zoning Text Amendment pertaining to updates to the administrative section the Lake Elmo Zoning Code.
5. Updates
 - a. City Council Updates
 - i. The City Council approved the application by Christ Lutheran Church for a Minor Subdivision at 3549 Lake Elmo Avenue North.
 - ii. The City Council postponed consideration of the Fence and Sign Ordinance. The Council will discuss these ordinances at the City Council Workshop on 6/11/13.
 - b. Staff Updates
 - i. Upcoming Meetings: June 24, 2013
 - c. Commission Concerns
6. Adjourn



**City of Lake Elmo
Planning Commission Meeting
Minutes of May 29, 2013**

Chairman Williams called to order the meeting of the Lake Elmo Planning Commission at 7:01 p.m.

COMMISSIONERS PRESENT: Williams, Reeves, Haggard, Larson and Dorschner; _____

COMMISSIONERS ABSENT: Morreale and Dodson; and

STAFF PRESENT: Planning Director Klatt and City Planner Johnson.

Approve Agenda:

The agenda was accepted as presented.

Approve Minutes: May 13, 2013

M/S/P: Reeves/Haggard, move to accept the minutes of May 13, 2013 as presented,

Vote: 3-0, Motion Carried with Dorschner and Larson not voting.

Public Hearing: Zoning Text Amendment – Sign Ordinance

Johnson stated that the Planning Commission was asked to consider a draft sign ordinance and consider adoption of the ordinance as presented. He reviewed several changes that have been made to the draft document based on comments from the Commission at its previous meeting. Johnson noted the Sign Ordinance is part of the overall Zoning Ordinance update that the City has been preparing over the last year or so.

Johnson reviewed the overall objectives of the Sign Ordinance and some of the issues that the proposed ordinance was drafted to address.

Williams asked to have language added to identify school board meetings as a separate category of election sign.

There was a general discussion concerning signs on trailers and other similar temporary signage. Haggard asked if existing temporary signs would be considered a legal non-conforming use. Johnson replied that these types of signs would not retain any non-conforming use rights.

Larson questioned the use of temporary signs for real estate open houses and how the ordinance would be enforced. Johnson noted that enforcement was going to be dependent on staff availability and the extent to which these signs may be problematic.

There was a general discussion concerning signage for multi-family projects. It was noted that such signs would be considered a directory sign.

Haggard asked how the City's theming project would apply the proposed ordinance. Johnson stated that the City may want to consider a more defined sign district if the City intends to adopt special standards for the Village planning area.

Williams opened the public hearing at 7:26 p.m. No one spoke and the hearing was closed at 7:27 p.m.

Williams expressed concern with the restriction on the placement of street addresses on anything other than the wall of a house. The Commission generally agreed with this concern and requested that the ordinance be updated to include provisions related to residential addresses.

Dorschner asked for clarification concerning temporary signs and the requirement for a specific orientation of these signs. The Commission directed Staff to eliminate the portrait requirement for portable signs and to include additional language for address signage to allow addresses off of a wall.

The Commission directed Staff to further revise the portable sign provisions to eliminate the maximum height requirement along with other minor modifications.

Reeves expressed concern that the provisions related to signs on private residential property were overly onerous.

Discussion on Temp/Portable signage that the restriction on the attention grabbing things are more geared to commercial type signage vs. on residential property. There was direction to require a secure attachment of balloons, etc. without additional restrictions.

Williams questioned the maximum size requirement for off-premises agricultural sales signs. The Commission noted that these signs are typically located along busier streets and that the larger size is justified in these instances.

Haggard asked about legal non-conforming signs and suggested that if a sign is 100% damaged, it should be replaced with a conforming sign. There was discussion of non-conforming signs and replacement. Planner Johnson will review state statutes and will consult with the City attorney regarding replacement.

Williams questioned the use of flashing signage on or behind building windows and noted a specific example in the Village area. Klatt stated that blinking lights that are part of a structure that is defined as a sign in the code, even if located behind a window, would need to comply with the proposed ordinance. He noted that an intent to capture the attention of people outside of the building would be an important consideration in handling these types of signs.

The Commission generally discussed the requirement for electronic message signs to not change any more than every 10 seconds. The Commission did not recommend any changes to the ordinance as presently drafted.

Larson questioned how the City's dark-sky ordinance would apply to the sign ordinance. Klatt noted that the City Code does include lighting standards that would need to be observed.

Haggard asked to include language under the purpose and intent section to reference the City's Theming manual. The Commission supported the inclusion of this language.

Haggard suggested that the code prohibit attachment of balloons, streamers, and other attention-grabbing materials to temporary signs. The Commission did not recommend any changes to this provision. Johnson recommended striking this language in the portable sign section.

Staff noted that the sign limitation for residential address and name signs applies only to Home Occupation and that address and nameplate signs are regulated elsewhere.

