



AGENDA

City of Fergus Falls Planning Commission Meeting
Fergus Falls, MN
August 28, 2023 at 5:15 pm

1. Call to order
2. Approval of Agenda
3. Approval of Minutes from August 14, 2023
4. Public Hearings
 - a) C-2023-2: Empire2 Inc. dba Little Chief Outpost. **Conditional Use Permit to Allow for sales of hemp derived products that are allowed under the current Minnesota law within the B-2 Service Business District zone** at 1603 Pebble Lake Road. Parcel IDs: 71001500047006 & 71001500079003.
5. Discussion Items
 - a) Sign Ordinance - Potential Updates
 - b) Sub-committee Update: MN Marijuana Legalization - Zoning Requirement
6. Staff Updates
7. Adjourn

PLANNING COMMISSION MINUTES

August 14, 2023

The Fergus Falls Planning Commission held a special meeting on August 14, 2023 in the Council Chambers of City Hall. Chair Kilde called the meeting to order at 5:15 PM. Members present or absent were:

Present: Laurel Kilde, Matt Pesek, Nate Kunde, Mike Walls, Wayne Schuett, Ryan Fullerton, Sarah Duffy

Staff present: Klara Beck, Mark Jorgenson, Jill Hanson

Public present: Scott Kvamme (City Council)

APPROVAL OF AGENDA

Chair Kilde entertained a motion to approve the agenda. Motion to approve the agenda by Commissioner Fullerton and seconded by Commissioner Pesek. Passed unanimously.

APPROVAL OF MINUTES

Klara stated that a comment had come in from a member of the public requesting that reference to Planning Commission's discussion on not limiting the size of window signage be removed from the minutes before approval. Staff and Planning Commission members considered the request but remembered the discussion taking place and so chose not to remove it from the minutes. Commissioner Kunde made a motion to approve the minutes from June 26, 2023 with no changes. It was seconded by Commissioner Pesek. Passed unanimously.

PUBLIC HEARINGS

Klara Beck stated that tonight there are no public hearings. Later this month the PC would be hearing a request for a conditional use permit in a B-2 zone.

DISCUSSION ITEMS

5a. SIGN ORDINANCE – POTENTIAL UPDATES

Chair Kilde opened the discussion. Klara Beck explained that staff was looking for feedback from the PC on the second draft of the sign ordinance changes.

Klara explained that a definition for "banners" was added to the code as a temporary sign. There was some discussion about whether to allow handheld signage in the code and the PC decided to not include it. The definition for "menu boards" was added to the code, but they would exempt from the sign code rules as accessory uses to a drive-thru restaurant.

The PC decided that "unsightly" means the sign or its structure have not been maintained in order to prevent their deterioration due to weather, rot, or other damaging conditions, or are not free from loose or broken materials or any matter or thing determined by the Code Enforcement Officer.

The PC also discussion vacant buildings and how to handle non-conforming signage. The PC discussed the section on signs that are exempt from the sign code, which include garage sales rules which are regulated in chapter 118, and the sign code should reference back to charter 118 for compliance. Chair Kilde wanted to know where the City Council stands on garage sale signage and suggested asking Council for discussion.

There was a lot of discussion about temporary signs, seasonal signs, and non-commercial sign language and their definitions. The PC discussed what size signs should be allowed in residential area without a permit and time limits for the signs to be up, along with the guidelines and exemptions for these signs. It was noted that the size of election signs cannot be regulated during election periods per state statute.

The PC discussed window signs and felt that the area of window signage should not be included in the calculation of square footage limitations specified in the appropriate zoning districts.

There was some discussion about Electronic Message Centers (EMCs) and billboards. It was suggested that our code be based on Minnesota 2022 State Statute 173.155 Changeable Electronic Variable Message Signs. It was decided that city staff would work with Scott Kvamme, council person and representative of a local sign company, on appropriate language.

Klara Beck would create a third draft of the signage code for the PC to review and discuss at their meeting on Aug 28.

The meeting adjourned at **7:20 PM**.

Community Development Manager



Planning Commission Staff Report

To: City of Fergus Falls Planning Commission
Respectfully Submitted: Klara Beck, Community Development Manager
Meeting Date: August 28, 2023
Subject: CUP-2023-2

REQUESTED ACTION

Approve without conditions a conditional use permit for sales of hemp-derived THC products in a B-2 zone at 1603 Pebble Lake Rd.

GENERAL INFORMATION

Applicant	Empire2 Inc. dba Little Chief Outpost	Planning Commission Hearing	August 28, 2023
Property Owner	EMPIRE2 INC	City Council Meeting	September 5, 2023
Address	1603 PEBBLE LAKE RD FERGUS FALLS MN 56537	Application Date	August 14, 2023
Parcel Number(s)	(PIDs 71- 001-50-0047-006 & 71-001-50-0079-003	60-Day Expiration Date	November 6, 2023
Zoning	B-2		

BACKGROUND

Site Information & Current Conditions

1603 Pebble Lake Rd is the home of Little Chief Outpost, a gas station and convenience store offering fuel, bait & tackle, and a BBQ restaurant. The building itself lays across two parcels, both zoned B-2.

Adjacent Zoning

Across Pebble Lake Rd is I-2 and B-2. The I-2 district continues to the north. The parcel directly east of the gas station is also zoned B-2. To the south is a swath of R-A zoning.

Adjacent Uses

Adjacent uses include a motel, industrial manufacturing, and service businesses.

Proposed Project

Applicant proposes obtaining a license from the City of Fergus Falls to sell products containing hemp-derived THC in the Little Chief Outpost store. Zoning code restricts the sale of hemp-derived THC products to zones B-3 or above. Within a B-2, Service District, a CUP may be acquired to allow "Other business activity of the same general character as listed in division (B)" of § 154.037 B-2, SERVICE BUSINESS DISTRICT. As the applicant notes, the business already sells tobacco and alcohol products in its convenience store. A gas filling/ convenience store and its related activities are allowable uses in a B-2 zone. The CUP will ensure that sales of hemp-derived THC products are properly accounted for per current zoning code.

Public Notification & Comments

A notice was released in the Daily Journal on August 19, 2023. The notice was also sent to 15 property owners within 350 ft of the Little Chief Outpost. As of Thursday, August 24, 2023, no comments had been received from the public.

PROPOSED FINDINGS

§154.019(D) of the City Code states the Planning Commission shall recommend a conditional use permit and the Council may issue conditional use permits if it finds that the use at the proposed location meets the following criteria:

1. Will not be detrimental to or endanger the public health, safety, or general welfare of the neighborhood or the city.
Applicant states that they will be selling products that are legally available elsewhere in town and the sales of which are in keeping with other age-restricted products that they currently carry (tobacco & alcohol). They will continue to comply with the regulations of local, state, and federal agencies as they do with current inventory. Criteria Met.
2. Will be harmonious with the general and applicable specific objectives of the comprehensive plan and code provisions.
The city does not have a comprehensive plan.
3. Will be designed, constructed, operated and maintained so as to be compatible or similar in an architectural and landscape appearance with the existing or intended character of the general vicinity and will not change the essential character of that area, nor substantially diminish or impair property values within the neighborhood.
No changes will be made to the property. Criteria Met.
4. Will be served adequately by existing (or those proposed in the project) essential public facilities and services, including streets, police and fire protection, drainage, structures, refuse disposal, water and sewer systems and schools.
Again, no changes are proposed to the property. Property is currently adequately served. Criteria Met.
5. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be hazardous or detrimental to any persons, property or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare or odors.
No manufacturing will take place on site. Sales of premade products only.
Criteria Met.
6. Will have vehicular ingress and egress to the property which does not create traffic congestion or interfere with traffic on surrounding public streets.

