

**CITY OF LISMORE
ORDINANCE NO. 71**

ZONING ORDINANCE

GENERAL PROHIBITIONS

Subd. 1: Land Uses. Unless otherwise allowed by proceedings pursuant to the provisions of this Ordinance, it is unlawful to hereafter initiate the use of any land, buildings or structures other than those stated herein as “permitted uses” for the district in which the land lies. Such use, whether permitted or allowed, is further subject to all the terms, limitations and other provisions of this Ordinance having general or special application to various uses or classes of use.

Subd. 2: Building Permits. No building permit shall be issued for any purpose inconsistent with land uses permitted in the district which the land lies, or pursuant to proceedings under this ordinance.

SECTION 1: DIVISION OF DISTRICTS. For the purpose of this Ordinance, the City is divided into the following use districts:

Subd. 1. Commercial and Industrial District.

Subd. 2. Residential District.

Subd. 3. The boundaries of these districts are as follows:

A. Commercial districts: All areas along 3rd Avenue: from Five Star Road to 3rd Street. And Meyers subdivision lot 4 & w ½ lot 3 otherwise known as the last lot on the southwest corner of 3rd Avenue. All existing businesses at the time of this publication are allowed, no further commercial properties are to be established without consent from the City Council.

Revised June 7, 2016

SECTION 2: RESIDENTIAL DISTRICT, CONFORMING USES. In the Residential District, unless otherwise provided in this or other provision of the City Code, no building or premises shall be used, and no building shall hereafter be erected, relocated or structurally altered except for one or more other the following uses:

Subd. 1. Private or multiple dwellings, and their accessory buildings.

Subd. 2. Daycare Centers

Subd. 3. Recreational or community buildings publicly owned and operated.

Subd. 4. Parks and playgrounds.

Subd. 5. Churches, libraries, schools and hospitals.

Subd. 6. Temporary signs, not more than six feet square pertaining to leasing or sale of the premises.

Subd. 7. Any land added to the City in the future shall be placed in the Residential District, unless special action of the Council shall assign the same to another Use District.

SECTION 3: COMMERCIAL AND INDUSTRIAL DISTRICT, CONFORMING USES.

In the Commercial and Industrial District, no building or premises shall be used and no building or structure shall be erected, relocated or structurally altered except for one or more of the following uses:

Subd. 1. All uses permitted in Section 2.

Subd. 2. Any use whatsoever which is not in conflict with any provision of the City Code, and for which uses a special permit from the Council has been received.

SECTION 4: NON-CONFORMING USES.

Subd. 1. The lawful use of a building or premises existing at the date this Section is made effective may be continued, but if such non-conforming use is discontinued for sixty days or more, any future use of the building or premises must be in conformity with the provisions of this Ordinance.

Subd. 2. No billboards or signs shall be erected or placed within the Residential District.

Subd. 3. No trailer houses or mobile home shall be erected, placed or parked within the City, except as set forth below. No camping trailer, bus or recreation vehicle shall be parked on any public street for a period of more than 24 hours. Except as may be allowed by the Council to meet the temporary needs of City residents, no camping trailer, bus, or recreational vehicle shall be parked upon private property for the purpose of habitation. Any such act shall be a non-conforming use under this Ordinance.

A. Definitions. The following terms, as used in this Section, shall have the meanings stated:

1. The term “manufactured home” has the meaning specified in Minnesota Statutes, Section 327.31, Subd. 6, and shall include all structures formerly known as “mobile home”, but shall not be limited to such structures.

2. The term “structure” means anything constructed or erected, the use of which requires a location on the ground or attachment to something having a location on the ground.

2a. For the purposes of this Ordinance, a mobile home is any manufactured and transportable housing designed and intended for occupancy year-around as a single family dwelling unit permanent foundation designed to support such transportable unit. It is specifically any dwelling originally designed by its manufacturer or building to be easily relocated during its normal life span without regard for any modification made by its manufacturer, builder, or subsequent owners.

2b. For purpose of definition, the term “manufactured home” shall include all transportable housing over 29 feet in length and 16 feet or less in width and of 5,000 or more pounds in weight containing the same utilities as immobile housing.

2c. The term “manufactured home” shall include transportable housing, but shall exclude housing of modular design and construction where more than one module is required to form an integral housing unit, where the width of the integral unit exceeds 16 feet in width when assembled for occupancy.

2d. The term “manufactured home” shall include transportable housing, which must, State or Federal requirement, have affixed a label, identification plate, or sticker identifying the unit to be of mobile home design and construction.