M/S/P: Haggard/Dorschner Motion to recommend approval the Sign Ordinance with the changes recommended by the Planning Commission and that the City develop a separate set of sign regulations for the Village Planning District. Vote: **Vote: 4-1, Motion Carried**, with Dorschner voting no. Dorschner noted that he would not support a Village-specific ordinance that limited the additional regulations to commercial properties.

Public Hearing: Zoning Ordinance Update – Article III Administration and Enforcement

Klatt asked that the Planning Commission open the public hearing concerning the proposed amendment and that the Commission continue the hearing to its next meeting. He noted that Staff needs to complete work on the Interim Use standards and has not yet had time to revise this section.

Williams opened the public hearing at 8:48 p.m.

M/S/P: Williams/Larson to continue the public hearing until the June 10, 2013 meeting, **Vote: 5-0. Motion Carried.**

Public Hearing: Fence Ordinance Amendment

Johnson explained that the Planning Commission reviewed a draft fence ordinance at its last meeting and that Staff has prepared a final draft of the ordinance for further review and consideration by the Commission. He noted that Staff is recommending a completely new and greatly simplified ordinance that provides greater flexibility for property owners that want to install a fence on their property.

Johnson reviewed the changes that have been proposed from the current regulations.

Larson questioned whether or not the Village planning area should have different fence requirements than other portions of the City. Johnson replied that the ordinance as drafted would apply to the entire City.

Reeves noted that the ordinance as drafted would not allow wood fences on residential properties in mixed-use areas.

Williams asked if silt fences would be considered temporary fencing. Johnson replied that silt fences and other erosion control measures would be exempt from the code.

The Commission reviewed the language exempting agricultural fences and asked Staff to delete the language concerning the keeping of livestock.

Williams opened the public hearing at 8:59 p.m. No one spoke and the hearing was closed at 8:59 p.m.

Williams asked if a Certificate of Compliance would be appropriate for temporary fences so that the City could verify consistency of such fences with the code. Johnson did not recommend requiring permits for these fences due to their temporary nature.

Haggard recommended keeping the air and openness requirement for those portions of a fence over 4 feet in height in residential districts. Commissioners Reeves and Dorschner did not agree with making a change that would prohibit privacy fences.

The Commission generally discussed the setback requirements for fences, and specifically, the restriction on higher fences in front and street-side yard setbacks.

Haggard suggested that the fence ordinance include a provision concerning allowable fence colors. Williams suggested that a fence be consistent with the character and style of the principal structure on the property. Staff reviewed the existing language concerning accessory buildings and consistency with the principal structure.

M/S/P: Reeves/Dorschner motion to recommend approval of the fence ordinance as

presented with a minor modification to the agricultural property exemption. **Vote: 4-1, Motion Carried**, with Haggard voting no.

Business Item: Christ Lutheran Church Minor Subdivision

Klatt provided an overview of the request for a minor subdivision by Christ Lutheran Church at 3549 Lake Elmo Avenue North. In advance of the minor subdivision request, the applicant was granted a variance to allow for a lot split that would create a non-conforming lot according to the General Business zoning. Moving forward, Klatt noted that the proposed subdivision would split the parcel into "Tract A" (.42 acres) and "Tract B" (0.27 acres). Tract B would be retained by the church for the purpose of overflow parking, and Tract A would be marketed for a future commercial use.

Regarding the variance, Klatt noted that there were two conditions of approval: a shared parking easement and a drainage easement for the storm water infiltration area on Tract B. The applicant has complied with these conditions of the variance by providing drafts of the easements.

Staff is recommending approval of the minor subdivision with two conditions:

1. The applicant shall execute a shared parking easement acceptable to the City Attorney at the time of sale of Tract A so there is a shared use agreement for the parking area on Tract B.
2. The applicant shall execute and record a drainage and utility easement in a form acceptable to the City Attorney prior to the transfer of Tract A to another party.

Jim Kelly, Congregation Preseident of Christ Lutheran Church, spoke in support of the minor subdivision and thanked Planning Director Klatt for his assistance on this action.

M/S/P: Dorschner/Haggard, move to recommend approval of the minor subdivision at 3549 Lake Elmo Avenue North with the conditions as outlined by Staff, **Vote: 5-0, Motion Carried**.

Business Item – Discussion of Rural Agricultural Density (RAD) and RAD-Alt Guidance in the Comprehensive Plan

Klatt started his presentation by outlining various terminology and history related to the RAD discussion. To provide further background and context, Klatt explained the history behind the RAD designation and the Open Space Preservation (OP) zoning provision. In addition, he explained that the RAD-2 land use category was included as part of the 2005 Comprehensive Plan. As part of this change, the RAD density was increased from 0.4 to 0.45 units per acre, and the RAD-2 category was created with a density of 2 units per acre. These changes were intended to account for additional growth while still maintaining the rural and open space character.