The property is adequately accessible and there have been no traffic concerns registered by either the business owner or surrounding neighbors. Criteria Met.

7. Will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance.

There are no recognized natural, scenic, or historic features in the vicinity, and no changes to the building or grounds will be made that may influence the surroundings. Criteria Met.

RECOMMENDED ACTION

Based on the proposed findings, staff recommend **approval without conditions** of the conditional use permit for sales of hemp-derived THC products in a B-2 zone at 1603 Pebble Lake Rd.

ATTACHMENTS

1. Context Map
2. Zoning Map
3. Application & Supporting Materials



112 West Washington Avenue

Fergus Falls, MN 56537

Phone: 218-332-5434

e-mail: planning@ci.fergus-falls.mn.us

www.ci.fergus-falls.mn.us

Conditional Use Permit

Application fee should be made payable to The City of Fergus Falls upon submittal of completed application. Please complete the application by typing or printing in ink. Use additional paper if necessary.

1. Property Owner Information:

Company name: Empire2Inc. doing business as Little Chief Outpost

Last name: Hofer First name: Patrick

Address: 29567 202nd Ave City/State/Zip: Fergus Falls MN 56537

Phone number: 218-671-8976 Email address: Patrick@bigchiefinc.com

2. Applicant Information: (if different from above)

Company name: _____

Last name: _____ First name: _____

Address: _____ City/State/Zip: _____

Phone number: _____ Email address: _____

3. Address(es) of Property Involved: (if different from above)

1603 Pebble Lake Rd. Fergus Falls, MN 56537

4. Zoning Designation: B-2

5. Statement of Intent: Briefly describe what will be done on or with the property requiring the conditional use approval.

We are working on obtaining a THC license to sell hemp derived products that are allowed under current law.

7. Additional Required Information:

a. Legal Description and PIN: Provide the Parcel Identification Number(s)
R71001500047006

Complete legal description(s) of the property involved or put "see attached"
See attached

b. Proposed Plans: A site plan is required. A landscape plan, grading and drainage plan, and other items may be required by the city/planning commission.

c. Written Narrative: The written narrative should thoroughly address the following general items in addition to any specific requirements pertaining to the proposed use, which Section 154.019 (Conditional Use Permit) of the City Code directs the City Council to evaluate during consideration of conditional use applications:

(1) Will not be detrimental to or endanger the public health, safety, or general welfare of the neighborhood or the city?

We will be selling products that are legally available elsewhere with all the proper training provided to check identification and protect the youth of our community and within regulations set by the state and local authorities.

(2) Will be harmonious with the general and applicable specific objectives of the comprehensive plan and code provisions?

We plan to follow specific objectives and code provisions just as we currently comply with a number of state and federal agencies and regulations.

(3) Will be designed, constructed, operated and maintained so as to be compatible or similar in an architectural and landscape appearance with the existing or intended character of the general vicinity and will not change the essential character of that area, nor substantially diminish or impair property values within the neighborhood?

This should not change anything with our business or surrounding properties. We will simply be adding another product similar to tobacco or alcohol sale, which we are already familiar with.

(4) Will be served adequately by existing (or those proposed in the project) essential public facilities and services, including streets, police and fire protection, drainage, structures, refuse disposal, water and sewer systems and schools?

All current facilities and services mentioned above will be adequately served. We expect very little change within our daily operation due to this change.

(5) Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be hazardous or detrimental to any persons, property or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare or odors?

We don't expect any change in any of the issues stated above.

We are more than suited to handling traffic/parking, and the other problems mentioned above.

(6) Will have vehicular ingress and egress to the property which does not create traffic congestion or interfere with traffic on surrounding public streets?

Our business is more than suited to handling customer traffic and parking.

(7) Will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance?

There will be no further construction or changes needed at our business that would lead to any destruction, loss or damage of the above mentioned.

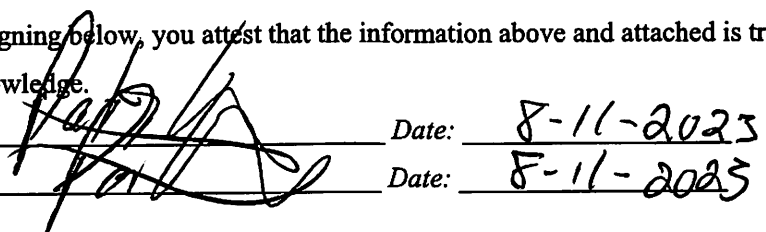
8. Signature(s): By signing below, you attest that the information above and attached is true and correct to the best of your knowledge.

