## MINOR CHANGE FROM PREVIOUS READING

# CITY OF WEST DES MOINES
# CITY COUNCIL MEETING COMMUNICATION

**Date: May 6, 2019**

**ITEM:** Amendment to City Code Title 9 (Zoning), Chapter 5 (Agricultural/Open Space and Residential Zoning District) and Chapter 10 (Performance Standards) - Amend city code to modify garage requirements and establish a waiver process for single-family detached dwellings – City Initiated (AO-004123-2018)

**ORDINANCE: Approval of Third Reading and Adopt in Final Form**

**FINANCIAL IMPACT:** Undetermined.

**BACKGROUND:** At the end of 2018, Development Services Staff brought forward an amendment to eliminate the garage requirement for single-family detached dwellings and multi-family dwellings under a condominium regime. The Plan and Zoning Commission unanimously approved the amendment at the November 19, 2018 meeting. By a 3-2 vote, the City Council approved the first reading of the ordinance amendment but opted at the second reading to keep the garage requirement for single-family detached and establish waiver criteria to apply in situations in which the home is intended for individuals or households at or below 80% AMI. Therefore, staff is requesting an amendment to the following in Title 9, Zoning to address garages for single-family detached dwellings with a waiver option for when specific provisions are met:

- Chapter 5, *Agricultural/Open Space and Residential Zoning District*; Section 4, *Specific Use Regulations*, Subsection E-4;
- Chapter 5, *Agricultural/Open Space and Residential Zoning District*; Section 7, *Building Form Regulations and Zoning District Compatibility for Residential Districts*, Subsections B-1-c;
- Chapter 10, *Performance Standards*, Section 4, *Special Use Regulations*, Subsection B of City Code

Previous Council Actions:
**First Reading:**
Vote: 4-1 approval
Date: April 1, 2019
Motion: Approval of the First Reading of the Ordinance.

**Second Reading:**
Vote: 4-1 approval
Date: April 15, 2019
Motion: Approval of the Second Reading of the Ordinance.

**PREVIOUS COUNCIL DISCUSSION:** At the April 1 and April 15, 2019 meetings, the proposed ordinance amendment was approved by a 4-1 vote with Council Member Trevillyan voting against as it was his preference that there should be no requirement for a garage with single-family detached dwellings. The one outstanding issue presented in the April 1, 2019 staff report was the duration of a deed restriction for the property. The Plan and Zoning Commission believed that the deed restriction should be no greater than one-year. Given that the intent of the waiver process is to allow individuals/households at 80% or less AMI to be able to afford a single-family home, staff did not believe that a 1-year restriction was enough of a deterrent from individuals quickly flipping the home at a price point that is above the 80% AMI. At the April 15th Development and Planning Subcommittee meeting, a 5-year deed restriction was recommended with a 100% payback of the $20,000 garage value (increased accordingly pursuant to Engineering News Record cost index) if the home was sold to an individual/household above 80% AMI in the 5-year period. It was indicated that the 5-year deed restriction would begin anew with the home sale to another individual/household within the 5-year timeframe. However, if the home remained under ownership of an individual/household at or below 80% AMI, there would be no further obligation to sell to an individual/family at or below 80% AMI: the home without a garage would be considered grandfathered. The City Council agreed with the 5-year deed restriction. At the April 15th City Council meeting,

discussion continued regarding the potential conflict of requiring all new single-family residential construction, other than residential construction subject to the AMI waiver, to include a garage, but allowing existing non-conforming single-family homes, including a home in which the garage was declared a public nuisance and removed, to be grandfathered. The amendment to the ordinance being considered provides that these properties are grandfathered.

**OUTSTANDING ISSUES:** Further work will need to be done to finalize the specific terms and conditions of the deed restriction. In addition, unless the City Council determines otherwise, approval of the proposed ordinance will allow existing single-family residential properties, including a property in which the garage has been declared a public nuisance and removed, to be grandfathered.

**RECOMMENDATION:** Based upon the preceding review and a finding of consistency with the goals and policies of the Comprehensive Plan, staff recommends the City Council approve the third reading and adopt the Ordinance in final form to modify garage requirements and establish a waiver process for single-family detached dwellings, subject to meeting all City Code requirements.