Moving forward, Klatt explained where the City utilized the RAD-2 land use category in 2005. The City guided two properties in Lake Elmo with the RAD-2 designation: the 3M site on Ideal Ave., and the Emerson parcel at 10th St. and Manning Avenue. In 2010, there was an application for a Minor Comprehensive Plan Amendment at the Friedrich property for a senior living and preschool project. The Comp Plan Amendment was granted for the Friedrich property, but the development application has since expired.

After providing the history, Klatt explained some of the current issues related to RAD and RAD-2, and included current considerations related to the Memorandum of Understanding with the Metropolitan Council. He also highlighted some trends related to current growth forecasts in the rural areas of Lake Elmo.

To wrap up, Klatt presented various options for the Planning Commission to consider in terms of making a recommendation about the RAD-2 land use category to the City Council. These options included:

1. Make no changes to the RAD or RAD-2 designation of the Comp Plan. This is the Staff recommendation.
2. Staff can conduct further study of RAD-2 in the context of our growth numbers in the rural areas.
3. Amend the Comp Plan to change the Friedrich site back to RAD land use category;
4. Amend the Comp Plan to change all of the properties guided as RAD-2 back to RAD and make up the growth numbers elsewhere;
5. Options 5-9 presented other various alternatives that would be required to maintain the City's growth numbers as part of the Comprehensive Plan.

Klatt finished up by stating that this item is intended as a discussion item for the Planning Commission to make a recommendation to the City Council.

Haggard asked about a reduction of densities that was permitted by an amendment of the MOU with the Metropolitan Council. Klatt noted that this reduction was only related to the densities pertaining to areas guided for sewer service.

Larry Weiss, 9302 Stillwater Blvd., noted that the neighbors around the Friedrich property are not supportive of any high density projects in that location. He would like to see the property be changed to the RAD designation.

Ed Nielson, 9498 Stillwater Blvd., shared his frustration about the proposed development project at the Friedrich property. He also presented technical considerations related to transportation of senior housing projects in the East Metro. He expressed concern that there was not enough information provided about the proposed development on the Friedrich property that would allow neighbors to fully comprehend the impacts of development on this site.

Dorschner stated that there are opportunities for providing the needed infrastructure to serve higher density development in other portions of the City.

Williams asked about the other RAD-2 properties other than the Friedrich property. Dorschner stated that he would support those properties remaining RAD-2, or RAD-Alt, if the appropriate infrastructure was in place.

Reeves noted that he needs more information about the City's growth projections before making a judgment about the Friedrich property or other properties that are guided as RAD-2, or RAD-Alt. He feels that more research is needed before the City makes any significant changes to the Comp Plan that would impact the overall growth projections, as required by the MOU.

Haggard noted that she would like to examine how all of the different areas of growth, both rural and urban, would be impacted before making a recommendation.

Larson noted that he does not feel that the land use or density fits at the Friedrich property.

Williams noted that the MOU does not require a certain number of rural units. The City Council decided to pursue the minimum amount of sewer units in favor of additional rural units. Williams noted that if the City wants to pursue 2 units per acre, then these areas should be sewer. He noted that the RAD-2 or RAD-Alt may not fit in the City's plans anymore. The 3M site and Emerson site are adjacent to areas that are guided for sewer. These areas could be opened up to sewer service to make up for the units that would be lost by changing the Friedrich property back to RAD. Williams noted that he supports changing the Friedrich property back to RAD. Williams proposed to recommend to the Council that the City eliminate the RAD-2 or RAD-Alt designation in favor of making up for growth numbers in other areas of the city that are adjacent to sewer.

Reeves asked if there would be any concerns by the property owners whose properties would be changed by the land use changes in the Comp Plan. Klatt noted that the City has the authority to guide parcels with appropriate land uses.

Haggard asked if the Friedrich property would have been considered without the development proposal. Klatt read the list of findings from the City Council Resolution that approved the Comp Plan Amendment in 2010. These were the key land use findings that informed the Council decision in 2010. In addition, Klatt noted that the RAD-2 designation was intentionally intended for senior housing. This was another consideration related to the Comp Plan change.

Klatt noted that the Planning Commission should make a motion if a change to the Comp Plan or some other action is desired.

Haggard reiterated that she would like more information about all of the growth forecasts of the City to make a more informed decision in advance of a motion.

Reeves noted that the land use of the Friedrich property should be revisited, but he does not feel qualified at this time to make a decision. He noted that the Council should revisit this issue. Williams asked about the RAD-2, or RAD-Alt, land use category in general. Reeves noted that it is difficult to make a decision at this time, but he did agree that 2 units per acre does seem more consistent with areas guided for sewer. He noted that if the units that would be lost due to a Comp Plan change could be easily accounted for elsewhere, than he would be in favor of examining the need for RAD-2.

