



## LARAMIE COUNTY PLANNING & DEVELOPMENT DEPARTMENT

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Planning • Building

### DEPARTMENT BULLETIN 23-001

**TO:** All Residents of Laramie County

**FROM:** Justin Arnold, Director

**DATE:** May 31, 2023

**TITLE:** MEMORANDUM regarding the Department’s interpretation of LCLUR § 2-1-104(c)(i) and the definition of “public water/sewer system” therein, and the Department’s interpretation on minimum lot sizes in the subdivision of land situated in County jurisdiction based on the codification of the AMEC Memo dated January 31, 2014

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The Laramie County Comprehensive Plan (“Plan”), adopted in 2016, gave the County a general roadmap for its plans for future development and land use. “The Community’s Vision is expressed through the stated goals and guiding principles. These goals and guiding principles form the yardstick against which future regulations and public programs shall be measured. Goals provide a guide for decision-making, not only in development review, but throughout all sectors of local government.” (Plan, p. 9).

More pertinent, the Plan gives us goals and guiding principles for the usage of water resources in the County. For example, the Plan outlines a guiding principle of “[d]evelop[ing] County policies and regulations that promote water conservation in commercial and residential development.” (Plan, p. 47). It also gives the County the guiding principle of “[w]ork[ing] with developers to identify the impacts of future residential developments upon the availability of water, sewer, road maintenance, emergency response, and schools. Encourage developments that lessen the identified impacts.” (Plan, p. 64).

Furthermore, the Plan’s Future Land Use Designations are also specifically water-conscious in their design. The Urban Rural Interface (URI) designation, in which a recent proposed development action is located, specifically states that “[t]hese areas may have public water and sewer services,” and that “any extension of [public water and sewer] services should be encouraged with any development in the URI.” The Rural Metro (RM) area contemplates “small... shared water and septic and/or sewer systems.” (Plan, p. 65). The Rural Ag Interface (RAI) area dictates that “[d]ensity of uses shall be foremost based on availability and access to water.” (Plan, p. 65). Finally, the Ag and Range Land (AGR) area requires that “[a]ny new development in this area shall address water availability...” (Plan, p. 66).

Water availability is the very first thing to be addressed in the development of the Ag and Range Land Area. The Plan overall commands water availability and usage as the first question to address in *any* new development.

As discussed in the Plan via Section 3.1.1 (pp. 31-34), the State Engineer's Office has become increasingly concerned with groundwater decline within the County that took place from 2000 to 2009, and in response the State Engineer's Office adopted well spacing requirements in the Laramie County Control Area. It also contracted the engineering firm AMEC to conduct a hydrologic study of the Control Area. The study was completed in early 2014 and was published by the State Engineer on March 31 of the same year. Prior to its publishing, AMEC produced a summary memorandum of the study, which became known in the Laramie County Land Use Regulations ("LCLUR") as the AMEC Memo ("Memo").

In the Memo, AMEC detailed the recommended minimum residential lot sizes for Laramie County based upon the groundwater usage modeling undertaken in a general study of groundwater recharge rates throughout the County. Specifically, AMEC outlined four (4) different Zones in which the majority of County parcels were situated. The Zones are categorized by the recommended minimum lot sizes to recharge the aquifer, based upon the daily domestic water usage by a family of four, in the area on which the land in question lies. The Memo has been available on the Planning & Development Department's ("Department") website ([here](#)) since at least 2015, the same year of the last major revision to the LCLUR.

As discussed in the Memo, and the Study which the Memo interpreted, the basis for the minimum lot size recommendations is to further the goal of conservation of groundwater within rural areas of the County. The continual drilling of well systems in the aggregate to smaller and smaller lot sizes, by its nature, depletes the aquifer, leaving less water and requiring the drilling of deeper and deeper wells downstream. This issue is particularly acute in the eastern areas of the County, where AMEC recommended minimum lot sizes of no less than 248 acres in some areas to appropriately recharge the aquifer.

