



**STAFF REPORT**

DATE: March 4<sup>th</sup>, 2020

**TO:** City Council  
**FROM:** Ben Prchal, City Planner  
**AGENDA ITEM:** Septic System Code Amendment – Sizing Requirements  
**REVIEWED BY:** Ken Roberts, Planning Director  
 Planning Commission

**BACKGROUND:**

The City Council had asked Staff to look into the sizing requirements for septic systems in the Rural Zoning Districts, essentially the zoning districts which properties would not normally connect to City sewer. This was asked of Staff because the City no longer permits septic systems but instead defers to Washington County as the permitting authority, and there is less of a need for the existing standards in the City Code as it pertains to septic area.

**ISSUE BEFORE THE CITY COUNCIL**

Would the City Council like to approve the proposed ordinance amendments?

**REVIEW AND ANALYSIS:**

City Staff has gathered examples from other communities within Washington County to use as a baseline for review. Based on the Cities that were used as references Lake Elmo is not the only City that has or would eliminate a defined size limitation for septic systems.

**City of Lake Elmo – 154.404 Site Design and Development Standards *(Existing Language)*.**

*Septic Drainfield Regulation, A, RR, and RS Districts. All lots must have at least 20,000 square feet of land suitable for septic drainfields and area sufficient for 2 separate and distinct drainfield sites. Placement of the second required drainfield between the trenches of the first drainfield is prohibited.*

*Staff Comment – This standards of 20,000 sqft. is two things, slightly arbitrary and safe. There is nothing inherently wrong with the 20,000 sqft. standard and in fact it is probably established because it is a safe number due to its size. However, now that the City has deferred the permitting to Washington County the number becomes less relevant. As a hypothetical, as long as Washington County has/will provided a perspective home builder with an approved septic permit, Staff is inclined to believe that the property can safely support the proposed build. City Staff is not suited to question the validity of a proposed septic system, whether its 5,000 or 50,000 sqft. it is not known if either is more functional than the other.*

Staff has spoken to Washington County regarding this code amendment and the concerns of not having a minimum area and secondary system addressed in our code would be covered by the Washington County standards. For example, Section 9.4 Minimum Size, Soil Treatment Area Says;

*“For new subdivision testing, enough soil observations must be conducted to assure that at least 10,000 square feet of suitable soil exists for each lot for long-term sewage treatment. On previously subdivided lots, enough area of suitable soil must be identified for two soil treatment and dispersal areas. Percolation tests are not required for subdivision or lot approval testing unless the permeability cannot be estimated or there is reason to believe the soil is not original or has been disturbed.”*

During most of the recent variance reviews the lots were previously subdivided (existing). This means the criteria of two soil treatment areas would apply and newly developed lots in the rural districts would require at least 10,000 sqft. of septic area (*Half of the Existing City Expectation*). Furthermore, other communities in Washington County have already transitioned into the code language that Staff is recommending.

**Example Communities**

**City of Forest Lake** – Sec. 153.066 Individual Sewage Treatment Systems.

“All applicants for a use or building permit in any district not served by public sanitary sewer must demonstrate that an on-site sewage treatment system can be installed in accordance with Washington County Subsurface Sewage Treatment System regulations.”

*Staff Comment* – *Staff likes the wording that they used for their standard. However, Staff is recommending a slight modification that would hopefully improve the standard for the City. (See recommendation)*

**City of Hugo** - Sec. 90-177. - Sewage treatment.

“No property shall be subdivided or platted in such manner as to create a new parcel or lot of record unless it is served by municipal sanitary sewer service, or each lot or parcel created has been evaluated and found capable of holding an individual septic system constructed in accordance with city standards.”

*Staff Comment* – *The Lake Elmo City Code has similar language in the code. Searching the City website Hugo also defers to Washington County regarding septic permitting.*

**City of Woodbury**

*Staff Comment* – *Based on what was found there was not a clear direction in the City Code of what was expected in regards to permitting. However, the website states that permitting goes through Washington County.*

**City of Oakdale**

*Staff Comment* - *Staff could not find clear language in their code but their website also directs people to Washington County for septic related questions.*

**FISCAL IMPACT:**

Staff does not foresee a fiscal impact with the proposed code change.

**PLANNING COMMISSION AND STAFF RECOMMENDATION**

Planning Commission

The Planning Commission reviewed the proposed code amendment and were in favor of the change. During the review Staff offered an additional amendment that would improve the recommendation for the City. The Commission voted in favor to approve the amendment by a 7-0 vote.