Larson noted that the other properties that are RAD-2 have more viable sewer solutions, whereas the Friedrich property does not. He would support looking at changing the Friedrich property.

Dorschner added that it is tough to make a decision without more information. He thought it important to know whether sewer was viable at these other sites.

Haggard asked if there is a maximum number of units that could be added to the sewer system. Klatt noted that the Met Council has to plan for sewer capacity based on the City's Comprehensive Plan. Klatt noted there is built-in capacity for added development that were not previously planned. However, each additional development will be evaluated by Met Council in terms of capacity.

Williams notes that he has always had the concern about 2 units per acre on a community septic system, as is the case in RAD-2.

Klatt qualified what additional information the Planning Commission is seeking before making a recommendation on changing the Friedrich property, or RAD-2 designation as a whole. The additional information included the following:

- Conduct a deeper analysis about the overall growth numbers in relation to both the rural and urban areas of the city.

Klatt explained that he will share the sentiments of the Planning Commission with the City Council and gather additional information about this topic and present findings to the Commission at a later date.

Updates and Concerns

City Council approved the Zoning Text Amendment related to Specific Development Standards at the meeting on 5/21/13.

The City Council appointed two new Planning Commission members at the meeting on 5/21/13. The new members are Mr. Dean Dodson, Full Voting Member, and Mr. Dale Dorschner, 1st Alternate.

Staff notified the Planning Commission that the next meeting is scheduled for June 10, 2013.

Meeting adjourned at 10:49pm

Respectfully submitted,

Nick Johnson
City Planner

THE CITY OF LAKE ELMO

Planning Commission
Date: 6/10/13
PUBLIC HEARING
Item: 4a

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

REQUESTED BY: Planning Department

SUBMITTED BY: Kyle Klatt, Planning Director

REVIEWED BY: Nick Johnson, City Planner
Rick Chase, Building Official

SUMMARY AND ACTION REQUESTED:

The Planning Commission is being asked to review and conduct a public hearing on a draft of Article 3 – Zoning Administration and Enforcement, which is proposed to take the place of the existing sections of the Zoning Ordinance that deal with similar provisions. The portions of the current Zoning that would be replaced are Sections 151.015 through 151.021. The Ordinance has been revised since the last meeting to include a revised interim use permit section, a modified enforcement section, and a few other minor modifications to the overall document.

ADDITIONAL INFORMATION:

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

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

The intent of the proposed amendments is to greatly improve the consistency and readability of the ordinance, especially as it relates to the application submission and review requirements for each type of planning and zoning permit.

RECOMMENDATION:

Staff recommends that the Planning Commission recommend approval of the proposed amendments to Article 3 – Zoning Administration and Enforcement.

ATTACHMENTS (1):

1. Draft Article 3 – Zoning Administration and Enforcement

ARTICLE 3 ZONING ADMINISTRATION AND ENFORCEMENT

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

§ 154.100 Director of Planning

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

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

§ 154.101 Applications and Review Process.

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

- a. *Information required.* Every application shall contain the legal description of the property and a statement of the specific permit or action being sought. In addition, every application shall include the submission requirements listed in §154.101.B.1. Nothing in this section shall be deemed to prevent the city from requesting additional information from the applicant upon which to base a decision.
 2. *Fee.* The application shall be accompanied by the required fee as established by resolution of the City Council. If a dispute arises over a specific fee imposed by the city, the amount of the fee must be deposited and held in escrow, and the person aggrieved by the fee may appeal to district court, as provided by M. S. 462.361 (judicial review), as it may be amended from time to time. The application shall proceed as if the fee had been paid, pending a decision of the court.
- B. *Application requirements.*
1. *Submission materials.* Submission materials for applications required under this chapter shall include the following specific information:
 - a. Site plan drawn to scale showing parcel and building dimensions.
 - b. Location of all buildings and their size, including square footage.
 - c. Curb cuts, driveways, access roads, parking spaces, off-street loading areas, and sidewalks.
 - d. Landscape plans meeting the requirements of Section 155.89 of Article 6 of this Zoning Ordinance.
 - e. If grading or storm water management is proposed, grading and storm water, erosion, and sediment control plans meeting the requirements of §150.270 through §150.284, §151.017, and §151.027 of the City Code.
 - f. Type or types of business or activity and proposed number of employees.
 - g. Proposed floor plan of any building with use indicated.
 - h. Building elevation drawings of any new construction or building renovation proposed.
 - i. Sanitary sewer and water plans with estimated flow rates.
 - j. Soil type and soil limitations for the intended use. If severe soil limitations for the intended use are noted, a plan or statement indicating the soil conservation practice or practices to be used to overcome the limitation shall be made part of the application; and
 - k. For applications that require a public hearing, a certified list of property owners located within 350 feet of the subject property obtained from and certified by a licensed abstractor.
 - l. The Director of Planning may require that the applicant supply proof of ownership of the property for which a permit is requested.
 - m. The Director of Planning may require traffic generation information to determine the adequacy of existing transportation infrastructure.
 - n. Such other information as may be required by the Director of Planning, Planning Commission or City Council.
 2. *Waiver of submission materials.* The Director of Planning may waive certain submission requirements for projects that will have a minimal impact on surrounding properties or in instances when said submission requirements are impractical given the nature of the proposed development.
- C. *Amended Applications.* An amendment to any permit issued under this Chapter shall be processed in the same manner as a new application.

