

**Community Planning and Economic Development Planning Division Report
Zoning Code Text Amendment**

Date: November 28, 2005

Initiator of Amendment: Council Member Schiff

Date of Introduction at City Council: October 21, 2005

Specific Site: Citywide

Ward: Citywide **Neighborhood Organization:** Citywide

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Intent of the Ordinance: To revise the size and type of obstructions allowed in required yards for residential uses, and to clarify language in the ordinance to prevent misinterpretation and thereby uphold consistent application of the zoning code.

Appropriate Section(s) of the Zoning Code: Chapter 535, Article III. Yard Controls

Background: Yard controls are established to provide for the orderly development and use of land and to minimize conflicts among land uses by regulating the dimension and use of yards in order to provide adequate light, air, open space and separation of uses.

Yards are required to remain open unless an obstruction is permitted. Permitted obstructions in required yards are accessory uses and structures and projections of the principal structure allowed by section 535.280. They are limited in size and placement and are only allowed for residential uses with the exception of fencing.

Purpose for the Amendment:

What is the reason for the amendment?

What problem is the Amendment designed to solve?

What public purpose will be served by the amendment?

What problems might the amendment create?

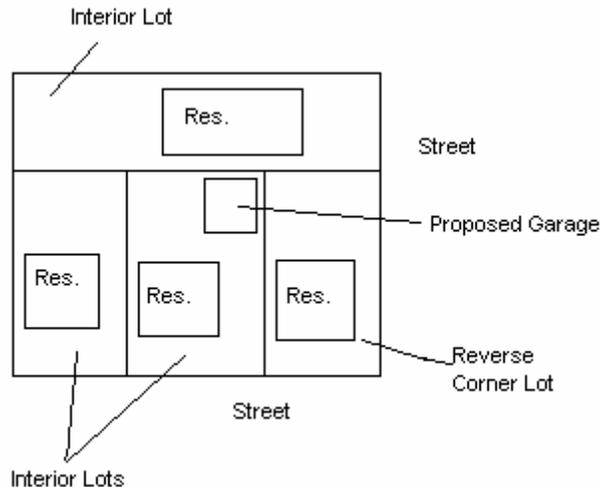
The general purpose of the amendment is to revise the size and type of obstructions allowed in required yards for residential uses, to clarify the language pertaining to this section of the ordinance, and to codify interpretations of the zoning administrator and policies of the Development Services office.

The proposed amendment would affect the following obstructions:

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Accessory buildings: The current policy of the Development Services office is to require the eave edge, including gutters, of an accessory building to be set back a minimum six inches from an interior side or rear property line. The policy is enforced to prevent direct stormwater run-off onto adjacent properties. Proposed language in sections 535.280 (d) and (e) would serve to codify this policy.

Accessory buildings in rear yards: The zoning administrator determined that the minimum side yard requirement applies to an accessory building where the rear lot line of a property abuts the interior side yard of an adjacent property. Further, it cannot not be reduced below the minimum requirement unless the accessory structure is located behind the adjacent principal structure to the rear. This interpretation was based on the intent of sections 535.280 (d) and (g), which is to prevent the construction of accessory buildings next to dwellings on adjacent properties. The example below illustrates when this situation could occur. Because the interpretation affects only rear yards, a separate sub-section, 535.280 (e), was added.



Accessory buildings on reverse corner lots: Reverse corner lots are required to provide a front yard along each lot line that abuts a street. A front yard is either the district requirement or the established setback as determined by the placement of the adjacent principal residential structure, whichever is greater. Two-thirds of the required front yard on the adjacent property to the rear could be 10, 13.3, 16.7 feet or greater depending on the established setback of the adjacent residence. The zoning administrator determined that only the yard requirements specified in the yard requirements table of the district applied to section 535.280(e). The intent of the ordinance is to allow an accessory building to be constructed on a reverse corner lot without obtaining a variance to reduce the minimum corner side yard. Applying a setback requirement that is two-thirds of the established setback often results in a yard requirement that would not allow a functionally-sized garage. Language that reflects the zoning administrator's interpretation was added.

Balconies, decks, ground level patios, bay windows, and vestibules: The Permitted Obstructions in Required Yards table currently uses varying language to limit the size of

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obstructions. Inconsistency in language has resulted in different interpretations of the ordinance, such as interpreting an ordinance to mean the portion of the obstruction within the yard could not exceed a certain size instead of the whole obstruction being limited to a certain size. The language “not exceeding X square feet in area” was inserted into the sections of the table addressing balconies, decks, ground level patios, bay windows, and vestibules obstructions to address this issue. As a result, the language would be consistent throughout the table. Also, the proposed language would clarify that the total area of the obstruction can not exceed a certain size.

