



## STAFF REPORT

DATE: 5/15/18

**REGULAR**

ITEM #:23

**MOTION**

**TO:** City Council

**FROM:** Emily Becker, Planning Director

**AGENDA ITEM:** Accessory Structure Ordinance Amendment

**REVIEWED BY:** Ben Prchal, City Planner  
Joan Ziertman, Planning Program Assistant

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### **BACKGROUND:**

Staff had noted with the solar energy ordinance amendment that ground-mount solar energy systems were not exempt from the number and size requirements of accessory structures within the rural districts. In order to follow up on an amendment to the City's solar ordinance, which was an item on the 2018 Planning Commission Work Plan, Staff would propose that this be clarified in order to complete the solar ordinance. Additionally, Staff wanted to take the opportunity to clarify language regarding additional accessory structures in the A – Agricultural and RR – Rural Residential zoning districts.

### **ISSUE BEFORE COUNCIL:**

The Council is being asked to hold a public hearing and make recommendation to Council on the proposed amendments to the accessory structure ordinance.

### **PROPOSAL DETAILS/ANALYSIS:**

**Amendment to Exempt Solar Energy Systems from Size and Number Requirement.** Because of the generally small size of solar energy systems and because the number of accessory structures allowed within the rural districts is quite restrictive (up to two per lot), it is reasonable to exempt them from the size and number requirement. Currently, the standards for solar energy systems state that such systems must adhere to lot coverage requirements (maximum impervious surface), and so the addition of this language will clarify that while the systems must adhere to impervious surface requirements, they are exempt from the number and size requirements of accessory structures.

**Amendment to Exempting Tool Sheds from the Size and Number Requirement of Accessory Structures.** Storage or Tool Sheds as defined by the Section (A 1-story accessory building of less than 200 square feet gross area with a maximum roof height of 12 feet) were previously exempt from the number requirement of the accessory structure ordinance but not the area requirement. Because of the small size of storage or tool shed, it should also be exempt from the size requirement, just as gazebos, playhouses, and animal structures are.

**Amendment to Language Regarding Additional Accessory Structures in the Rural Residential and Agricultural District.** Currently, language regarding accessory structures within rural districts states that additional accessory structures in the A - Agricultural and RR – Rural Residential zoning districts are allowed via conditional use permit. There are no clarifying language or standards, however, which dictate when they should be allowed. Staff believes that a variance would be more appropriate in this case, as the applicant would be required to prove why their property is unique and would require additional accessory structures beyond those drafted the following amendments. In recognition of the need for additional accessory structures on agricultural properties, Staff is proposing the following amendments:

- Added clarifying language to the agricultural building definition, requiring that it meet the definition set forth by State Statute 362B.103, below:
  - “Agricultural building” means a structure that is:
    - on agricultural land as determined by the governing assessor for the municipality or county under section 273.13, subdivision 23;
    - designed, constructed, and used to house farm implements, livestock, or agricultural products under section 273.13, subdivision 23; and
    - used by the owner, lessee, and sublessee of the building and members of their immediate families, their employees, and persons engaged in the pickup or delivery of agricultural products.
- Added a Note C to Table 9-3 which allows one additional accessory structure beyond the two permitted on properties of 10-40 acres in size provided the additional accessory structure is an agricultural building as defined in Section 154.213.
- Added a Note D to Table 9-3 which allows an unregulated amount of additional accessory structures beyond the two permitted on properties of over 40 acres in size provided the additional accessory structures are agricultural buildings as defined in Section 154.213.
- Removed language regarding additional accessory buildings allowed in the A and RR zones via conditional use permit.
- Clarified language excepting building height regulations for agricultural buildings, specifying they must meet the definition set forth in Section 154.213.

**Planning Commission Review.** The Planning Commission reviewed the proposed ordinance and held a public hearing at its meeting on April 23, 2018. The Planning Commission made one change to the ordinance, adding “ground-mount” to solar energy systems as they are exempted from the size and number requirements within residential districts. No one from the public spoke during the public hearing and no comments were received prior to the public hearing.

**FISCAL IMPACT:**

None.

**OPTIONS:**

The Council may:

- Adopt Ord. 08-211 as recommended by Staff and the Planning Commission.

- Make amendments to Ord. 08-211 and adopt as amended.
- Do not adopt Ord. 08-211

**RECOMMENDATION:**

Staff and the Planning Commission recommend that Council adopt Ord. 08-211 approving amendments to the accessory structure ordinance.

***“Move to adopt Ord. 08-210 approving amendments to the accessory structure ordinance exempting solar energy systems and storage or tool sheds from the size and number requirements in residential districts and specifying the definition of and allowances for agricultural buildings.”***

In addition, Staff would also recommend that Council adopt Resolution 2018-211 approving summary publication of Ord. 08-211.

***“Move to adopt Resolution 2018-055 authorizing summary publication of Ord. 08-210.”***

**ATTACHMENTS:**

- Ord. 08-211
- Summary Publication Resolution  
2018-055

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

**ORDINANCE NO. 08-211**

**AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES BY  
EXEMPTING SOLAR ENERGY SYSTEMS AND STORAGE OR TOOL SHEDS FROM  
THE SIZE AND NUMBER REQUIREMENTS IN RESIDENTIAL DISTRICTS AND  
SPECIFYING DEFINITION OF AND ALLOWANCES FOR AGRICULTURAL  
BUILDINGS**

**SECTION 1. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code; Article VII: General Regulations; Section 154.213: Accessory Bulidings and Structures, Generally; Subd. (B) and (G) by amending the following:**

B. Agricultural ~~Farm~~ Building. An accessory building means a structure that is on agricultural land as determined by the governing assessor of the City under section 273.13, subdivision 23 and meets all other requirements of State Statute 362B.103. ~~used or intended for use on an active commercial food-producing farm operation of more than 20 acres.~~ A Minnesota Pollution Control Agency permit may be required.