- D. *State established time limit for final action.* The City shall comply with the time limits as established by Minnesota Statute 15.99 (time deadline for agency action), as it may be amended from time to time, with regards to taking action on any applications subject to said Statute.

§ 154.102 Public Hearing Requirements

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

- A. *Notification of general public.* The Director of Planning shall set the date for a public hearing and shall have notices of such hearing published in the legal newspaper at least once, and not less than ten days prior to the hearing.
- B. *Notification of surrounding property owners.* For any application for which a public hearing is required, the Director of Planning shall notify all property owners within the affected zone and within three hundred and fifty feet (350') of the outer boundaries of the property in question.
1. Failure of any property owner to receive such notification shall not invalidate the proceedings.
 2. The City Council may waive the mailed notice requirements for a city-wide amendment to the zoning ordinance initiated by the Planning Commission or City Council.
- C. *Hearing Procedures*
1. Public Hearings conducted by the Planning Commission, City Council, and Board of Adjustment.
 - a. The Director of Planning or his/her representative shall summarize the application and any associated information.
 - b. The applicant shall be allowed to summarize the request and call any witnesses to support his/her request.
 - c. The public shall be allowed to make statements concerning the request subject to reasonable limits that may be set by the body conducting the hearing.
 - d. The Planning Commission, City Council and Board of Adjustment may establish other procedures as needed to ensure due process for those parties involved with the hearing.
 2. *Appeal Hearings.* The Board of Adjustment shall hold a hearing and make a decision on any appeal submitted in accordance with §154.108 of this Article. The Board of Adjustment shall establish rules for due process during appeal hearings and any party to the appeal may appear at the hearing in person or by agent or attorney. At a minimum, the following hearing procedure will be followed:
 - a. Appellant shall present a case and may call any witnesses necessary in support thereof;
 - b. Respondent may ask questions of appellant's witnesses;
 - c. Respondent may call witnesses;
 - d. Appellant may ask questions of respondent's witnesses;
 - e. Respondent may summarize his or her position;
 - f. Appellant may summarize his or her position;
 - g. Generally, the Minnesota District Court Rules of Civil Procedure shall apply for the conduct of the hearing.

§ 154.103 Permits, Certificates and Licenses

- A. *Building permits.*

1. *Compliance.* A building permit is required for the construction or structural alteration of a building or any part thereof. Other construction activity may require a permit in accordance with the Minnesota State Building Code. Demolition, wrecking or removal of any structure shall require a demolition or moving permit. No building permit shall be issued for any construction, enlargement, alteration or repair, demolition or moving of any building or structure on any lot or parcel until all requirements of the Minnesota State Building Code as adopted by the City of Lake Elmo pursuant to Chapter 151, Title XV of the City Code have been fully met.
2. *Concurrent applications.* If the proposed development requires a zoning amendment, variance or conditional use permit, or other permit required under this Article, the applicant shall secure all required permits prior to the issuance of a building permit for said development.
3. *Administrative review of permits for existing platted lots.* If the proposed development does not involve a zoning amendment, variance or conditional use permit, and proposes a use, structure or expansion of an existing structure on an existing platted lot, the Director of Planning may review the application and authorize the Building Official to approve or to deny the permit.
4. *Expiration.* Any building permit issued by the city shall expire and by limitation be null and void if a certificate of occupancy and final completion has not been issued within the following applicable period of time after the date of permit issuance:
 - a. Single-family residential dwellings, including new construction, remodeling or additions: 12 months;
 - b. Multi-family and nonresidential construction: 12 months unless a longer time is specified by the City Council at the time the original permit is issued;
 - c. *Extension.* The Building Official may grant an extension prior to the expiration of any building permits in accordance with the Minnesota State Building Code. An expired building permit may be reissued once, by the Building Official, for one-half the original permit fee. Thereafter, if the permitted work is not completed within the applicable time period, a new permit may be issued only upon such conditions as the City Council by resolution may prescribe, including financial guarantees to guarantee completion by a specified date.
 - d. *Time limitations for exterior work.* All exterior work shall be completed as follows:
 - i. All disturbed and exposed ground shall be covered with landscaping in accordance with §150.070 through §150.078 of the City Code.
 - ii. All exterior construction, including siding, roofing, doors, windows and finish shall be completed and present a finished appearance within 6 months of the start of construction. Tar paper, unfinished plywood, fiberboard insulation, foam insulation, brown coat or scratch coat of stucco, plastic sheeting and other similar materials not designed to be an exterior finish shall not be considered an acceptable exterior finish;
 - iii. Failure to complete exterior work as required herein shall result in suspension of the existing permit until a reinstatement fee equal to 100% of the original building permit has been made. Reinstatement of a building permit does not extend the original term of the permit. The reinstatement fee shall also be paid prior to re-issuance of any subsequent permit for exterior work that was not completed under a prior permit that expired.

