

**CITY OF WEST DES MOINES
PLAN AND ZONING COMMISSION**

Meeting Date: September 23, 2019

Item: Amendment to City Code, Title 9 (Zoning), Chapter 7 (Setback and Bulk Density Regulations) to update regulations pertaining to rear yard setback requirements for accessory structures in residential zoning districts – City Initiated (AO-003581-2017)

Request Action: Recommend Approval of an Amendment to City Code

Case Advisor: Linda Schemmel, AIA 

Applicant's Request: The City of West Des Moines requests an amendment to the following in Title 9 (Zoning) to update regulations pertaining to rear yard setback requirements for accessory structures in residential zoning districts. (See Attachment A, Exhibit A – Proposed Ordinance):

- Chapter 7 *Setback and Bulk Density Regulations*
 - Section 4 *Setback and Bulk Density Regulations*, Subsection C9

City Council Subcommittee: This item was presented to the Development and Planning City Council Subcommittee at their September 3, 2019 meeting. The Subcommittee was supportive of the amendment.

Staff Review and Comment: There are no outstanding issues. Staff summarizes the following key points of interest:

Background: As part of a recent ordinance amendment to building setbacks, separation and bulk regulations (AO-003581-2017, approved by the Commission on February 25, 2019), the required rear and side yard setback for attached accessory structures were changed to the more stringent principal building setback. This change was in response to the current trend to cover decks with a roof, and while open air initially, staff has been fielding numerous inquiries in respect to enclosing the deck into 3 or 4-season rooms, thus becoming an extension of the living area of the home or primary structure. Previously decks (open-air) were allowed to be as close as 5' to a side yard and as close as 20' to the rear property line; however, if built to these standards and then enclosed, they are out of compliance with code as they must meet the setbacks of the primary structure - minimum 7 or 8' side yards and 35' rear yard setbacks. A variance would generally not be granted as the desire to enclose is a want and not a need or hardship. Since the code amendment was adopted, several of residential builders have raised concerns that this change will not allow them to build a house of typical desired size with a covered deck on some existing platted single-family lots.

Setbacks are generally intended to mitigate the building mass from being imposing on an adjoining property and to ensure a property owner has an area for outdoor living, rather than covering the lot with structures and having no outdoor space. With this in mind, staff is comfortable returning to a 20' rear yard setback, believing it is deep enough to provide a useable backyard and resolving the potential issue with existing platted lots. However, staff believes there is a benefit to keeping the side yard setback for accessory structures at the principal building setback as side yards are in closer proximity to the adjacent neighbors.

Noticing Information: On September 17, 2019, notice of the September 23, 2019, Plan and Zoning Commission and October 7, 2019 City Council public hearings for this project was published in the *Des Moines Register*.

Staff Recommendation and Conditions of Approval: Staff recommends the Plan & Zoning Commission approve a resolution recommending to the City Council approval of the ordinance amendment.

Attachments:

Attachment A – Plan and Zoning Commission Resolution
Exhibit A – Proposed Ordinance

RESOLUTION NO. PZC-19-063

A RESOLUTION OF THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES, RECOMMENDING TO THE CITY COUNCIL THAT IT APPROVE AN ORDINANCE TO AMEND TITLE 9 (ZONING), CHAPTER 7 (SETBACK AND BULK DENSITY REGULATIONS) TO UPDATE REGULATIONS PERTAINING TO REAR YARD SETBACK REQUIREMENTS FOR ACCESSORY STRUCTURES IN RESIDENTIAL ZONING DISTRICTS.

WHEREAS, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, staff requests an amendment to Title 9 *Zoning*, Chapter 7 *Building Form Regulations and Zoning District Compatibility for Residential Districts*, Subsection C9 to update regulations pertaining to rear yard setback requirements for accessory structures in residential zoning districts;

WHEREAS, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference;

WHEREAS, this Commission held a duly-noticed hearing to consider the application for an amendment to ordinance;

WHEREAS, this Commission did consider the application for an amendment to ordinance;

NOW, THEREFORE, THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:

SECTION 1. The findings for approval in the staff report or as amended orally at the Plan and Zoning Commission public hearing are adopted.

SECTION 2. The AMENDMENT TO ORDINANCE (AO-003581-2017) is recommended to the City Council for approval, as stated in the staff report or as amended in the attached Exhibit A

PASSED AND ADOPTED on September 23, 2019.

Erica Andersen, Chairperson
Plan and Zoning Commission

ATTEST:

Recording Secretary

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Plan and Zoning Commission of the City of West Des Moines, Iowa, at a regular meeting held on September 23, 2019, by the following vote:

AYES:

NAYS:

ABSTENTIONS:

ABSENT:

ATTEST:

Recording Secretary

Prepared by: L. Schemmel, 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 7 (SETBACK AND BULK DENSITY REGULATIONS) TO UPDATE REGULATIONS PERTAINING TO REAR YARD SETBACK REQUIREMENTS FOR ACCESSORY STRUCTURES IN RESIDENTIAL ZONING DISTRICTS.

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

Section 1. Amendment. Title 9 (*Zoning*), Chapter 7 (*Setback and Bulk Density Regulations*), Section 4 (*Setback and Density Regulations*), Subsection C9 is hereby amended by deleting the highlighted strike-thru text and adding the bold italic text:

9. Bulk Regulations, Minimum Setbacks and Building Separations for Accessory Buildings and Structures in Residential Districts:
 - a. See Chapter 14 of this Title (Accessory Structures) for additional standards and construction requirements for accessory buildings and structures.
 - b. Accessory buildings and structures that meet the minimum separation distance from the principal building are considered detached accessory structures. In such case, the detached accessory structure must meet the setback requirements as noted in Table 7.5 below.
 - c. Accessory structures that do not meet the minimum separation from the principal structure are considered part of the principal structure, no matter if they are physically separate from the principal structure. In such case, the accessory structure must meet the setback requirements ~~for a principal structure except~~ as noted below.
 - (1) Accessory structures (other than fences and walls) that do not exceed thirty inches (30") in height as measured from grade to the highest element and any railing or trellis designed to be open 50% or more may follow the detached accessory structure setbacks, no matter their proximity to the principal structure.
 - (2) ***Accessory structures that are considered part of the principal structure and which exceed thirty inches (30") in height must be setback a minimum of twenty feet (20') from the rear property line(s) and must meet the pertinent side and front yard setback of the principal structure.***

- d. See Chapter 10 of this Title (Performance Standards), Section 4 (Specific Use Regulations) for additional separation requirements for accessory structures that will house animals.
- e. Accessory structures cannot encroach into any buffer area or perimeter setback.
- f. In a footprint development, detached accessory structures and fences are not allowed within footprint lots and are only allowed for development use on common property.
- g. Accessory buildings over one-thousand square feet (1,000 sf), which are only permitted in Residential Estate and Open Space zoning, shall meet the minimum front yard setback of their respective zoning district and be setback a minimum of twenty feet (20') from the side and rear property lines.
- h. Accessory buildings over one-thousand, five hundred square feet (1,500 sf) in multi-family residential districts must meet primary building setbacks and separations including setbacks adjusted for primary building height.

Section 2. Repealer. All ordinances or parts of ordinances in conflict with the provision of this ordinance are hereby repealed.

Section 3. 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 4. 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 5. 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 6. 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 _____ day of _____, 2019, and approved this _____ day of _____, 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 _____, 2019, and was published in the Des Moines Register on _____, 2019.

Ryan T. Jacobson
City Clerk