Property Owner: _____

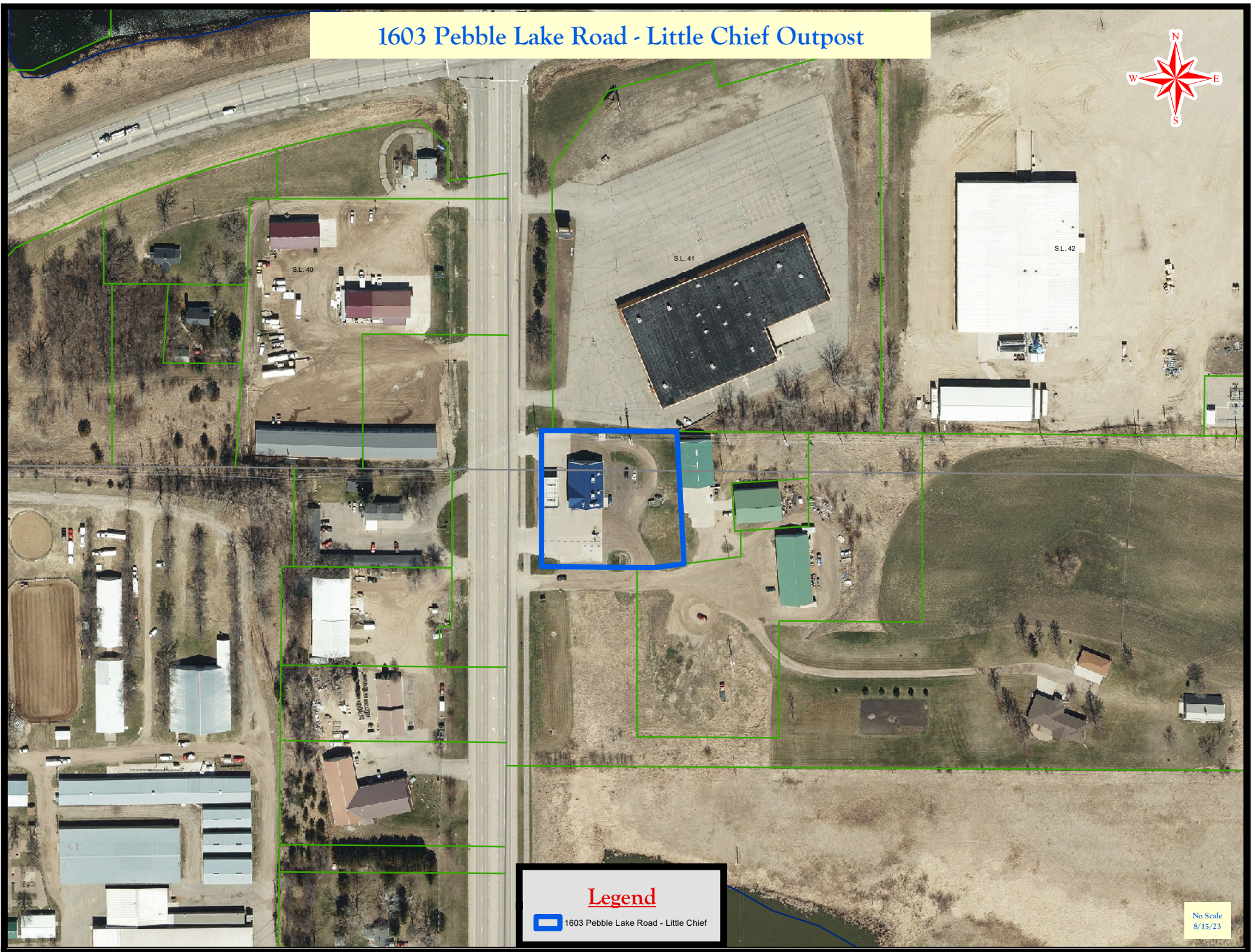
Date: _____

Applicant: _____


Date: _____

Handwritten signatures and dates for Property Owner and Applicant, both dated 8-11-2023.

1603 Pebble Lake Road - Little Chief Outpost

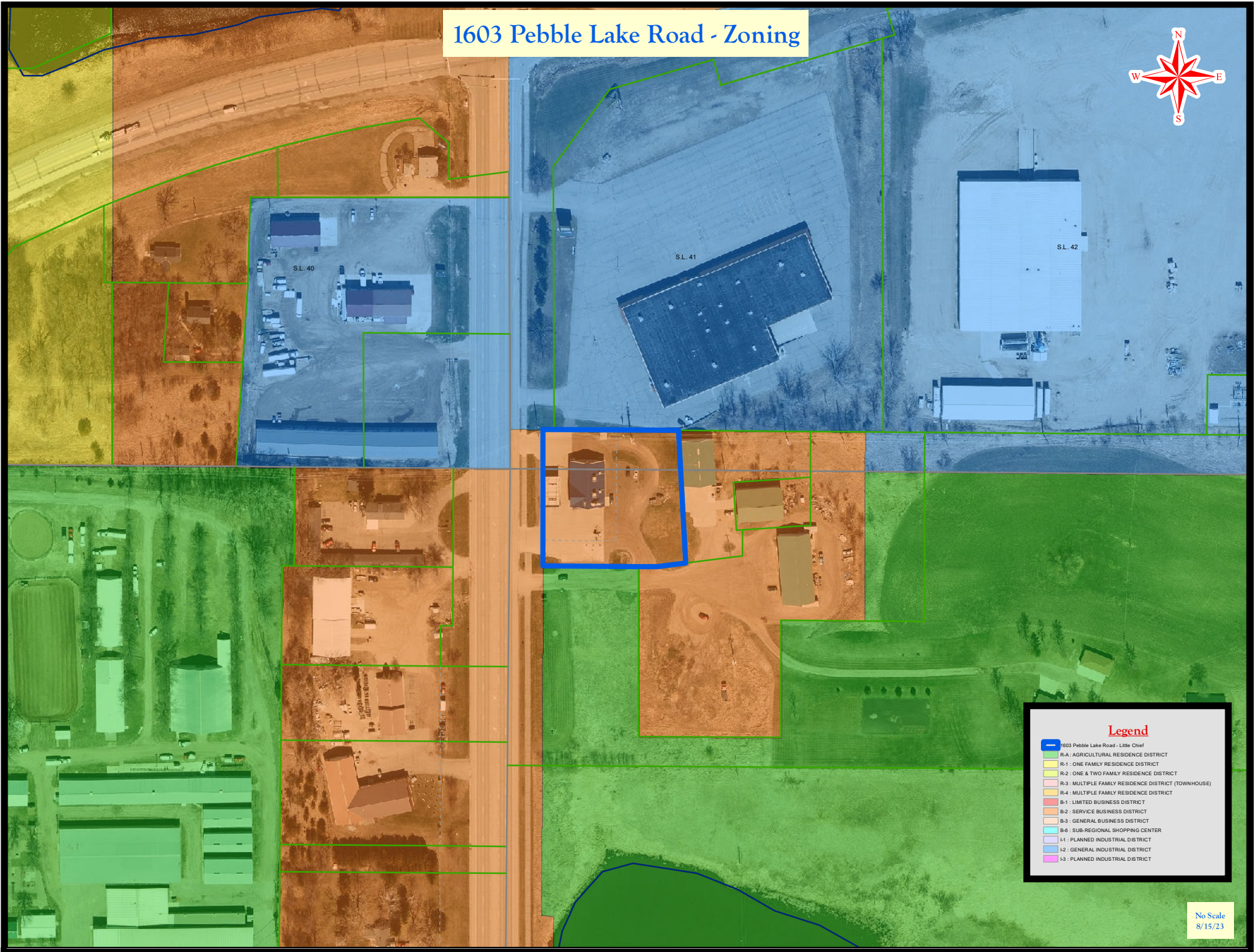


Legend

 1603 Pebble Lake Road - Little Chief

No Scale
8/15/23

1603 Pebble Lake Road - Zoning



Legend	
	1603 Pebble Lake Road - Little Chief
	RA - AGRICULTURAL RESIDENCE DISTRICT
	R-1 - ONE FAMILY RESIDENCE DISTRICT
	R-2 - ONE & TWO FAMILY RESIDENCE DISTRICT
	R-3 - MULTIPLE FAMILY RESIDENCE DISTRICT (TOWNHOUSE)
	R-4 - MULTIPLE FAMILY RESIDENCE DISTRICT
	B-1 - LIMITED BUSINESS DISTRICT
	B-2 - SERVICE BUSINESS DISTRICT
	B-3 - GENERAL BUSINESS DISTRICT
	B-6 - SUB-REGIONAL SHOPPING CENTER
	I-1 - PLANNED INDUSTRIAL DISTRICT
	I-2 - GENERAL INDUSTRIAL DISTRICT
	I-3 - PLANNED INDUSTRIAL DISTRICT

SIGNS

§ 154.170 GENERALLY.

All signs hereafter erected or maintained, except official, traffic and street signs, shall conform with the provisions of this subchapter and any other ordinances or regulations of the city.