B. *Certificate of zoning compliance.* A certificate of zoning compliance is a zoning permit that is intended as a means of administratively reviewing a new use, change in use, or structural change that does not require a building permit.

1. *When required.* A certificate of zoning compliance is required for the following activities:

- a. A new use classification within an existing building or structure;
 - b. A change of use classification within an existing building or structure;
 - c. Addition, removal or change in parking or other on-site improvements;
 - d. Small accessory structures that do not require a building permit;
 - e. Home occupations;
 - f. Swimming pools;
 - g. Antennas, including amateur radio antennas and wireless communications facilities that meet the criteria for administrative review in §150.111(C);
 - h. Fences less than six feet in height;
 - i. Driveways that are not authorized as part of an approved building permit;
 - j. Stormwater management activities and structures not otherwise permitted as part of a development application;
 - k. Other situations requiring additional review or interpretation, as specified elsewhere in this Ordinance.
2. *Expiration of a certificate of zoning compliance.* Where a certificate of zoning compliance use has been established and is discontinued for any reason for a period of one (1) year or longer, the certificate of zoning compliance shall become null and void.
- C. *Certificate of Occupancy.* No vacant land shall be occupied or used and no buildings hereafter erected, altered or moved shall be occupied until a certificate of occupancy has been issued by the Building Official. Such certificate shall show that the building or premises or part thereof and the use thereof are in conformity with the Minnesota State Building Code and the provisions of this chapter. Such certificate shall be issued only when the building or premises and the use thereof conform to all the requirements of the City Code.
- D. *Sign permit.* A sign permit shall be authorized for a sign that conforms to the sign regulations in §154.212. An application, on a form provided by the Director of Planning, shall be submitted with the required fee by the owner of the proposed sign. The Director of Planning shall issue a sign permit if all of the regulations in §154.212 are met.
- E. *Special Event Permit.* A special event permit may be issued for certain events for activities or events not otherwise permitted under the Zoning Ordinance in accordance with §110.070 of the City Code.
- F. *Grading permit.* A permit shall be required for all non-agricultural project(s) or activities that will result in the movement of more than fifty (50) cubic yards of earth or the disturbance of more than one-half acre of land, and for construction of a building or structure on steep slopes, as specified in Article 6, Section 155.84. The Director of Planning may issue a grading permit only if the grading plan meets the requirements of the Lake Elmo Storm Water Management and Erosion and Sediment Control Ordinance.
1. *Public hearing.* All grading and excavating applications, for the purpose of creating wetlands, berming, landscape amenities, and other natural features that result in the moving of more than 400 cubic yards of material per acre of site area shall require a public hearing.
- G. *Review of Design or Demolition.* For certain development activity as specified in the *Lake Elmo Design Standards Manual*, design review is required as part of the approval process for a permit or certificate under this Ordinance. All projects subject to design review shall be reviewed for conformance with the *Lake Elmo Design Standards Manual*. Demolition review is also required prior to the demolition of structures in the VMX District as provided for in Article 11. A separate process for design review or demolition review is not established.

1. *Review authority.* Design review or demolition review shall be the responsibility of the individual or body authorizing the permit or certificate and shall be incorporated in the established review of the applicable permit or certificate. For those applications under this Ordinance that require review by the Planning Commission, the Planning Commission shall consider the standards in the *Lake Elmo Design Standards Manual* as part of its recommendation to the City Council.
2. *Review by professional.* The authorizing body may request review by a design professional of the proposed design or demolition. The cost of review by such design professional shall be charged to the applicant, and shall not exceed \$1,000 unless otherwise agreed to by the applicant.
3. *Development Activity Defined.* Development Activity includes remodeling, altering, or repairing a structure in any manner that will change the exterior appearance of said structure. Development activity also includes the construction of new parking lots and installation of signage.
 - a. *Exempt Activities.* The following shall activities shall be exempt from review under this Section:
 - i. Ordinary repairs and maintenance that will not change the exterior appearance of a structure;
 - ii. Removal of existing signage without replacement unless said signs are an integral part of the building;
 - iii. Emergency repairs ordered by the Director of Planning in order to protect public health and safety;
 - iv. Exterior alteration, addition, or repair of a structure used as a single-family residence.
 - v. Temporary signage, installed in accordance with §154.212 of this Ordinance, or during which time an application for permanent signage is pending under this Ordinance;
 - vi. Maintenance of existing signage advertising an on-site business;
 - vii. Alterations only to the interior of a structure.
4. *Demolition Review.* The Planning Commission shall review any application for the demolition of structure within the VMX Village Mixed Use District in accordance with the standards of §154.506. No demolition permits shall be issued in the VMX District until this review has been completed.

