



STAFF REPORT

DATE: February 16th, 2021

PUBLIC HEARING

TO: City Council
FROM: Ben Prchal, City Planner
AGENDA ITEM: Zoning Code Clean Up – Potential Ordinance Amendments
REVIEWED BY: Ken Roberts, Planning Director
Planning Commission

BACKGROUND:

The City Zoning Code has been amended over the years which has resulted in the need to adjust text and references for clarification purposes. The Planning Department asked the Planning Commission to review the proposed edits on January 25, 2021 and is now requesting the review of the proposed changes by City Council. Staff will continue to bring forward proposed amendments as they are identified in the City Code.

ISSUE BEFORE THE CITY COUNCIL

The City Council is being asked to review and provide approval or denial of the proposed ordinance amendments.

REVIEW AND ANALYSIS:

Sections for review:

- 154.080 E & I
- 154.081
- 154.551

Section 154.080 E.

This is a small section that serves more as a reference than an actual regulating section. However, it currently has one sentence that would technically “regulate.” The intent of 154.080 is to identify the language that should be used for properties that have frontage on lakes and streams. The specific correction that will be made will impact lots that abut an unclassified body of water. An example of this could be a pond that isn’t necessarily identified in the shoreland management ordinance. The code says that these lots must follow the regulation for General Development Lakes but there is no established language for such a lake in the City Code. For clarity water bodies within the City Code are placed into categories, Recreational Development Lake (RD), Natural Environment (NE), and Tributary (T). The shoreland code identifies setbacks and standards for RD, NE, and T but not for General Development Lakes. To correct this, the City should remove the reference for General Development Lake and adopt a setback standard for improvements adjacent to unclassified bodies of water.

Existing Code.

154.080 E.

Lake and Stream Frontage Lots. All lots having frontage on a lake or stream shall be subject to the provisions of the shoreland management ordinance as well as the regulations provided by this chapter. All lots on unclassified bodies of water in the shoreland management ordinance shall meet the minimum setback requirements for a General Development Lake, except as provided in the Shoreland management section.

Recommended amendment.

Lake and Stream Frontage Lots. All lots having frontage on a lake or stream shall be subject to the provisions of the shoreland management ordinance as well as the regulations provided by this chapter. ~~All Structures or improvements requiring a permit (except fencing) on lots or adjacent to on unclassified naturally occurring~~ bodies of water that are not classified or identified in the City shoreland management ordinance shall ~~meet the~~ have a minimum setback of 25 feet from the Ordinary High Water Level (OHWL) (This standard shall not apply to properties adjacent to storm water ponds or other man made ponds) ~~requirements for a General Development Lake~~, except as provided in the Shoreland management section.

Section 154.080 I.

This section of the code discusses the septic area expectations for un-sewered lots. The City fully relies on Washington County to review and approve septic system plans for residents within the City. The amendments do not necessarily change the end outcome for the lots, instead the hope is that clarification is added that the County reviews and approves the plans. Again, since the City does not have Staff that reviews septic plans the intent is to have code that relies on the County for review and approval before the city issues permits.

Recommended Amendment.

I. *Minimum Area Requirements for Lots Without Public Sanitary Sewer.* In areas without public sanitary sewer, but where public sanitary sewer is proposed in the City's Capital Improvement Program, single- and 2-family homes shall demonstrate suitable soil conditions for adequate on-site sewage treatment area.

1. In areas without public sanitary sewer where public sanitary sewer is not proposed in the City Capital Improvement Program or Comprehensive Plan, single- and 2-family homes shall demonstrate suitable soil conditions for a minimum-on-site sewage treatment area **as established by the Washington County Subsurface Sewage Treatment System Regulations. of 1-acre per dwelling unit.**
 2. A building permit shall not be issued for a lot which either does not meet the minimum acres of acceptable soils for on-site sewage treatment; or does not have enough acceptable soils within the lot or under legal contract to construct at least 2 complete septic/drainfield treatment systems, **as established by Washington County Subsurface Sewage Treatment System Regulations.**
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Section 154.081 A.

Staff believes this amendment is relatively minor but does further help identify the permitted side yard encroachments.