Lead Staff Member: Lynne Twedt

**Staff Reviews:**

| | |
|---|---|
| Department Director | |
| Appropriations/Finance | |
| Legal | |
| Agenda Acceptance | |

**PUBLICATION(S) (if applicable)**

| | | |
|---|---|---|
| Published In | Des Moines Register Community Section | |
| Date(s) Published | March 1, 2019 | |
| Letter sent to surrounding property owners | | n/a |

**SUBCOMMITTEE REVIEW (if applicable)**

| | | | |
|---|---|---|---|
| Committee | Development & Planning | | |
| Date Reviewed | February 4, 2019 & April 15, 2019 | | |
| Recommendation | Yes ☒ | No ☐ | Split ☐ |

ATTACHMENTS:

Exhibit I - Proposed Ordinance

**EXHIBIT I**

Prepared by: L. Twedt, West Des Moines Development Services, PO Box 65320, West Des Moines, IA 50265, 515-222-3620
When Recorded, Return to: City Clerk, City of West Des Moines, PO Box 65320, West Des Moines, IA 50265-0320

**ORDINANCE NO.**

**AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA 2019 BY AMENDING TITLE 9 (ZONING), CHAPTER 5 (AGRICULTURAL/OPEN SPACE AND RESIDENTIAL ZONING DISTRICT) AND CHAPTER 10 (PERFORMANCE STANDARDS) TO MODIFY GARAGE REQUIREMENTS AND ESTABLISH A WAIVER PROCESS FOR SINGLE-FAMILY DETACHED DWELLINGS**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:**

**Section 1. Amendment.** Title 9 (*Zoning*), Chapter 5 (*Agricultural/Open Space and Residential Zoning District*), Section 4 (*Specific Use Regulations*), Subsection E-4 is hereby amended by deleting the highlighted strikethrough text and adding the bolded italicized text and renumbering as necessary:

4. Tiny Home: Is to be used as a place for long term residential occupancy: greater than one hundred eighty (180) consecutive days in any calendar year.

a. Use matrix:

| Zoning | OS | RE | RS | R-1 | SF-CR | SF-VJ | MH | RM | RH | VJHB |
|---|---|---|---|---|---|---|---|---|---|---|
| Tiny home | P | P | P | P | P | P | P | | | |
| Second dwelling unit | P | P | Pc | Pc | | | | | | |

b. Parking and drives:

~~(1) Must meet the specific use regulations for residential districts related to enclosed garage space (subsection 9-10-4B of this title).~~

(2) Must meet the off-street parking regulations for single-family detached dwellings (chapter 15 of this title).

***c. A minimum ten-foot by ten-foot (10'x10') storage shed or twenty-foot by fourteen-foot (20'x14') garage shall be provided within the property upon which the home is located for exclusive use by the occupants of the Tiny Home. Existence of the shed or garage shall be verified by the Development Services Director or designee prior to release of the electric meter for the Tiny Home.***

**Section 2. Amendment.** Title 9 (*Zoning*), Chapter 5 (*Agricultural/Open Space and Residential Zoning District*), Section 7 (*Building Form Regulations and Zoning District Compatibility for Residential Districts*), Subsection B-1-c is hereby amended by deleting the highlighted strikethrough text and adding the bolded italicized text:

B. Building Type:

1. Single-Family Detached (SF-D):

a. Unit Arrangements: One unit, no attachment

b. Property Regime: Ownership of unit structure and real property. May have common property providing stormwater management or buffering requirements. Maintenance and management may be provided by an association.

c. Garages: Minimum of ~~one and one-half (11/2) car~~ ***twenty-foot by fourteen-foot (20'x14')*** garage required (attached or detached) ***unless all waiver provisions as stated in Chapter 10, Section 4 within this title are adhered to and a waiver is granted by the City.***

**Section 3. Amendment.** Title 9 (*Zoning*), Chapter 10 (*Performance Standards*), Section 4 (*Special Use Regulations*) Subsection B is hereby amended by deleting the highlighted strikethrough text and adding the bolded italicized text and renumbering as necessary:

B. The Following Standards Shall Apply to All Residential Districts:

1. For the purpose of this subsection an "enclosed parking space" or reference to a "garage" shall mean a covered space fully surrounded by walls, including windows, doors and similar openings or architectural features.