(2002 Code, § 7.40) (Ord. 324, effective 11-20-1965; Ord. 106, Second Series, effective 3-15-1977; Ord. 156, Second Series, effective 1-1-1979; Ord. 9, Third Series, effective 7-15-1979; Ord. 123, Sixth Series, effective 8-26-2010; Ord. 146, Sixth Series, effective 5-25-2013; Ord. 150, Sixth Series, effective 7-20-2013; Ord. 14, Seventh Series, effective 9-20-2014) Penalty, see § 154.999

154.171. Findings, purpose and effect.

- A. *Findings.* The city council hereby finds as follows:
1. Exterior signs have a substantial impact on the character and quality of the environment.
 2. Signs provide an important medium through which individuals may convey a variety of messages.
 3. Signs can create traffic hazards, aesthetic concerns and detriments to property values, thereby threatening the public health, safety and welfare.
 4. The city's zoning regulations have, since as early as 1965, included the regulation of signs in an effort to provide adequate means of expression and to promote the economic viability of the business community, while protecting the city and its citizens from a proliferation of signs of a type, size, location and character that would adversely impact upon the aesthetics of the community and threaten the health, safety and welfare of the community. The regulation of the physical characteristics of signs within the city has had a positive impact on traffic safety and the appearance of the community.
- B. *Purpose and intent.* It is not the purpose or intent of this article to regulate the message displayed on any sign; nor is it the purpose or intent of this article to regulate any building design or any display not defined as a sign, or any sign which cannot be viewed from outside a building. The purpose and intent of this article is to:
1. Regulate the number, location, size, type, illumination, and other physical characteristics of signs within the city in order to promote the public health, safety and welfare.
 2. Maintain, enhance, and improve the aesthetic environment of the city by preventing visual clutter that is harmful to the appearance of the community.
 3. Improve the visual appearance of the city while providing for effective means of communication, consistent with constitutional guarantees and the city's goals of public safety and aesthetics.
 4. Provide for fair and consistent enforcement of the sign regulations set for herein under the zoning authority of the city.

- C. *Effect.* A sign may be erected, mounted, displayed, or maintained in the city if it is in conformance with the provisions of this article. The effect of this article, as more specifically set forth herein, is to:
1. Allow a wide variety of sign types in commercial zones, and a more limited variety of signs in other zones, subject to the standards set forth in this article.
 2. Allow certain small, unobtrusive signs incidental to the principal use of a site in all zones when in compliance with the requirements of this article.
 3. Prohibit signs whose location, size, type, illumination, or other physical characteristics negatively affect the environment and where the communication can be accomplished by means having a lesser impact on the environment and the public health, safety and welfare.
 4. Provide for the enforcement of the provisions of this article.

§ 154.172. Severability.

If any section, subsection, sentence, clause, or phrase of this article is for any reason held to be invalid, such invalidity shall not affect the validity or enforceability of the remaining portions of this article. The city council hereby declares that it would have adopted this article in each section, subsection, sentence, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

§ 154.173. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned sign means any sign and/or its supporting sign structure which remains without a message or whose display surface remains blank for a period of one year or more, or any sign which pertains to a time, event or the purpose which no longer applies, shall be deemed to have been abandoned. Signs applicable to a business temporarily suspended because of a change in ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of one year or more. Any sign remaining after demolition of a principal structure shall be deemed to be abandoned. Signs which are present because of being legally established non-conforming signs or signs which have required a conditional use permit or a variance shall also be subject to the definition of the term "abandoned sign."

Awning means a roof-like cover, often of fabric, plastic, metal or glass designed and intended for protection from the weather or as a decorative embellishment, and which projects from a wall or roof of a structure primarily over a window, walk, or the like. Any part of an awning which also projects over a door shall be counted as an awning.

Awning sign means a building sign or graphic printed on or in some fashion attached directly to the awning material.

Balloon sign means a sign consisting of a bag made of lightweight material supported by helium, hot, or pressurized air which is greater than 24 inches in diameter.

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Banner means a temporary sign constructed of a non-rigid material.

Billboard means a large outdoor board for displaying advertisements.

Building sign means any sign attached or supported by any building.

Cabinet sign means any wall sign that is not of channel or individually mounted letter construction.

Canopy means a roof-like cover, often of fabric, plastic, metal, or glass on a support, which provides shelter over a doorway.

Canopy sign means any sign that is part of or attached to a canopy, made of fabric, plastic, or structural protective cover over a door or entrance. A canopy sign is not a marquee and is different from service area canopy signs.

Changeable copy sign means a sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. Changeable copy signs do not include signs upon which characters, letters or illustrations change or rearrange only once in a 24-hour period.

Commercial speech means speech advertising a business, profession, commodity, service or entertainment.

Elevation means the view of the side, front, or rear of a given structures.

Electronic message center (EMC) means a sign that can display words, symbols, figures or images that can be electronically changed by remote or automatic means.

Elevation area means the area of all walls that face any lot line.

Erect means activity of constructing, building, raising, assembling, placing, affixing, attaching, creating, painting, drawing or any other way of bringing into being or establishing.

Feather sign means a temporary sign constructed of cloth, canvas, plastic fabric, or similar lightweight, non-rigid material and supported by a single vertical pole mounted into the ground or on a portable structure.

Flag means any fabric or similar lightweight material attached at one end of the material, usually to a staff or pole, to allow movement of the material by atmospheric changes and which contains distinctive colors, patterns, symbols, emblems, insignia, or other symbolic devices.

Flashing sign means a directly or indirectly illuminated sign which exhibits changing light or color effect by any means, so as to provide intermittent illumination which includes the illusion of intermittent flashing light by means of animation. The term "flashing sign" also means any mode of lighting which resembles zooming, twinkling, or sparkling.

Freestanding sign means any sign which has supporting framework that is placed on, or anchored in, the ground and which is independent from any building or other structure.

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Grade shall be construed to be the final ground elevation after construction. Earth mounding criteria for landscaping and screening is not part of the final grade for sign height computation.

Ground sign means any freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and which has a total height not exceeding eight feet.

Height of sign means the height of the sign shall be computed as the vertical distance measured from the base of the sign at grade to the top of the highest attached component of the sign.

Illuminated sign means any sign which contains an element designed to emanate artificial light internally or externally.

Interior sign means a sign which is located within the interior of any building, or within an enclosed lobby or court of any building, and a sign for and located within the inner or outer body, court or entrance of any theater.

Marquee means any permanent roof-like structure projecting beyond a theater building or extending along and projecting beyond the wall of that building, generally designed and constructed to provide protection from the weather.

Marquee sign means any building sign painted, mounted, constructed or attached in any manner, on a marquee.

Menu board sign means a sign erected as part of a drive-through facility used to display and order products and services available through a drive-through business.

Monument sign means any freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and which has a height exceeding eight feet.

Multiple tenant site means any site which has more than one tenant, and each tenant has a separate ground level exterior public entrance.

Non-commercial speech means dissemination of messages not classified as commercial speech, which include, but are not limited to, messages concerning political, religious, social, ideological, public service and informational topics.

Non-conforming sign means any sign and its support structure lawfully erected prior to the effective date of this chapter which fails to conform to the requirements of this chapter. A sign which was erected in accordance with a variance granted prior to the adoption of the ordinance from which this chapter is derived and which does not comply with this chapter shall be deemed to be a legal non-conforming sign. A sign which was unlawfully erected shall be deemed to be an illegal sign.