Recommended Amendment.

- A. In any yards
1. "Posts, off-street open parking, flutes, leaders, sills, pilasters, lintels, cornices, eaves (up to 3 feet), gutters, awnings, open terraces, steps, chimneys, flag poles, open fire escapes, **egress window/well**, sidewalks, fences..."
- B. Side and Rear Yards. Fences; walls and hedges 6 feet in height or less; bays not to exceed a depth of 3 feet or containing an area of more than 30 square feet; **egress/window wells not to exceed the minimum area needed to meet building/fire code or** fire escapes not to exceed a width of 3 feet.
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Section 154.501 Table 11-1. And 154.551 Table 12-1

Zoning districts have tables that outline the allowed uses and additional references that are specific for the particular use. In certain districts Religious institutions have a reference that no longer exists, at this time they reference section 154.303 (N). Staff is proposing to remove this reference and replace it with 154.012 (B) (2). Within the zoning code this is the only other location that outlines the expectations of the use that would apply to all districts.

Recommended Amendment.

154.501 Table 11-1: Permitted and Conditional Uses, Village Districts

	V-LDR	VMX	Standard
Public and Civic Uses			
Community Services	-	P	154.012 (B)
Day Care Center	-	P	154.012 (B)
Public Assembly	-	C	154.012 (B)
Religious Institutions	-	C	154.303 (N) 154.012 (B)(2)

Schools, Public and Private	-	C	154.303 (A)
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154.551 Table 12-1: Permitted, Conditional and Interim Uses, Commercial Districts

<i>Public and Civic Uses</i>	LC	CC	C	BP	Standard
Colleges and universities	-	-	C	C	154.012 (B) (2), 154.303 (A)
Community service	-	C	C	C	154.012 (B) (2)
Day care center	C	C	C	C	154.012 (B) (2)
Schools, public and private	-	-	C	C	154.012 (B) (2), 154.303 (A)
Local Transit	-	-	-	C	154.454 (O)
Public assembly	-	-	C	C	154.012 (B) (2)
Religious institutions	-	-	C	-	154.012 (B) (2), 154.303 (A)

FISCAL IMPACT:

None.

RECOMMENDATIONS

Planning Commission

The Planning Commission had an opportunity to review the proposed recommendations on January 25, 2021 and is recommending approval.

Staff Recommendations:

Staff also is recommending approval of the proposed Ordinance amendments.

“Motion to approve the drafted ordinances for the zoning code amendments as presented.”

Because of the length of the ordinance amendments, staff also is recommending Council approval to publish a summary ordinance.

“Motion to approve summary publication of the zoning code amendments with approval of Resolution 2021-023”

ATTACHMENTS

- Proposed Ordinances
- Resolution 2021 – 023 (Summary Publication)

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

ORDINANCE NO. 08-246

**AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES BY
AMENDING SECTION 154.080 TO REMOVE THE NOTATION OF GENERAL
DEVELOPMENT LAKES AND ESTABLISH A SETBACK FOR UNCLASSIFIED BODIES
OF WATER.**

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title XV Land Use: Chapter 154 Zoning Code; Article IV. Additional Regulations and Modifications: by amending Section 154.080 E.; (Amended language is underlined to represent added language and ~~strikethrough~~ represents deleted language):

E. Lake and Stream Frontage Lots. All lots having frontage on a lake or stream shall be subject to the provisions of the shoreland management ordinance as well as the regulations provided by this chapter. ~~All Structures or improvements requiring a permit (except fencing) on lots or adjacent to on unclassified naturally occurring~~ bodies of water that are not classified or identified in the shoreland management ordinance ~~shall meet the~~ have a minimum setback of 25 feet from the Ordinary High Water Level (OHWL) (This standard shall not apply to properties adjacent to storm water ponds or other man made water bodies) ~~requirements for a General Development Lake~~, except as provided in the Shoreland management section.

SECTION 2. 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 08-246 was adopted on this _____ day of ____ 2021, by a vote of ____ Ayes and ____ Nays.