City Staff

Staff believes that removing/amending the discussed section(s) of code will be beneficial to residents. Amending the code is partially recommended because it is not a standard that Staff actively reviews for function and it eliminates one less barrier for new construction. Some may believe that the standard should remain in place to help protect residents/City from future circumstances that may become unfavorable. But again, if it is shown that 20,000 sqft. is unreasonable and safe systems can be established on a lesser area, the standard could be reduced.

Staff recommends amending and replacing language in sections:

- 154.034 GB – General Business, C. 1.
- 154.404 B. and C.

Proposed Replacement Language

*All applicants for a use or building permit in any district not served by public sanitary sewer must demonstrate that an on-site sewage treatment system (Primary and/or Secondary Location) as approved by Washington County can be installed in accordance with Washington County Subsurface Sewage Treatment System Regulations.*

**Recommendation:**

*“Motion to approve Ordinance 08-235 which will remove the required 20,000 sqft. septic area requirement for the rural zoning districts.”*

*“Motion to approve Res. 2020-023 which is a summary publication of Ordinance 08 - 235”*

**ATTACHMENTS**

City of Lake Elmo Code.	City of Hugo Code.	Ordinance XXX.
City of Forest Lake Code.	Washington County Code Section.	Summary Publication Resolution XXX.

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

<b>General Business</b>	
Lot Size	1-1/2 acres (except as required by Interstate Corridor Overlay District, §§ 150.230 - 150.238)
Lot Width	150 Feet Minimum
Building Setback from property lines: (Also see § 154.082)	
Front:	10 Feet Minimum  No setback required for properties located in the Old Village District and south of Minnesota State Highway 5
Side (Interior):	20 Feet Minimum  No setback required for properties located in the Old Village District and south of Minnesota State Highway 5
Side (Corner):	50 Feet Minimum
Rear:	50 Feet Minimum
Building Height (Also see § 154.083)	35 Feet Maximum
Maximum area to be covered by buildings, parking lots, driveways and other hard surfaces:	
Up to 4 acres	40% of lot size
Larger than 4 acres to 8 acres	35% of lot size
Larger than 8 acres	25% of lot size
Lot Configuration	Maximum lot depth to width dimension ratio shall be no more than 3:1
Lot Size	Covered Area
Lot Configuration	
Maximum Width of Driveways	See § 93.26
Signage	See §§ 154.212
Septic Drainage Regulation (Also see §§ 51.002 through 51.008)	All newly subdivided lots shall have a minimum of 20,000 square feet of land dedicated for septic system use and suitable for that use. This land may comprise up to 2 separate areas, each of which

- i. Ground-mounted wind generators may exceed the allowable height restriction designated in all rural districts and are subject to different setback requirements as identified in section 154.308.

(Ord. 2012-073, passed 3-19-2013; Am. Ord. No. 08-198, passed 2-7-2018; Am. Ord. 08-199, passed 2-7-2018)

**§ 154.403 DIMENSIONAL REQUIREMENTS AND PRESERVATION OF OPEN SPACE.**

- A. Lot Configuration, RR District. All lots must be rectangular in shape and any 2 adjacent sites must have an aspect ratio not exceeding 4:1.

(Ord. 2012-073, passed 3-19-2013)

**§ 154.404 SITE DESIGN AND DEVELOPMENT STANDARDS.**

Development of land within the rural districts shall follow established standards for traffic circulation, landscape design, parking, signs and other considerations as specified in Articles 7,8 and 9. (Ord. 08-152, passed 10-01-2016) The following standards apply to specific uses, and are organized by district.

- A. *Single-Family Detached Dwelling, All Rural Districts.* All single-family dwellings shall be at least twenty-four (24) feet in width, at least nine hundred sixty (960) square feet in area, and be placed on a permanent foundation.
- B. *Septic Drainfield Regulation, A, RR, and RS Districts.* All lots must have at least 20,000 square feet of land suitable for septic drainfields and area sufficient for 2 separate and distinct drainfield sites. Placement of the second required drainfield between the trenches of the first drainfield is prohibited.
- C. *Septic Drainfield Regulation, RE District.* All new subdivided lots shall have a minimum of 20,000 square feet of land to be dedicated for septic system use and suitable for that use. This land may compromise up to 2 separate areas, each of which is contiguous to the 1.25-acre building site or contained within it, and each of which contains at least 10,000 contiguous square feet. Placement of the second required drainfield between the trenches of the first drainfield is prohibited.
- D. *Secondary Dwelling, A District.* One non-farm dwelling per each 40 acres, or part of a dwelling on a prorated basis, not already containing a farm or non-farm dwelling, is permitted provided:
  - 1. The dwelling unit is located on a separate parcel of record in the office of the County Recorder and/or County Auditor, which shall be at least 1-1/2 acres in size;
  - 2. The parcel on which the dwelling unit is located must have at least 125 feet of frontage along a public street, be rectangular in shape and no dimension to be greater than 3 times the other; and

**SECTION 9 SITE EVALUATION AND SOIL TESTING****9.1 Design Phase I; Site Evaluation.**

Site evaluations consisting of preliminary and field evaluations according to parts this Section must be conducted for all proposed sites for SSTS, including both ISTS and MSTs. The site evaluation is considered the first phase of an SSTS design.