2. ***Except for Tiny Homes as defined in Chapter 2 within this title, and unless a waiver is granted by the City,*** ~~For~~ ***for*** any detached single-family residential dwelling, a minimum of one enclosed garage parking space shall be required for the use. This garage may be attached or detached but shall be of a minimum twenty foot by fourteen-foot (20' x 14') size to accommodate one vehicle and additional storage.

   a. ***A waiver from the garage requirement may be authorized by the Director of Development Services or designee if consistent with all of the following:***
      ***(1) The dwelling structure does not exceed 1,600 square feet in size.***
      ***(2) The home is owned and occupied by an individual or household with an annual gross income (as defined in 24 CFR Part 5 – General HUD Program Requirements; Waivers) at or below 80% the Area Median Income (AMI), with the income limit adjusted for household size in accordance with the methodology of the HUD standard. Proof of owner/occupant income will need to be verified by the City prior to issuance of an Occupancy (temporary or final) Permit for the dwelling.***
      ***(3) A minimum ten-foot by ten-foot (10'x10') detached shed is provided within the rear yard of the subject property, or a minimum one-hundred (100) square foot indoor area dedicated to storage is constructed on or within the back of the home, accessed directly from the exterior and includes a minimum four foot (4') wide access door.***
      ***(4) A minimum fifteen-foot (15') side yard setback, as measured to the closest element of the home, excluding roof overhangs is provided on one side of the dwelling structure with the other side yard setback meeting the minimum required distance for the designated zoning district. If the property can be accessed from an existing alley, minimum side yard setbacks shall be provided as stated in city code for the respective zoning district.***
      ***(5) Off-street parking stalls as required per title 9, chapter 15 of city code are provided within the subject property.***
      ***(6) A deed restriction is recorded against the property establishing a retention period in which the home must be occupied by an individual or household at or below 80% AMI. The home may not be owned or rented to an individual or household that is not at or below the 80% AMI. In the event the home is sold or rented to an individual or***

***household above 80% AMI, the value of the waiver as specified per the agreement shall be repaid to the lender according to terms outlined in the agreement.***

***b. A minimum ten-foot by ten-foot (10'x10') storage shed or twenty-foot by fourteen-foot (20'x14') garage shall be provided within the property upon which the Tiny Home is located for exclusive use by the occupants of the Tiny Home. Existence of the shed or garage shall be verified by the Development Services Director or designee prior to release of the electric meter for the Tiny Home.***

***c. All single-family residential properties which currently have a dwelling structure, but no garage as of May 6, 2019 shall be considered grandfathered and are not required to implement a garage or shed/structure for storage.***

***d. Any property which at the direction of the City which is required to remove an existing garage due to safety concerns, shall not be required to construct a new garage or shed/structure for storage.***

4. ~~Any existing detached single-family residence shall be required to comply with the enclosed garage space if the residence is proposed to be remodeled, enlarged, expanded or modified and the cumulative value of the alterations of the structure since the adoption date hereof exceeds fifty percent (50%) of the current valuation of the structure.~~

   ~~For the purpose of determining the valuation of the building, the current assessor's tax roll shall be used. The valuation shall be measured on a cumulative basis for all alterations made since the adoption date hereof rather than evaluating each alteration independently against the current valuation.~~

5. Any existing detached single-family residence which is damaged or destroyed by catastrophe or act of God to the extent equaling fifty percent (50%) or more of its total assessed value, shall be exempt from the provisions of this Code regarding the garage requirement as a part of the reconstruction of the damage to the residential structure due to the catastrophe or act of God.

6. ~~Any existing single-family attached dwelling which has not previously been operated as owner occupied and intends to convert to an owner-occupied program shall be required to comply with the provisions of this subsection.~~

7. For single family zoning districts in or adjacent to ***residentially*** developed areas, buildings should be designed to be consistent with its surrounding architectural context or historic character of the area with comparable architectural design, materials and details, including building mass and roof slope.

**Section 4. Repealer.** All ordinances or parts of ordinances in conflict with the provision of this ordinance are hereby repealed.

**Section 5. Savings Clause.** If any section, provision, sentence, clause, phrase or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any provision, section, subsection, sentence, clause, phrase or part hereof not adjudged invalid or unconstitutional.

**Section 6. Violations and Penalties.** Any person who violates the provisions of this Ordinance upon conviction shall be punished as set forth in Title 1, Chapter 4, Sections 1 and 2 of the City Code of the City of West Des Moines, Iowa.

**Section 7. Other Remedies.** In addition to the provisions set out in the Violations and Penalties Section herein, the City may proceed in law or equity against any person, firm or corporation for violation of any section or subsection of this Ordinance.

**Section 8. Effective Date.** This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Passed by the City Council on the 6th day of May 2019 and approved this 6th day of May 2019.

_____
Steven K. Gaer, Mayor

ATTEST:

_____
Ryan T Jacobson
City Clerk

The foregoing Ordinance No. _____ was adopted by the Council for the City of West Des Moines, Iowa, on May 6, 2019, and was published in the Des Moines Register on _____, 2019.

_____
Ryan T. Jacobson
City Clerk