Off-premises sign means a commercial speech sign which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same lot where such sign is located. For the purposes of this article, easements and other appurtenances shall be considered to be outside such lot and any sign located or proposed to be located in an easement or other appurtenance shall be considered an off-premises sign.

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On-premises messages means identify or advertise an establishment, person, activity, goods, products or services located on the premises where the sign is installed.

Owner means, in the case of a lot, the legal owner of the lot as officially recorded by the county, and including fee owners, contract for deed purchasers and ground lessees. The term "owner" means, in the case of a sign, the owner of the sign, including any lessees.

Pole sign. See Pylon sign.

Portable sign means any sign which is manifestly designed to be transported, including by trailer or on its own wheels, even though the wheels of such sign may be removed and the remaining chassis or support is converted to another sign or attached temporarily or permanently to the ground since this characteristic is based on the design of such a sign.

Porte cochere means a roofed structure or roof-like cover, extending from the entrance of a building and which provides shelter over a doorway.

Projecting sign means any sign which is affixed to a building or wall in such a manner that its leading edge extends more than two feet beyond the surface of such building or wall face.

Public notices mean official notices posted by public officers, employees or their agents in the performance of their duties, or as directed by such officers, employees or agents.

Public street right-of-way, or right-of-way, means the entire right-of-way of any public street.

Pylon sign means any freestanding sign which has its supportive structures anchored in the ground and which has a sign face elevated aboveground level by poles or beams and with the area below the sign face open.

Residential district means any district zoned for residential uses.

Roof means the exterior surface and its supporting structure on the top of a building or structure. The structural make-up of which conforms to the roof structures, roof construction and roof covering sections of the Uniform Building Code.

Roof line means the upper-most edge of the roof or in the case of an extended facade or parapet, the upper-most height of said facade.

Roof sign means any sign erected and constructed wholly on and above the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

Roof sign, integral, means any building sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, so that no part of the sign extends vertically above the highest portion of the roof and so that no part of the sign is separated from the rest of the roof by a space of more than six inches.

Rotating or moving sign means a sign or portion of a sign which turns about on an axis.

Shimmering sign means a sign which reflects an oscillating, sometimes distorted visual image.

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Sign means any letter, word or symbol, poster, picture, statuary, reading matter or representation in the nature of advertisement, announcement, message or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures, which is displayed for informational or communicative purposes.

Sign face means the surface of the sign upon, against, or through which the message of the sign is exhibited.

Sign structure means any structure including the supports, uprights, bracing and framework which supports or is capable of supporting any sign.

Site means a lot or combination of contiguous lots which are intended, designated, and/or approved to function as an integrated unit.

Stringer means a line of string, rope, cording, or an equivalent to which is attached a number of pennants.

Suspended sign means any building sign that is suspended from the underside of a horizontal plane surface and is connected to this surface.

Unightly means the sign or its structure have not been maintained in order to prevent their deterioration due to weather, rot, or other damaging conditions, or are not free from loose or broken materials or any matter or thing determined by the Code Enforcement Officer. to constitute a failure to conform to external, generally accepted community standards.

Visible means capable of being seen by a person of normal visual acuity (whether legible or not) without visual aid.

Wall means any structure which defines the exterior boundaries or courts of a building or structure and which has a slope of 60 degrees or greater with the horizontal plane.

Wall sign means any building sign attached parallel to, but within two feet of a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

Window sign means any building sign, pictures, symbol, or combination thereof designed to communicate information about an activity, business, commodity, event, sale, or service that is placed upon the windowpanes or glass and is visible from the exterior of the window. This includes the glass of a glass door.

§ 154.174. Permit required.

No sign shall be erected, altered, reconstructed, maintained or moved in the city without first securing a permit from the city. The content of the message or speech displayed on the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit. Application for a permit shall be in writing addressed to the zoning administrator and shall contain the following information:

1. Names, address, and signature of the applicant;
2. Name, address, and signature of the property owner, if different than applicant;

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3. Contractor;
4. The address at which any signs are to be erected;
5. The property zoning designation;
6. A complete set of plans showing the necessary elevations, distances, size and details to fully and clearly represent the construction and placement of the signs;
7. Type of sign (i.e., wall sign, monument sign, etc.);
8. Certification by applicant indicating the application complies with all requirements of this article; and
9. If the proposed sign is along state trunk highway or interstate highway, the application shall be accompanied by proof that the applicant has obtained a permit from the state for the sign, if required.

The zoning administrator shall approve or deny the sign permit in an expedited manner no more than 30 days from the receipt of the complete application, including applicable fee. All permits not approved or denied within 30 days shall be deemed approved. If the permit is denied, the issuing authority shall prepare a written notice of denial describing the reasons for denial within ten days of its decision.

§ 154.175. Exemptions.

The following signs shall not require a permit. These exemptions, however, shall not be construed as relieving the owner of the sign from the responsibility of its erection and maintenance, and its compliance with the provisions of this article or any other law or ordinance regulating the same.

1. The changing of the display surface on a painted or printed sign only. This exemption, however, shall apply only to poster replacement and/or on-site changes involving sign painting elsewhere than directly on a building.
2. Any sign required by federal, state, or local law or a public utility company.
3. Any sign inside a building, not attached to a window or door.
4. Works of art with no commercial message.
5. Temporary lost/ found pet signs provided the lost/ found sign shall include the date of original posting and are only allowed for thirty days.
6. "No trespassing", "no hunting", "no fishing" or "no loitering" sign which do not exceed one square foot in area.
7. Menu board signs as an accessory use to a restaurant with a drive-thru window.
8. Flags and flagpoles, provided that there shall not be more than two flags on a flagpole at any time and no flag or flagpole on any residential lot shall bear a commercial message.
9. Garage sale signs, provided signs are in compliance with Chapter 118: Garage and Rummage Sales.
10. Non-commercial signs when permanently or seasonally installed in a residential zone.

§ 154.178. Electrical signs.

Electrical signs must be installed in accordance with the current electrical code and a separate permit from the building official must be obtained prior to placement.

§ 154.179. Unauthorized signs.

The following signs are unauthorized signs and are prohibited by this section:

1. Any sign, signal, marking or device which purports to be or is an imitation of or resembles any official traffic control device or railroad sign or signal, or emergency vehicle signal, or which attempts to direct the movement of traffic or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal.
2. All off-premises signs, excluding billboards.
3. Signs painted, attached or in any other manner affixed to trees, rocks, or similar natural surfaces, or attached to public utility poles, bridges, towers, or similar public structures.

§ 154.180. Computation Methods.