**9.2 Preliminary Evaluation.**

A preliminary evaluation for individual subsurface sewage treatment systems shall consist of determination, location, or existence of the following :

- (1) Design flow, anticipated effluent concentrations of biochemical oxygen demand, total suspended solids, oil and grease, and anticipated presence of nondomestic waste from the dwelling, dwellings, or other establishments.
- (2) Proposed or existing:
  - (A) Water supply wells within 100 feet of the proposed SSTS;
  - (B) Existing and proposed buildings or improvements on the lot; and,
  - (C) Buried water supply pipes within 50 feet of the proposed system.
- (3) Easements on the lot.
- (4) The ordinary high water level of public waters, if adjacent to the lot.
- (5) Floodplain designation and flooding elevation from published data or data that is acceptable to and approved by the Department or local unit of government or the Minnesota Department of Natural Resources, if applicable.
- (6) Property lines.
- (7) All required setbacks from the system.
- (8) The soil characteristics at the proposed soil treatment and dispersal areas as obtained by the soil survey report, including the soil map, map units, landscape position, parent material, flooding potential, slope range, periodically saturated soil level, depth to bedrock, texture, color, depth to redoximorphic features, and structure and consistence of soil horizons.
- (9) A geocode or property identification number.
- (10) Names of property owners.
- (11) The inner wellhead management zone or wellhead protection area of a public water supply, if applicable.

**9.3 Field Evaluation.**

A field evaluation for an individual subsurface sewage treatment system shall consist of the following items:

- (1) **Lot lines.** Lot lines shall be confirmed in the field. Lot improvements, required setbacks, and easements must be identified.
- (2) **Surface features.** The following surface features must be described:
  - (A) The percent and direction of the slope of the proposed system location.
  - (B) Vegetation types.
  - (C) Any evidence of cut or filled areas or disturbed or compacted soil.
  - (D) The flooding or run-on potential.
  - (E) A geomorphic description.

**9.4 Minimum Size, Soil Treatment Area .**

For new subdivision testing, enough soil observations must be conducted to assure that at least 10,000 square feet of suitable soil exists for each lot for long-term sewage treatment. On previously subdivided lots, enough area of suitable soil must be identified for two soil treatment and dispersal areas. Percolation tests are not required for subdivision or lot approval testing unless the permeability cannot be estimated or there is reason to believe the soil is not original or has been disturbed.

**§ 153.066 INDIVIDUAL SEWAGE TREATMENT SYSTEMS.**

All applicants for a use or building permit in any district not served by public sanitary sewer must demonstrate that an on-site sewage treatment system can be installed in accordance with Washington County Subsurface Sewage Treatment System regulations.

(Ord. 537, passed 11-8-2004; Am. Ord. 596, passed 2-8-2010)

Sec. 90-177. - Sewage treatment.

- (a) No property shall be subdivided or platted in such manner as to create a new parcel or lot of record unless it is served by municipal sanitary sewer service, or each lot or parcel created has been evaluated and found capable of holding an individual septic system constructed in accordance with city standards.
- (b) Municipal sanitary sewer service must be utilized where available. Where municipal sanitary sewer service becomes available following the installation of an approved and functional septic system, the property owner shall have 12 months to connect to the municipal system and abandon the septic system. The 12-month period shall begin on the first day of the month following the city council's approval of final payment to the contractor for the installation of the municipal service serving the property.
- (c) Land within the central business, general business, general industrial, and all residential districts may not be subdivided or platted without being serviced by municipal sanitary sewer and public water service.

(Prior Code, § 1175-115.1)

CITY OF LAKE ELMO  
COUNTY OF WASHINGTON  
STATE OF MINNESOTA

ORDINANCE NO. 08-235

AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES BY  
AMENDING THE CITY'S SEPTIC STANDARDS

**SECTION 1.** The City Council of the City of Lake Elmo hereby ordains that Chapter 154 Zoning Code: Article III Zoning Distircts, Section 154.034 General Business, shall be repealed and replaced it with the following language:

(C). Minimum district requiremnts.