LAKE ELMO CITY COUNCIL

Charles Cadenhead, Mayor

ATTEST:

Julie Johnson, City Clerk

This Ordinance 08-246 was published on the ____ day of _____, 2021.

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

ORDINANCE NO. 08-247

**AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES BY
AMENDING SECTION 154.080 TO CLARIFY THAT WASHINGTON COUNTY
STANDARDS ARE USED AND THAT THEY PERFORM ALL SEPTIC SYSTEM
REVIEWS FOR PROJECTS WITHIN THE CITY OF LAKE ELMO.**

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title XV Land Use: Chapter 154 Zoning Code; Article IV. Additional Regulations and Modifications: by amending Section 154.080 E.; (Amended language is underlined to represent added language and ~~strikethrough~~ represents deleted language):

I. Minimum Area Requirements for Lots Without Public Sanitary Sewer. In areas without public sanitary sewer, but where public sanitary sewer is proposed in the city's Capital Improvement Program, single- and 2-family homes shall demonstrate suitable soil conditions for adequate on-site sewage treatment area.

1. In areas without public sanitary sewer where public sanitary sewer is not proposed in the City Capital Improvement Program or Comprehensive Plan, single- and 2-family homes shall demonstrate suitable soil conditions for a minimum-on-site sewage treatment area as established by Washington County Subsurface Sewage Treatment System Regulations. of 1 acre per dwelling unit.
2. A building permit shall not be issued for a lot which either does not meet the minimum acres of acceptable soils for on-site sewage treatment; or does not have enough acceptable soils within the lot or under legal contract to construct at least 2 complete septic/drainfield treatment systems, as established by Washington County Subsurface Sewage Treatment System Regulations.

SECTION 2. 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 08-247 was adopted on this _____ day of ____ 2021, by a vote of ____ Ayes and ____ Nays.

LAKE ELMO CITY COUNCIL

Charles Cadenhead, Mayor

ATTEST:

Julie Johnson, City Clerk

This Ordinance 08-247 was published on the _____ day of _____, 2021.

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-248

**AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES BY AMENDING
SECTION 154.081 TO CLARIFY THE IMPROVEMENTS THAT CAN ENCROACH THE
ESTABLISHED SETBACKS FOR A PROEPRTY.**

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title XV Land Use: Chapter 154 Zoning Code; Article IV. Additional Regulations and Modifications: by amending Section 154.081 A.; (Amended language is underlined to represent added language and ~~strikethrough~~ represents deleted language):

154.081 PERMITTED ENCROACHMENTS ON REQUIRED YARDS.

The following shall be permitted encroachments into setback and height requirements, except as restricted by other sections of this chapter.

A. In any yards

1. Posts, off-street open parking, flutes, leaders, sills, pilasters, lintels, cornices, eaves (up to 3 feet), gutters, awnings, open terraces, steps, chimneys, flag poles, open fire escapes, egress window/wells, sidewalks, fences, essential services exposed ramps (wheelchair), patios, stoops, decks not requiring railings in accordance with state building codes, or similar features, provided they do not extend above the height of the ground floor level of the principal structure or to a distance less than 5 feet from any lot line nor less than 1 foot from any existing or proposed driveway; yard lights and nameplate signs; trees, shrubs, plants, floodlights or other sources of light illuminating authorized illuminated signs, or light standards for illuminating parking areas, loading areas, or yards for safety and security reasons; provided the direct source of light is not visible from the public right-of-way or adjacent residential property.
2. Porches as defined in § 11.01 may encroach up to 6 feet into a required front yard setback or side corner yard, but in no case shall be setback less than 10 feet from the front property line. A porch is not allowed in a side or rear yard setback.

- B. *Side and Rear Yards.* Fences; walls and hedges 6 feet in height or less; bays not to exceed a depth of 3 feet or containing an area of more than 30 square feet; egress/window wells not to exceed the minimum area needed to meet building/fire code or fire escapes not to exceed a width of 3 feet.

SECTION 2. 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 08-248 was adopted on this _____ day of ____ 2021, by a vote of ____ Ayes and ____ Nays.