1. Area Computation of Individual Signs
 - a. For a single wall on a single-occupant building, all pieces of information or other graphic representations on that wall shall be measured as though part of one sign, encompassed within one rectangle, which may not exceed the maximum permitted sign area. For a single wall on a multi-occupant building, the area of signs shall be computed based on individual occupant signage, using these principles. Regardless of whether a single wall has wall sections that project, recess or otherwise vary from the predominate wall plane, the rectangle shall include all signs that appear on the same architectural elevation.
 - b. Monument and Pole Signs shall be measured by the structure of the sign frame for square footage itself.
 - c. Regardless of whether a single wall has wall sections that project, recess or otherwise vary from the predominate wall plane, the rectangle shall include all signs that appear on the same architectural elevation.
 - d. For multi-occupant buildings such as a shopping center or other buildings with a similar layout, all sign(s) associated with each occupant, tenant, or business shall be enclosed within a single rectangle for the purposes of calculating allowable sign area. Architectural elevation for these single businesses shall be determined by the building frontage that each occupant or tenant has within that center.
2. Area Computation of Multi-Faced Signs
 - a. The areas of all faces of a multi-faced sign shall be added together to compute the area of the sign. Sign area of multi-faced signs is calculated based on the principle that all sign elements that can be seen at one time or from one vantage point should be considered in measuring that side of the sign.
3. Sign Height Computation
 - a. The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign.

§ 154.181. Canopies, marquees and fixed awnings.

Canopies, marquees and fixed awnings are an integral part of the structure to which they are attached. They are allowed in the Business and Industrial Districts if they meet following requirements and the applicable square footage requirements:

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1. Awnings, canopies or marquees may not project into the public right-of-way nearer than 30 inches to the street curb or curb line;
2. Awnings, canopies or marquees may have no part of the structure other than supports nearer the ground surface than seven feet;
3. The architectural style of the awning, canopy or marquee may be consistent with the building being served;
4. Awnings, canopies or marquees projecting into the required yards may not be enclosed except with a transparent material permitting through vision; and
5. Awnings, canopies or marquees built over the public right-of-way must be included in a liability insurance policy holding the city free of all responsibility.

The provisions of this subsection do not prohibit:

1. The erection and maintenance of signs, either illuminated or not illuminated, which are on the sides of a marquee which is firmly attached to and a part of a theatre, providing such signs are an integral part of the marquee and do not project above or below the marquee; or
2. The erection and maintenance of signs, not illuminated, which are attached to the marquee and which do not project more than 16 inches above the marquee.

§ 154.182. Window signage.

Window signs displaying commercial speech, both temporary and permanent, do not require a permit. The area of window signage shall not be included in the calculation of square footage limitations specified in the appropriate zoning districts. Window signs shall be well maintained. Window signs will be removed within 30 days following cessation of on-site business activities.

§ 154.186. GENERAL PROVISIONS.

The following regulations shall apply to all signs hereinafter permitted in all districts.

- A. Except as provided in the following regulations, signs shall not be permitted within the public right-of-way or easements, except that the Council may grant special permits for temporary signs and decorations to be strung across the right-of-way.
- B. Signs painted on a building shall be governed by the square footage limitations specified in the appropriate zoning districts. These shall be repainted when required and be kept in good condition and shall be repainted, removed or painted out when in the opinion of the Council they are not so maintained.
- C. No sign shall project more than four feet over a public right-of-way, except where located on the edge or face of marquees or awnings and except where hanging below a covered walk or marquee, in which case the sign may extend to the outer edge of the covered walk or marquee. Any sign projecting over a public right-of-way must be at least eight feet above the walk or ground grade line.
- D. No signs shall project more than 24 inches across a required front or side yard, except as allowed in this section, and except:
 - (1) In B-2, B-5 and B-6, Business Districts, signs shall not be subject to front yard requirements;

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- (2) In all classes of residence districts signs may not be located closer than 15 feet of any property line that abuts any of the classes of residence districts;
 - (3) In an I-1, Planned Industrial District, signs may not be located in any front yard or in any side yard or rear yard that abuts any of the classes of residence districts, and in no instance shall signs be located within 15 feet of a front, side or rear property line; and
 - (4) In an I-2, General Industrial District, signs may not be located within 15 feet of any property line that abuts any of the classes of residence districts.
- E. No sign, excluding window signs, shall be permitted to obstruct any window, door, fire escape stairway or opening intended to provide light, air, ingress or egress for any building or structure.
- F. The owner, lessee or manager of the ground sign, and the owner of the land on which the same is located, shall keep grass or weeds and other growth cut and debris and rubbish cleaned up and removed from the lot on which sign is located.
- G. Signs which may be or may hereafter become rotted, unsafe or unsightly shall be repaired or removed by the sign owner or owner of the property upon which the sign stands upon notice of the Code Enforcement Officer.
- H. External illumination for signs shall be so constructed and maintained that the source of light is not visible from the public right-of-way or residential property.
- (1) Where a sign is illuminated, the source of light shall not be directed into any part of a residence or into any of the classes of residence districts.

§ 154.187. Permitted signs by district.

- A. Residential Districts.
- (1) Within Residential Zoning Districts R-1, R-2, R-3 and R-4, signs are allowed as follows:
 - (2) No more than 15 feet in height or less than two feet off the ground.
 - (3) Signs may be placed in any front yard.
 - (4) INSERT TABLE
 - (5) The following types of signs are not permitted in Residential Zoning Districts:
 - i. Balloon signs;
 - ii. Billboards;
 - iii. Electronic message center (EMC);
 - iv. Flashing signs;
 - v. Marquee signs;
 - vi. Pole signs;
 - vii. Pylon signs; and
 - viii. Shimmering signs.
 - (6) OR INSERT TABLE HERE
- B. Business Districts.
- C. Industrial Districts.

§ 154.188. Electronic Message Centers (EMCs).

Building and zoning staff shall approve a permit for an electronic message center sign if all applicable regulations pertaining to the sign on which they are placed are satisfied, including but not limited to

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placement, anchoring, location, and height. The permit fee for staff review shall be established by the City Council. Building and zoning staff shall ensure that the following limitations are met:

- A. One electronic message center sign shall be permitted per property.
- B. The sign must be located on the site of the use identified or advertised by the sign.
- C. The use of flashing, blinking, and strobing shall be specifically prohibited on all electronic message center signs.
- D. Multiple electronic message center signs on a single property may be permitted by conditional use permit only.
- E. Electronic message center signs shall be permitted in non-residential zoning districts.
- F. Electronic message center signs may be located within 400 feet of or within a residential zoning district by conditional use permit only, subject to the following:
 - (1) Electronic signs must be positioned so as to limit their impact on adjacent residential uses. At a minimum, such signs shall be positioned perpendicular to the adjacent public right-of-way.
 - (2) The applicant agrees to turn off the electronic message center sign between the hours of 11:00 p.m. and 6:00 a.m. unless the applicant can demonstrate that the sign in question will not be visible from any residentially zoned property; and
 - (3) The Planning Commission may require additional restrictions on the usage of the sign so as to minimize potential impacts on adjacent residential properties.
- G. All electronic message center signs, regardless of the zoning district in which they are placed, shall come equipped with automatic dimming technology that automatically adjusts the sign's brightness in direct correlation with ambient light conditions.
- H. Message brightness must not exceed 0.3 foot-candles over ambient light, as measured using a foot candle meter from the following distances:
 - (1) For signs with a nominal face size of 12 feet by 25 feet, from 150 feet;
 - (2) For signs with a nominal face size of ten feet, six inches, by 36 feet, from 200 feet; and
 - (3) For signs with a nominal face size of 14 feet by 48 feet, from 250 feet; and
 - (4) The sign must not cause beams or rays of light to be directed at the traveled way if the light is of such intensity or brilliance as to cause glare that impairs the vision of the driver of a motor vehicle, or interfere with any driver's operation of a motor vehicle.The brightness measurement must be conducted at least 30 minutes after sunset or at least 30 minutes before sunrise.
- I. The use of traffic signal and/or emergency vehicle signal colors may be prohibited on an electronic message center if land use, road proximity or terrain consideration indicate a potential problem.
- J. EMCs shall not exceed the maximum sign area of a single sign as detailed in [154.187](#) - Permitted Signs by District, for the applicable zoning district in which the sign is placed. Each site can have only one EMC and that sign can have only one dynamic display.
- K. All EMCs shall be equipped with a means to immediately discontinue the display if it malfunctions. The owner of a dynamic sign must immediately cease operation of their sign when notified by the city that it fails to comply with the standards of this chapter. The dynamic sign