§ 154.104 Planning Commission

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

§ 154.105 Zoning Amendments

- A. *Criteria for granting zoning amendments.* The City Council may adopt amendments to the zoning ordinance and zoning map in relation to land uses within a particular district or to the location of a district line. Such amendments shall be used as a means to reflect changes in the goals and policies of the city as reflected in the Comprehensive Plan.
- B. *Types of amendments.*

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

§ 154.106 Conditional Use Permits

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

properties from objectionable views, noise, traffic and other negative characteristics associated with such uses.

1. The conditions shall include all specific development standards for such use listed in Article 7 of this Chapter.
 2. If the proposed use is in a flood plain management or shoreland area, the conditions shall include specific standards for such use listed in Chapter 151 (Floodplain Management) and Chapter 152 (Shoreland Management).
 3. In addition, conditions may include, but are not limited to, the following:
 - a. Controlling the number, area, bulk, height and location of such uses;
 - b. Regulating ingress and egress to the property and the proposed structures thereon with particular references to vehicle and pedestrian safety and convenience, traffic flow and control and access in case of fire or other catastrophe;
 - c. Regulating off-street parking and loading areas where required;
 - d. Controlling the location, availability and compatibility of utilities;
 - e. Requiring berming, fencing, screening, landscaping or other means to protect nearby property; and
 - f. Requiring other conditions to create compatibility of appearance with surrounding uses.
- F. *Findings for denial.* If the Planning Commission recommends denial of a conditional use permit or the Council orders such denial, it shall include in its recommendation or determination findings as to the specific ways in which the proposed use does not comply with one or more specific findings required by this chapter.
- G. *Permittee.* A conditional use permit shall be issued for a particular use and not for a particular person, except in the case of a permit granted for the uses of land reclamation, mining or soil or mineral processing. In such cases, a permit shall be issued to the particular person making application for such permit and such permit shall not be transferred or assigned for use by another without the written consent of the city. However, such consent by the city shall not be unreasonably withheld.
- H. *Periodic review.* A periodic review of the use may be attached as a condition of approval of a conditional use permit.
- I. *Term of permit.* Unless otherwise stipulated, the term shall be the life of the use.
- J. *Revocation.* Failure to comply with any condition set forth in a conditional use permit, or any other violation of this chapter, shall be a misdemeanor and shall also constitute sufficient cause for the termination of the conditional use permit by the City Council following a public hearing conducted in accordance with §155.102 of this Article.
- K. *Expiration.* If substantial construction has not taken place within 12 months of the date on which the conditional use permit was granted, the permit is void except that, on application, the Council, after receiving recommendation from the Planning Commission, may extend the permit for such additional period as it deems appropriate. If the conditional use is discontinued for six months, the conditional use permit shall become void. This provision shall apply to conditional use permits issued prior to the effective date of this chapter, but the six-month period shall not be deemed to commence until the effective date of this chapter.

§ 154.107 Interim Use Permits

- A. *Purpose and intent.* The purpose and intent of allowing interim uses are:

1. To allow a use for a limited period of time that reasonably utilizes the property where such use is not consistent with the future land map in the Comprehensive Plan; and
 2. To allow a use that is presently acceptable, but that with anticipated development or redevelopment or other significant change, will not be acceptable in the future or will be replaced by a permitted or conditional use allowed within the respective district.
- B. *Required Findings.* 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 user agrees to all conditions that the City Council deems appropriate to establish the interim use. This may include the requirement of appropriate financial surety such as a letter of credit or other security acceptable to the city to cover the cost of removing the interim use and any interim structures not currently existing on the site, upon the expiration of the interim use permit.
 5. There are no delinquent property taxes, special assessments, interest, or city utility fees due upon the subject parcel.
 6. The date or event terminating the interim use shall be set by the City Council at the time of approval.
- C. *Application Requirements.* Interim Use Permit applications shall be submitted to the Director of Planning on such form and accompanied by such information as required by §154.101.A of this Article and with the submission materials listed in §154.101.B of this Article.
1. *Additional Application Requirements:* An application for an Interim Use Permit shall include the following additional information:
 - a. A letter from the applicant explaining the proposal and stating the date or event that will terminate the use;
 - b. A signed consent agreement, subject to review and approval by the City Council documenting:
 - i. That the applicant, owner, operator, tenant and/or user has no entitlement to future approval or reapproval of the interim use permit;
 - ii. 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
 - iii. 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.
- D. *Public Hearing Required.* The Planning Commission shall hold a public hearing on each complete application for a Interim Use Permit as provided in §154.102 of this Article. After the close of the hearing on a proposed Interim Use Permit, the City Planning Commission shall consider findings and shall submit the same together with its recommendation to the City Council.
- E. *Final decision by City Council.* The City Council shall make the final decision on a Interim Use Permit after a public hearing by the Planning Commission. The City Council may approve, approve with conditions or deny the application.