B. None of the vehicles or manufactured structures identified above shall be erected within the Residential District, except that: One-family manufactured homes built in conformance with Minnesota Statutes, Section 327.31 through 327.35, as amended through laws of 1994, are permitted provided the following design standards are met to assure that the dwelling provides for reasonable compatibility with neighboring structures to protect property values, and to provide for the safety of the occupants of manufactured homes: (1) permanent concrete or treated wood foundations below frost line with basements will anchor the structure; (2) roof lines must have at least a 3/12 pitch; flat or shed roofs are not permitted; (3) the minimum width of the structures shall be 24 feet measured from face of exterior wall; (4) any metal siding would have horizontal edges and overlap in sections no wider than 12 inches; sheet metal siding is not permitted; (5) connection to City utilities.

C. All vehicles and manufactured structures which do not qualify to be placed in the Residential District because of a failure of any of the conditions set forth above, shall be permitted in an approved mobile home park designated by Council. The Council may, from time to time, designate one or more areas of the Residential District for mobile home parks, and may do so without passing a separate ordinance identifying such parks.

Subd. 4. No yard for the keeping or pasturing of animals or poultry shall be built, or relocated within the City designated as Residential District.

Subd. 5. No building shall be used as a residence which is located on property which abuts a City water or sewer main, without being connected thereto and as to any such residence no outhouse, privy or cesspool shall be constructed on the premises.

Subd. 6. The Council may authorize a non-conforming use when petitioned therefore by the owner of property, providing that the petition and non-conforming use is consented to by owners of at least seventy-five percent of the property lying within three hundred feet of any part of the premises for which said use petitioned.

SECTION 5: HOME OCCUPATION USE STANDARDS.

A. All activities shall be clearly incidental to the use of the property for residential purposes.

B. All business activities, including storage, shall be inside buildings.

C. Hours of operation shall be limited by conditional use permit to be compatible with residential use.

D. Retail sales on the premises will be allowed only of products manufactured on those premises unless specifically authorized by conditional use permit or retail sales of products in conjunction with services being provided.

E. All activities shall be controlled to prevent nuisance problems of noise, vibration, smoke, dust, fumes or litter and to insure proper handling of hazardous chemicals.

F. Parking adequate for all activities related to the home occupation shall be provided on the premises.

SECTION 6: FENCES, WALLS AND LANDSCAPING

1. Corner lot fences or walls in the front yard in any corner lot, no fence, accessory structure or planting shall rise over three (3) feet of any corner curb radius, as it interferes with traffic and creates a safety hazard by limiting visibility across the corner.

2. Fences in the front and back yard shall not be over eight (8) feet tall. Any variance agreed upon by neighbors must be reduced to writing and filed with the city clerk.

3. Shrubs/Hedges shall be planted and maintained entirely on the owner's property. Heights, setback and maintenance restrictions shall be in accordance with fencing requirements.

4. Fences shall be set back at least (1) foot from the lot lines or upon mutual consent of the abutting property owner(s) may be placed along the lot line. Any variance agreed upon by neighbors must be reduced to writing to the city clerk.

5. Every fence shall be constructed in a substantial workmanlike manner and of substantial material suited for the purpose for which the fence is proposed to be used. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a public or private nuisance.

6. Material such as wire mesh, hog wire fencing, straight wire fencing, barbed wire, or snow fencing are not allowed.

7. Permits are required for all fences.

SECTION 7: PERMITS.

No person may erect any structure of any kind, (as to the outside dimensions of any structure already erected), or relocate any structure or building by moving it from any point outside the City into the City, moving it from one location within the City to another location within the City, without first procuring from the City Clerk-Treasurer a permit to do so, approved by the Council, before such work or relocation is commenced.

A zoning permit is not required for any interior or exterior work that is done on the premises that does not change the footprint of the premise. All new additions whether attached or detached from a structure is required to have a permit. Any pavement installed for a driveway, patio or kennels is required to have a permit.

SECTION 8: APPLICATION FOR PERMIT.

Any person desiring to erect, alter, or relocate any structure with the City, shall make the same in the office of the City Clerk-Treasurer. Said application shall state the nature of such structure or building (and if already constructed, the nature and extent of the contemplated outside dimension changes), the purpose or purposes for which the same is to be used or occupied, and shall be accompanied by a sketch showing the number of the lot and block on which said structure is, or is to be located, the correct dimensions of said lot and the name or names of the owners thereof, the correct dimensions of said structure to be erected or relocated, (and if already erected and located the correct dimensions thereof with the proposed outside changes added), and the correct position on said lot with respect to the front, sides and rear lot lines where said structure is, or is to be located.

SECTION 9: PERMIT FEES

Fees for such permits shall be determined by the Council and fixed by its resolution, a copy of which shall be in the office of the City Clerk-Treasurer and uniformly enforced. The fee shall accompany said application and in the event the said permit is not granted, such fee shall be refunded.

SECTION 10: YARD AND SETBACK REQUIREMENTS.

A. Lot (minimum):

1. Width - 75 feet.
2. Depth - 150 feet.
3. Lot Line Setback – 5 feet

B. Building:

1. Minimum floor area - Dwellings - 750 square feet.
2. Maximum coverage - N/A.
3. Maximum height - except for farm buildings, storage and accessory buildings the lesser of three stories or 35 feet.
4. Minimum width - 22 feet.