~~F. Storage or Tool Sheds. One storage or tool shed as defined in this section may be placed on any lot in addition to the permitted number of accessory buildings, provided it complies with the maximum area requirements of the zoning district, and a principal structure exists on the lot.~~

G. *Exempt Structures.* The following residential improvements shall be exempt from the maximum allowed structure size and number requirements in residential districts:

1. Unenclosed playhouses
2. Gazebos up to a total of 120 square feet in size and a maximum of twelve (12) feet in overall height
3. Detached decks over thirty (30) inches in height up to a total of 120 square feet in size
4. Outdoor swimming pools
5. Patios
6. Tennis and sport courts
7. Structures, sheds or coops up to a total of two hundred (200) square feet in size used to house permitted animals, such as chickens, horses, or other livestock. These structures must not exceed twelve (12) feet in height and must meet all required setbacks per MPCA guidelines and the City's animal ordinances.
8. Water oriented accessory structures as permitted in accordance with the City's Shoreland Ordinance.

9. Storage or Tool Sheds as defined in this section.

10. Ground-mount solar energy systems

**SECTION 2. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code; Article II; Section 154.406: Accessory Structures, Rural Districts; Subd. (A), (B), and (C) (12) by amending the following:**

**§ 154.406 ACCESSORY STRUCTURES, RURAL DISTRICTS.**

A. *Size and Number.* The maximum number and size of accessory buildings permitted in rural zoning districts are outlined in Table 9-3:

<b>Table 9-3: Accessory Buildings, Rural Zoning Districts Lot Size</b>	<b>Maximum Structure Size (square feet)</b>	<b>No. of Permitted Bldgs</b>
under 1 acre	1,200 <sup>b</sup>	1
1 - 2 acres	1,200	1
2 – 5 acres	1,300	1
5 – 10 acres	2,000	2
10-15 acres	2,500	2 <sup>c</sup>
15-20 acres	3,000	2 <sup>c</sup>
20-40 acres	4,000	2 <sup>c</sup>
40+ acres	Unregulated <sup>ed</sup>	Unregulated <sup>ed</sup>

Notes to Table 9-3

a. Maximum structure size accounts for the total maximum area allowed for all permitted accessory structures combined.

b. The 1,200 square foot allowance is for the combined area of the attached and detached accessory structure or residential garage.

c. ~~To be allowed~~ One agricultural building, as defined in §154.213, is allowed in addition to the permitted number of accessory structures. additional accessory buildings beyond two total buildings, the buildings must be agricultural buildings as defined in §154.213 or clearly serve an agricultural purpose in the judgment of the City.

d. Agricultural buildings, as defined in §154.213, are allowed in addition to two permitted accessory structures.

~~B. Additional Accessory Buildings. Allowances for additional accessory buildings in A and RR zones may be considered via a conditional use permit.~~

C. *Structure Height, Rural Districts.* No accessory building shall exceed twenty-two (22) feet in height or the height of the principal structure, with the exception of ~~buildings that are intended for a farming or other agricultural use in the judgment of the City~~ agricultural buildings, as defined in §154.213. Building projections or features on accessory structures that are not agricultural buildings, as defined in §154.213, such as chimneys, cupolas, and similar decorations that do not exceed twenty-five (25) feet in height are permitted in rural districts.

**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 08-210 was adopted on this \_\_\_\_\_ day of \_\_\_\_ 2018 by a vote of \_\_\_\_ Ayes and \_\_\_\_ Nays.

**LAKE ELMO CITY COUNCIL**

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

ATTEST:

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Julie Johnson, City Clerk

This Ordinance 08-211 was published on the \_\_\_\_ day of \_\_\_\_\_, 2018.

**CITY OF LAKE ELMO**

**RESOLUTION NO. 2018-055**

**RESOLUTION AUTHORIZING PUBLICATION OF  
ORDINANCE NO. 08- BY TITLE AND SUMMARY**

**WHEREAS**, the City Council of the city of Lake Elmo has adopted Ordinance No. 08-211, an ordinance amending the Lake Elmo City Code of Ordinances by amending the City's exempting solar energy systems from the size and number requirements in residential districts and specifying definition of and allowances for agricultural buildings; and

**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 Administrator shall cause the following summary of Ordinance No. 08-211 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 the following changes to Chapter 154: Zoning Code, Section 154.213:

- Amending definition of agricultural building to align with State Statute.
- Exempting storage or tool sheds and solar energy systems from the size and number requirements of residential districts.

**AND**

The City Council of the City of Lake Elmo has adopted the following changes to Section 154:

Zoning Code, Section 154.406:

- Allowing one agricultural building in addition to the maximum size and number allowed in rural districts on properties of 10-40 acres in size.
- Allowing an unregulated amount of agricultural buildings in addition to the maximum size and number allowed in rural districts on properties of 40 acres in size or more.
- Clarifying height regulations of agricultural buildings.

**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: May 15, 2018.

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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.