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shall remain inoperable until such time that the owner demonstrates to the city that the device is in satisfactory working condition and conforms to the standards of this chapter.

§ 154.189. Billboards.

Building and zoning staff shall approve a permit for a billboard if all applicable regulations are satisfied. The permit fee for staff review shall be established by the City Council. Building and zoning staff shall ensure that the following limitations are met:

1. Billboards shall not be a permitted use in all classes of residence districts.
2. Billboards shall not be a permitted use in B-1, Limited Business Districts.
3. No billboard shall project higher than 15 feet above the height of the building or 55 feet above average grade, whichever is greater.

<i>District</i>	Billboards
B-2, B-3, and B-4 Business Districts; I-1, I-2, and I-3 Industrial Districts	<ul style="list-style-type: none">• No billboards shall be erected closer than 800 feet to any existing billboard on the same side of the road except back-to-back.• The structure may not contain more than two signs per facing nor exceed 55 feet in total length.• No billboard may be erected within 100 feet of an adjoining residential district.• The signs may be illuminated.
B-5 and B-6 Shopping Center Business District	<ul style="list-style-type: none">• Billboards shall not be erected within a developed integrated shopping center property.

§ 154.190. Temporary and Seasonal Signs and Community Event Signage.

All temporary and seasonal signs, including, but not limited to, signs related to community events, hereafter erected or maintained, shall conform with the provisions of this section.

1. It is unlawful for any person to place, erect, construct or locate a temporary or seasonal sign within the city without first obtaining an annual permit for the sign. Failure to obtain a temporary or seasonal sign permit prior to sign placement shall result in a double permit fee. Permit fee shall be set by the City Council and will be reviewed annually.
2. There shall be up to seven sign placements allowed per legal parcel within one calendar year.
3. **TEMPORARY SIGNS** and **SEASONAL SIGNS** are those signs which identify a special, unique, or limited activity, service, product or sale of limited duration and are those signs that are not affixed to a permanent structure and are removed immediately after the event it is advertising.
 - (a) Temporary signs and seasonal signs include, but are not limited to, banner signs, feathers, freestanding changeable text signs, or signs affixed to a vehicle or trailer or any other similar sign as determined by the Zoning Administrator.

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- (b) Temporary and seasonal signage may be related to community events.
 - (c) Temporary signs may be erected and maintained for a period of not more than 30 days and shall be removed within three days of the cessation of the activity, service, project or sale.
 - (d) Seasonal signs may be erected and maintained for a period of not more than 120 days (approximately 4 months) and shall be removed within three days of the cessation of the activity.
 - (e) Signs shall be anchored or temporarily affixed in a manner to prevent being blown away or blown over.
 - (f) A sign shall not be larger than 40 square feet in gross service area for each exposed face area, nor more than six feet in height above grade.
 - (g) A temporary or seasonal sign is to be located in the front yard of the lot and shall not extend over any property line or be placed within 15 feet of any driveway access to a public street. No temporary or seasonal sign placed within 100 feet of an area zoned for residential use, described as R-A, R-1, R-2, R-3 and R-4 may have blinking, flashing, rotating or fluttering lights or other illuminating device that has a change in intensity, brightness or color.
 - (h) A temporary or seasonal sign shall not be placed on or affixed to a vehicle or trailer which is parked on a public right-of-way or public property or private property where the apparent sole purpose is to advertise a product or direct people to a business or activity located on the same or any other property.
 - (i) All temporary signs must be kept in good repair and in a proper state of maintenance. If the city determines a sign is in significant need of repair, the city may, after 30 day of written notification, revoke the annual permit of that sign until it is repaired.
 - (j) Signs which have been placed within any portion of any right-of-way may be confiscated after a five-business day written notification by any city employee or agent under the direction of the city's Code Enforcement Officer. Signs may be recovered by the owner upon payment of a fine (double permit fee as set by the City Council).
 - a. A conditional use permit request may be made if extenuating circumstances exist and the issue is referred to the Planning Commission for review. Circumstances may include extra wide right-of-way, blockage of view of sign, and/ or blockage of view of all types of traffic and construction obstructions. Concerns about approval may include utility interference, safety hazards, health hazards and obstruction of traffic views. Conditions would include that the permit is not permanent, and the sign will be removed upon 30-day notice.
 - (k) The erection of temporary signs shall be exempt from the requirements (licensed sign hanger) of §§ 114.20 through 114.23 of this code of ordinances, as amended.
4. **Community events.** The city may determine that a temporary sign is for a community-wide event or a non-profit event. Permitted temporary signs advertising a community-wide event or sponsored by a non-profit agency may be located in the Van Dyk and Triangle Parks with the permission of the City Administrator's office. The temporary signs may be located in the park for a maximum of 14 days. The number of signs allowed in each park at one time is determined by the City Administrator's office.

§ 154.191. Non-conforming signs; compliance.

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It is recognized that signs exist within the zoning districts which were lawful before this article was enacted but will be prohibited under the terms of this section. It is the intent of this article that non-conforming signs shall not be enlarged upon or expanded, nor be used as grounds for adding other signs or uses prohibited elsewhere in the same district. It is further the intent of this article to permit legal non-conforming signs existing on the effective date of the ordinance from which this article is derived to continue as legal non-conforming signs provided such signs are safe, are maintained so as not to be unsightly, and have not been abandoned or removed subject to the following provisions:

1. No sign shall be enlarged or altered in a way which increases its nonconformity.
2. If the use of the non-conforming sign or sign structure is discontinued for a period of one year, the sign or sign structure shall not be reconstructed or used except in conformity with the provisions of this article.
3. Should such non-conforming sign or sign structure be damaged or structure be destroyed by any means to an extent greater than 50 percent of its market value and all required permits for its reconstruction have not been applied for within 180 days of when the sign or sign structure was damaged, it shall not be reconstructed or used except in conformity with the provisions of this article.
4. Should such sign or sign structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the zoning district in which it is located after it is moved.
5. No existing sign devoted to a use not permitted by the zoning code in the zoning district in which it is located shall be enlarged, expanded or moved except in changing the sign to a sign permitted in the zoning district in which it is located.