Standards

1. Street setback- minimum of 25 feet.
2. Lot line setback- minimum of 5 feet.
3. Lot width-minimum of 75 feet
4. Lot depth- minimum of 100 feet
5. Street frontage-residential minimum of 25 feet on a street other than an ally.

SECTION 11: BUSINESS BUILDING FRONT 3RD AVENUE.

Any new business building erected so as to front 3rd Avenue shall be placed so that the front of said building extends to the inside line of the sidewalk, unless special permit to build otherwise shall be granted by the Council.

SECTION 12: FOLIAGE OR STRUCTURES ON CORNER OR VACANT LOTS.

On corner lot of any dwelling or on any vacant lot, no foliage, fence, sign or other structure shall extend or be erected to a height of more than two feet above the elevation of established grade at the intersection of the two street lines, on that part of any lot which is bounded by the street lines of the two intersecting streets and a line connecting said street lines thirty-five feet from their point of intersection.

SECTION 13: VARIANCES.

Subd. 1. Authorization. The Council may authorize a variance where the exceptional narrowness, shallowness or unusual shape of a specific piece of property on the effective date of this Section, or by reason of exceptional topographic conditions, or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjoining the piece in question, the literal enforcement of the requirements of this Section would involve unnecessary hardship and not mere inconvenience.

Subd. 2. PROCEDURE.

- A. Application for any variance permissible under this Section shall be made to the Council in the form of a written application for a development (building) permit. All applications shall be accompanied by a list of the names and addresses of the owners of the lands abutting directly on the property described in the application.
- B. Upon receipt of such application and list, and at least ten days prior to the regular meeting of the Council, a notice of planned hearing shall be published one in the official newspaper and copy of said notice shall be mailed to each of the owners referred to in said list. The City Clerk-Treasurer shall cause such notices to be published and mailed.
- C. An open hearing on said variance requests shall be part of the next scheduled meeting of the Council. The Council shall, in a timely manner, issue its decision following the hearing.
- D. In deciding on any adjustment or variance under the provisions of this Section, the Council shall designate such conditions in connection therewith as will, in its opinion, secure the requirements of Subdivision 3 of this Section. The Council shall put its decision in writing stating pertinent facts and findings, and shall specifically and fully set forth any adjustment or variance granted, and conditions designated.

Subd. 3. Conditions. No variance from the terms of this Section shall be authorized unless all the following facts and conditions exist:

1. That there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property, that do not apply generally to other properties of classes of uses in the same zoning district.
2. That the alleged difficulty or hardship has not resulted from the actions of the applicant.
3. That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and in the same vicinity.
4. That the authorizing of such variance will not be of substantial detriment to adjacent property, and will not materially impair the purposes of this Section or the public interest.
5. No variation shall be authorized unless the Council specifically finds that the condition, situation, or intended use of the subject property, is not so general or

recurrent in nature as to make reasonably practicable the formulation of a general regulation to cover such cases.

SECTION 14: Where a zoning permit has been issued but no action has occurred within 12 months, the zoning permit shall be null and void. The exterior of the structure shall be complete in 18 months. The time limits may be extended by the City Council for good cause.

SECTION 15: VIOLATIONS

- a. Any person who shall violate any of the provisions of this article or who shall fail to comply with any of the provisions in this article, or any permit or order issued pursuant to this article, or who shall make any false statement in any document required to be submitted under the provisions of this article, shall be guilty of a misdemeanor.
- b. The city council may authorize the institution of legal proceedings to restrain, correct or abate any violation of this article.
- c. Prior to the institution of legal proceedings, the city may, by written order, suspend, revoke or modify any permit or authorization issued pursuant to this article on information and belief that the permit has been issued in error or on the basis of incorrect or inadequate information, or that the work is not being performed in compliance with this article or with the provisions of any permit issued pursuant to this article. The city, in addition may issue an order to the owner or occupant of any premises to cease and desist the of use of such premises immediately when such premises are being used in a manner creating substantial hazard to the public health, safety or welfare, or in violation of any permit issued pursuant to this article. The city shall have the power to prevent unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use of lands or structures within the city and to restrain, correct or abate such violations or to prevent the occupancy of buildings, structures or lands, or prevent any illegal act, conduct, business, or use on or about the premises, and my utilize the city attorney, police and other personnel in accomplishing these duties.

SECTION 16: VALIDITY:

Subd. 1. This Ordinance shall be in full force and take effect from and after its passage and publication as provided by law.

Subd. 2. All other Ordinances and parts of other Ordinances inconsistent or in conflict with any part of this Ordinance are hereby repealed to the extent of such inconsistency or conflict.

Adopted by the City Council of the City of Lismore, Minnesota on this 10th day of October 2007.

Steven Wieneke, Mayor

Attest:

Kate McCann, City Clerk

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