LAKE ELMO CITY COUNCIL

Charles Cadenhead, Mayor

ATTEST:

Julie Johnson, City Clerk

This Ordinance 08-248 was published on the ____ day of _____, 2021.

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

ORDINANCE NO. 08-249

**AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES BY AMENDING
SECTION 154.501 AND 154.551 TO REMOVE A REFERENCE THAT IS NO LONGER USED OR
APPROPRIATE FOR THE INSTANCE THAT IT IS USED IN.**

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title XV Land Use: Chapter 154 Zoning Code; Article XIII. Village Mixed Use District: by amending Section 154.501 Table 11-1; (Amended language is underlined to represent added language and ~~striketrough~~ represents deleted language):

154.501 PERMITTED AND CONDITIONAL USES.

Table 11-1: Permitted and Conditional Uses, Village Districts

	V-LDR	VMX	Standard
Public and Civic Uses			
Community Services	-	P	154.012 (B)
Day Care Center	-	P	154.012 (B)
Public Assembly	-	C	154.012 (B)
Religious Institutions	-	C	154.303 (N) <u>154.012 (B)(2)</u>
Schools, Public and Private	-	C	154.303 (A)

SECTION 2. The City Council of the City of Lake Elmo hereby amends Title XV Land Use: Chapter 154 Zoning Code; Article XV. Commercial Districts: by amending Section 154.551 Table 12-1; (Amended language is underlined to represent added language and ~~striketrough~~ represents deleted language):

154.551 PERMITTED, CONDITIONAL AND INTERIM USES.

Table 12-1: Permitted, Conditional and Interim Uses, Commercial Districts

Public and Civic Uses	LC	CC	C	BP	Standard
Colleges and universities	-	-	C	C	154.012 (B) (2), 154.303 (A)
Community service	-	C	C	C	154.012 (B) (2)
Day care center	C	C	C	C	154.012 (B) (2)
Schools, public and private	-	-	C	C	154.012 (B) (2), 154.303 (A)
Local Transit	-	-	-	C	154.454 (O)
Public assembly	-	-	C	C	154.012 (B) (2)
Religious institutions	-	-	C	-	154.012 (B) (2), 154.303 (N)

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 4. Adoption Date. This Ordinance 08-249 was adopted on this _____ day of ____ 2021, by a vote of ____ Ayes and ____ Nays.

LAKE ELMO CITY COUNCIL

Charles Cadenhead, Mayor

ATTEST:

Julie Johnson, City Clerk

This Ordinance 08-249 was published on the ____ day of _____, 2021.

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

RESOLUTION NO. 2021 - 023

**RESOLUTION AUTHORIZING PUBLICATION OF A SUMMARY OF ORDINANCE
08-246, ORDINANCE 08-247, ORDINANCE 248, AND ORDIANCNE 08-249**

WHEREAS, the Lake Elmo City Council has adopted Ordinance No. 08-246, Ordinance No. 08-247, Ordinance No. 08-248, and Ordinance No. 08-249 ordinances that amends the City's Zoning Code language in Sections 153.080, Section 154.081, and Section 154.501.

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. 08-246, Ordinance No. 08-247, Ordinance No. 08-248, and Ordinance No. 08-249 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. 08-246, Ordinance No. 08-247, Ordinance No. 08-248, and Ordinance No. 08-249, which amends the City Code language in multiple sections to correct references and remove outdated language. The following is a summary of the adopted ordinance language:

Ordinance 08-246 (City Code Section 154.080 E.)

- Establishes a setback standard for structures from the high water line for General Development Lakes

Ordinance 08-247 (City Code Section 154.080 I.)

- Further states and clarifies that the City relies on Washington County to review and for approval all septic related permits.

Ordinance 08-248 (City Code Sections 154.081 A.)

- Provides further clarification what structures or building improvements can encroach into a setback.

Ordinance 08-249

- Removes an outdated standard reference for Religious Institutions and inserts the appropriate standard reference.

The full text of Ordinance 08-246 Ordinance 08-247, Ordinance 08-248, and Ordinance 08-249, 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 ordinances be placed in a public location within the City.

Dated: February 16, 2021

Charles Cadenhead, Mayor

ATTEST:

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.