The County has codified the recommendations of the Memo in the Laramie County Land Use Regulations in two places: Section 2-1-104(c)(i), regarding General Standards in the Development Design Standards for the subdividing of land, which reads:

Lot size shall be determined by the requirements of the applicable zone district where zoning exists, and/or by the minimum density designations found in the AMEC Memo dated January 31, 2014, and within Zones 2 and 4 to be 5.25 acres gross, whichever is larger. The minimum may be averaged over the ownership parcel in zones 1 and 3. The width, depth, and shape of the lot shall be determined by the proposed use of the site, existing natural features, and all applicable requirements of the Laramie County Land Use Regulations. The AMEC memo does not apply to projects within a public water/sewer system.

And in section 4-2-114(c)(i), regarding minimum lot sizes in the LU – Land Use Zone District, which reads:

Density – minimum lot size

- i. Area Covered by AMEC memo January 31, 2014:  
Within zones 2 and 4, lot size is to be 5.25 acres gross, whichever is larger. The minimum lot size may be averaged over the ownership parcel in zones 1 and 3;

The purpose of this Bulletin, having had extensive discussions with the County Attorney's office, is the Department's interpretation that these sections as written do not grant the Department, the Planning Commission, or the Board of County Commissioners any discretion to approve lot sizes below the minimum acreage as outlined in the Memo. Rather, these sections set a hard floor for lot sizes in the subdivision of land, which is either the minimum lot size for the Zone District in which the parcel in question is situated, or (if the parcel in question is in AMEC Zones 2 or 4) 5.25 acres, whichever is larger. Functionally, this means that the vast majority of land situated in the County which is proposed to be subdivided may not be subdivided below 5.25 acres, unless the project is to connect to a "public water/sewer system." More specifically, it allows the exception for those "within" a public water/sewer system. Land situated in Zones 1 and 3 are subject to even higher minimum lot sizes because, according to the Memo, these zones cannot recharge the aquifer for a family of four persons on 5.25 acres at a rate that could be achieved in Zones 2 and 4.

Again, having had extensive discussions with the County Attorney's office regarding the meaning of "public water/sewer system" as used in LCLUR § 2-1-104(c)(i) and throughout the regulations more generally, it is the Department's position that "public water/sewer system" can only be defined as requiring connection to an *existing*, traditionally regulated public utility such as the Cheyenne Board of Public Utilities, or the South Cheyenne Water and Sewer District. The Department understands that the effect of this interpretation bars any subdivision of land below the acreage as set forth in the Memo unless the proposals connect their project to an existing public utility for water and sewer.

These interpretations are not only in line with the general purpose of the LCLUR in its goal of promoting the minimizing of the impact of development on water resources and promoting the general health, safety and general welfare of the County (LCLUR 1-1-100), but they are also in line with the goals and guiding principles of the Laramie County Comprehensive Plan and the Memo.

There are some who have argued to the Department that these interpretations do not fulfill the intent of the AMEC Study published by the State Engineer's Office, which in more detail approached the issue of recharge rates in the County than did the Memo. This argument is of no consequence, because the County chose to codify the results of the Memo in the LCLUR.

The Department is tasked as the administrative arm of the Planning Commission with enforcing the law, not making policy. As such, it is the Department's belief that it cannot interpret the regulations in such a way that allows for discretion on this issue, because to do so would constitute a policy decision that the Department is not tasked with making. Even if members of the Department did personally sympathize with the position that codification of the Memo without much context constituted a bit of a blunt instrument, that does not change the lack of discretion in a legal sense.

The Department understands that this Bulletin will not represent particularly welcome news for some, particularly those in the development sector who may wish to see subdivisions of land below the regulations. The Department, however, reminds members of the public that, pursuant to LCLUR § 1-1-107, "*Anyone* may originate a proposal for a text amendment to this regulation... [and] [a]ll proposals shall be referred to the Planning Commission for a public hearing. Any changes to the Regulation shall be conducted in conformance with W.S. 16-3-103."

Any questions regarding the above may be directed to the Department at [planning@laramiecountywy.gov](mailto:planning@laramiecountywy.gov), or by calling the Department at 307-633-4303.