- F. *Termination.* An interim use shall terminate on the happening of any of the following events, whichever occurs first:
1. The date or event stated in the permit;
 2. Upon violation of conditions under which the permit was issued;
 3. Upon a change in the City's zoning regulations which renders the use nonconforming; or
 4. The redevelopment of the use and property upon which it is located to a permitted or conditional use as allowed within the respective zoning district.
- G. *Revocation.* Failure to comply with any condition set forth in a Interim Use Permit, or any other violation of this chapter, shall be a misdemeanor and shall also constitute sufficient cause for the termination of the conditional use permit by the City Council following a public hearing conducted in accordance with §155.102 of this Article.
- H. *Renewal.* The following process may be used to renew an active interim use permit that is set to expire. Terminated or suspended interim use permits cannot be renewed unless the City Administrator has received and approved a 1-time 30-day extension to continue processing the renewal application.
1. *Application.* Application requirements for renewal of an existing Interim Use Permit shall be the same as for a new application.
 2. *Review.* Upon receiving a completed application for an interim use permit renewal, the Planning Director shall send notice of the requested renewal to all property owners within 350 feet of the parcel(s) containing the interim use. If any objections are raised within 10 days of the mailed notice, the application shall be processed in the manner of a new application. If no objections are raised, the Zoning Administrator shall prepare a resolution of approval outlining the conditions and stipulations of the renewal for consideration by the City Council. The City Council, at its discretion, may approve or deny the request with findings. Denial of a renewal request does not constitute termination of the existing interim use permit.

§ 154.108 Appeals and the Board of Adjustment

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

A. Powers of the Board of Adjustment.

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

B. Procedures for appeals.

1. *Filing of appeals.* All appeals to the Board of Adjustment shall be in writing and filed with the office of the City Clerk within 14 calendar days of the date of mailing of the notice of the order, requirement, decision or determination from which the appeal is made.

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

§ 154.109 Variances

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

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

§ 154.110 Violations and Enforcement

- A. *Enforcing officer.* It shall be the duty of the Planning Director to cause the provisions of this chapter to be properly enforced.
- B. *Violations.*
 1. *Violations.* Any person who shall violate or refuse to comply with any of the provisions of this Chapter shall be subject to the enforcement and penalty provisions of §10.99 of the City Code.
- C. *Investigation and administrative enforcement.*
 1. *Investigation of violation.* The Director of Planning shall investigate alleged violations of this Chapter. Investigation of a violation may require accessing the property where the violation is alleged to have occurred. The Director of Planning shall notify the landowner of the need for investigation and make a reasonable attempt to gain permission from the landowner for access to the property and structures for investigative purposes. If the landowner is not responsive, the Director of Planning may, upon probable cause of a violation, enter upon the property, but not enter any structures, for the sole purpose of investigation. If access to the property is specifically denied by the landowner, the Director of Planning shall obtain a judicial order prior to entering upon the property. Entering a structure for investigative purposes shall occur only upon permission of the landowner or issuance of a judicial order.
 2. *Administrative enforcement.*
 - a. *Notice of violation.* Whenever in the judgment of the Director of Planning a determination is made upon investigation that a particular permit holder has not complied with this Chapter, the Director of Planning shall issue written notice of violation to the owner of record and require him or her to complete the work.

- b. *Cease and desist order.* Upon investigation, if the Director of Planning has probable cause to believe a violation of this Chapter has occurred and that immediate stoppage of work is necessary to minimize harm caused by such violation, the Director of Planning may issue a cease and desist order to halt the progress of any property modification. When any work has been stopped by a cease and desist order, it shall not be resumed until the reason for the work stoppage has been completely satisfied and the cease and desist order lifted.
- D. *Administrative fee for enforcement.* The Director of Planning shall charge an administrative fee, as set by resolution of the City Council, to compensate for time spent involving the investigation and prosecution of violations, and including any expenses incurred during the investigation.
- E. *After the fact applications and fees.* Any person making application for a permit after the commencement of work requiring a permit, shall be charged an additional administrative fee. In the event the application for a permit is denied or the action permitted does not include all or part of the work commenced prior to approval of said permit, the Director of Planning shall require correction and/or restoration of the concerned property to its original state, including removal of structures or improvements.