Remedy: When a sign loses its non-conforming status, all signs devoted to the structure shall be removed and all signs painted directly on the structure shall be repainted in a neutral color or a color which will harmonize with the structure.

§ 154.192. Substitution clause.

The owner of any sign which is otherwise allowed by this article may substitute non-commercial speech in lieu of any other commercial speech or non-commercial speech. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech or favoring of any particular non-commercial speech over any other non-commercial speech. This provision prevails over any more specific provision to the contrary.

§ 154.176. Violations.

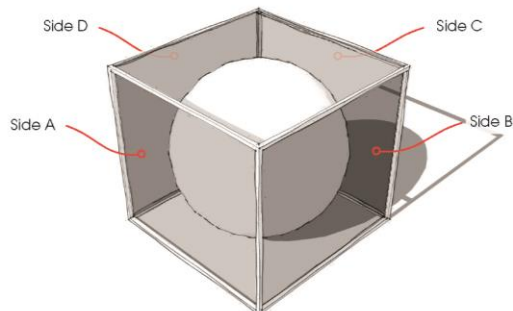
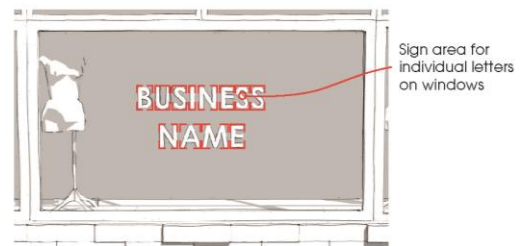
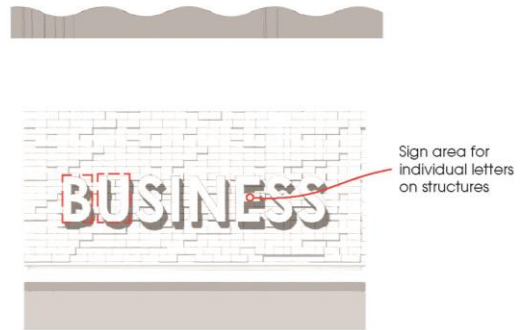
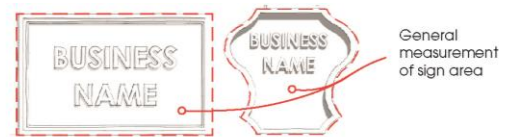
Violation of this section is a misdemeanor. Each day that the violation continues is a separate offense.

- or standpipes;
- 7. No sign may be erected on the exterior of a building to cover any windows or doors;
- 8. Signs on lots adjacent to state or county highways shall conform to the respective setbacks and other standards of the state and county highway departments;
- 9. Freestanding monument signs shall not be located closer than three feet from the lot line;
- 10. The supporting pole of a freestanding pole sign shall be setback from the lot line a minimum of three feet, but the sign itself may be up to the lot line. No part of a freestanding pole sign may encroach on a public right-of-way;

B. Sign dimension measurement methodology.

1. General measurement of sign area. Sign area is measured as follows:

- (a) For signs on a background, the entire area of the framework or background of the sign is calculated as sign area, including any material or color forming the sign face or background used to differentiate the sign from the structure against which it is placed. Sign area does not include any supports or bracing, unless such framework or bracing is part of the message or sign face;
- (b) For signs consisting of freestanding letters or logos, the sign area is calculated as the total area of each square, circle, rectangle or triangle, or combination thereof, that encompasses each individual letter or logo. Sign area does not include any supporting framework or bracing, unless such framework or bracing is part of the message or sign face;
- (c) For awning and canopy signs, the sign area is the printed area of the awning or canopy, calculated as the total area of each square, circle, rectangle or triangle, or combination thereof, that encompasses each individual letter or logo;
- (d) Window signs printed on a transparent film and affixed to the interior or exterior of a windowpane are calculated as individual letters or logos, provided that the portion of the transparent film around the perimeter of the individual letters or logos maintains 100 percent transparency of the window. Transparency is defined as both the ability to view into the interior of the establishment from the outside and to view the outside from the interior of the establishment through the same area;
- (e) The sign area of a three-dimensional,

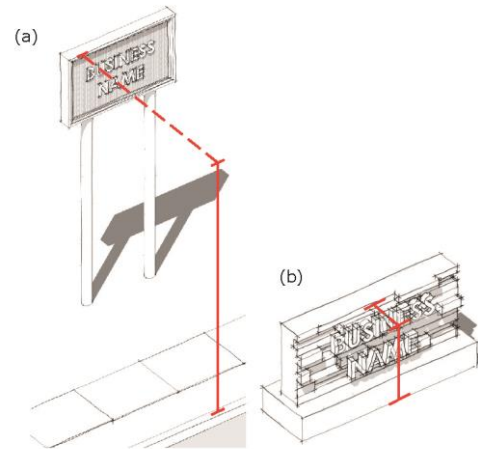


free-form or sculptural (non-planar) sign is calculated as 50 percent of the sum of the area of the four vertical sides of the smallest cube that will encompass the sign;

- (f) If a sign has two or more faces, the area of all faces is included in determining the area of the sign, unless the two sign faces are placed back-to-back and are no more than two feet apart. In such case, the sign area is calculated as the area of one face. If the two faces are unequal in area, the area of the larger face is used to calculate sign area;
 - (g) Necessary supports or uprights on which the sign is erected are not included in the sign area computation.
2. General measurement of sign height.
 - (a) Pole sign height is measured from the grade to the uppermost point of the sign. Grade is established by the elevation of the back of curb or, if no curb exists, from the edge of pavement at the center of the abutting street frontage where the sign will be erected. The pole sign height may also be measured from the natural slope of the lot where the sign will be erected;
 - (b) Monument sign height is measured from the existing lowest point of the ground where the monument sign is to be installed to the uppermost point of a sign;

C. Construction standards.

1. Supports and braces must be designed as an integral part of the overall sign design and hidden from public view to the extent technically feasible;
2. All signs attached to a building must be installed and maintained so that wall penetrations are watertight and the structure does not exceed allowable stresses of supporting materials;
3. All signs must be designed and constructed in accordance with Minnesota State Building and Fire codes. Marquee structures must be approved by the city engineer and building safety department;
4. Glass forming any part of a sign must be safety glass;
5. All letters, figures, characters or representations in cut-out or irregular form, maintained in conjunction with, attached to or superimposed upon any sign must be safely and securely built into or attached to the sign structure;
6. Audio components are prohibited on any sign, with the exception of menuboards;
7. Any form of pyrotechnics is prohibited;



D. Electrical wiring.

1. All electrical fixtures, devices, circuits, conduits, raceways or apparatus used to illuminate, move or project any sign must be installed and maintained in accordance with Minnesota State Building Code, including the National Electrical Code. Electrical permits are required for sign installation in accordance with the Minnesota State Building Code;
2. Conduits and other components of a sign illumination system must be designed as an integral part of the overall sign structure and hidden from public view to the extent technically feasible;

E. Permit identification.

Every sign must include an identification of the permit number and name of sign installer either painted on the sign or by the application of a metallic sticker. The information must be visible from the ground with the exception of signs mounted seven or more feet above grade;