Septic Drainage Regulation (Also see §§ 51.002 through 51.008);

~~All newly subdivided lots shall have a minimum of 20,000 square feet of land dedicated for septic system use and suitable for that use. This land may comprise up to 2 separate areas, each of which is contiguous to the 1.25-acre building site or contained within it, and each of which contains at least 10,000 contiguous square feet. Placement of the second required drainfield between the trenches of the first drainfield is prohibited. All applicants for a use or building permit in any district not served by public sanitary sewer must demonstrate that an on-site sewage treatment system (Primary and Secondary Location) as approved by Washington County can be installed in accordance with Washington County Subsurface Sewage Treatment System Regulations.~~

**SECTION 2.** The City Council of the City of Lake Elmo hereby ordains that Chapter 154 Zoning Code: Article XI Zoning Distircts, Section 154.404 Rural Districts, shall be repealed and replaced it with the following language:

~~B. Septic Drainfield Regulation, A, RR, and RS Districts. All lots must have at least 20,000 square feet of land suitable for septic drainfields and area sufficient for 2 separate and distinet drainfield sites. Placement of the second required drainfield between the trenches of the first drainfield is prohibited. All applicants for a use or building permit in any district not served by public sanitary sewer must demonstrate that an on-site sewage treatment system (Primary and Secondary Location) as approved by Washington County can be installed in accordance with Washington County Subsurface Sewage Treatment System Regulations.~~

~~C. Septic Drainfield Regulation, RE District. All new subdivided lots shall have a minimum of 20,000 square feet of land to be dedicated for septic system use and suitable for that use. This land may compromise up to 2 separate areas, each of which is contiguous to the 1.25-acre building site or contained within it, and each of which contains at least 10,000 contiguous square feet. Placement of the second required drainfield between the trenches of the first drainfield is prohibited. All applicants for a use or building permit in any district not served by public sanitary sewer must demonstrate that an on-site sewage treatment system (Primary and Secondary Location) as approved by Washington County can be installed in accordance with Washington County Subsurface Sewage Treatment System Regulations.~~

**SECTION 3. Effective Date.** This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

**SECTION 3. Adoption Date.** This Ordinance 08-235 was adopted on this \_\_\_\_ day of March 2020 by a vote of \_\_\_ Ayes and \_\_\_ Nays



**LAKE ELMO CITY COUNCIL**

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Mike Pearson, Mayor

ATTEST:

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Julie Johnson, City Clerk

This Ordinance 08-206 was published on the \_\_\_\_ day of \_\_\_\_\_, 2020.

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

**RESOLUTION NO. 2020-023**

**RESOLUTION AUTHORIZING PUBLICATION OF ORDINANCE 08-235**

**WHEREAS**, the Lake Elmo City Council has adopted Ordinance No. 08-235, an ordinance amending the City's Zoning Code as it pertains to Septic Area in Sections 154.034 and 154.404.

**WHEREAS**, the ordinance is lengthy; and

**WHEREAS**, Minnesota Statutes, section 412.191, subd. 4, allows publication by title and summary in the case of lengthy ordinances or those containing charts or maps; and

**WHEREAS**, the City Council believes that the following summary would clearly inform the public of the intent and effect of the ordinance.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Lake Elmo, that the City Clerk shall cause the following summary of Ordinance No. 08-235 to be published in the official newspaper in lieu of the entire ordinance:

**Public Notice**

The City Council of the City of Lake Elmo has adopted Ordinance No. 08-235, which amends the City Zoning Code language for septic drainfield size requirements. The following is a summary of the adopted ordinance language:

- Before a building permit could be released the City Code previously required a minimum of 20,000 square feet of septic area (*and approved permit from Washington County*) for rural single family lots. Since the City is not the reviewing authority for septic systems, the Code now defers to the standards established by Washington County.
- The amendment is not considered to be reduction of expectations. Instead it is an alignment of regulations between review authorities.

The full text of Ordinance No. 08-235 is available for inspection at Lake Elmo City Offices during regular business hours.

**BE IT FURTHER RESOLVED** by the City Council of the City of Lake Elmo that the City Administrator keep a copy of the ordinance at City Hall for public inspection and that a full copy of the ordinance be placed in a public location within the City.

Dated: March 4<sup>th</sup>, 2020

\_\_\_\_\_  
Mayor Mike Pearson

ATTEST:

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Julie Johnson, City Clerk

(SEAL)

The motion for the adoption of the foregoing resolution was duly seconded by member

\_\_\_\_\_ and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against same:

Whereupon said resolution was declared duly passed and adopted.