Balconies, decks and ground level patios: The existing ordinance language “provided such balcony, deck or ground level patio... shall be located no closer than ten (10) feet from the interior lot line” was intended to apply to multi-story buildings with a required interior side yard requirement greater than 10 feet. However, the intent is not clear in the ordinance. Language was added to clarify the intent. Also, this obstruction was removed as a permitted obstruction in the interior side yard column because of the specific language in the table. This is consistent with how air-conditioning systems, heating, ventilating, and filtering equipment are allowed in corner side yards.

Eaves: The language for eaves would be amended to allow eaves for any structure, including those that have already applied for a yard reduction variance, to project into a yard. All eaves on a principal structure must still maintain a one foot setback.

Egress window wells: The permitted obstructions table does not currently recognize egress window wells as an obstruction. The policy of the Development Services office is to allow egress window wells as an obstruction as long as the window well is located one foot from the interior side property line. The building code regulates the minimum size requirements. At a minimum, the depth and width of a window well must be three feet. As an obstruction in a required yard, a limitation on size is appropriate. For window wells in the interior side yard, a two foot setback would help to maintain a clear and unobstructed walking area from the front to the rear of a dwelling without encroaching onto the adjacent property. If a larger setback were required, residential structures that are located five feet from the side property line and comply with a five foot required yard setback would not be able to have a window well as an obstruction.

Fences and pergolas: The zoning administrator has determined that a trellis¹ is a fence². A pergola³ can be similar to a trellis, but is more like a building⁴. The main difference

¹ The Minneapolis Code of Ordinances does not include a definition for a trellis. *The American Heritage® Dictionary of the English Language, Fourth Edition* defines a trellis as “a structure of open latticework, especially one used as a support for vines and other creeping plants.”

² The zoning code definition of a fence is defined as “a structure providing enclosure or screening, but not protection against the elements, erected to provide privacy or security which defines a private space and enhances the design of individual sites.”

³ The Minneapolis Code of Ordinances does not include a definition for pergolas. *The American Heritage® Dictionary of the English Language, Fourth Edition* defines a pergola as “an arbor or a passageway of columns supporting a roof of trelliswork on which climbing plants are trained to grow.”

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between a pergola and a trellis is the presence of a roof⁵. The use of each of these terms has been included to distinguish the difference between the two structures in the code. The permitted obstructions table does not currently recognize pergolas as an obstruction. Pergolas would be subject to section 535.280 (d) and (e), which are specific to accessory *buildings* to exclude structures such as antennas. Because a pergola is a structure and similar in form to a detached accessory structure, it should be subject to the provisions of Chapter 537 and section 535.280 (d) and (e).

Open porches for a single or two family dwelling: The zoning administrator has determined that a porch cannot exceed a depth of six feet if it projects into a required front or corner side yard at any point. The proposed language would clarify the intent. An increase in depth is also proposed. The purpose of allowing porches as an obstruction is to support active uses between a dwelling and a public street. The zoning office has received many requests for porches that exceed six feet in depth, but project a few feet into the required front yard. Applicants often argue that a porch limited to six feet in depth does not function well for outdoor living. The applicant either had to reduce the depth of the porch or apply for a variance. Since January of 2004, fourteen variances were processed to increase the maximum depth of an open porch in a front or corner side yard (see attached). Of those variances, five would not need a variance if this ordinance is adopted. That number would likely have been greater with the option for an eight foot porch without a variance.

Retaining walls: The permitted obstructions table does not currently recognize retaining walls that retain natural grade as an obstruction. The proposed language would clarify when they are or are not a fence. Where the natural grade is altered, a retaining wall is included in the total height of a fence.

The amendments affecting the size and type of obstructions allowed in required yards will allow a few additional and/or larger obstructions of a restricted nature for residential uses that are proposed by residents and developers on a daily basis. The amendment would also clarify language in the ordinance to prevent misinterpretation and thereby improve consistent application and enforcement of the zoning code.

Staff is not aware of any problems that the amendment would create.

Timeliness:

Is the amendment timely?

⁴ The zoning code definition of a building is “any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind.”

⁵ The Minneapolis Code of Ordinances does not include a definition for roof. *The American Heritage® Dictionary of the English Language, Fourth Edition* defines a roof as “the exterior surface and its supporting structures on the top of a building.”

**Is the amendment consistent with practices in surrounding areas?
Are there consequences in denying this amendment?**

Minimum yard requirements are enforced on a daily basis. This amendment is part of the continual process of updating the zoning ordinance. In general, surrounding communities have zoning codes that enforce minimum yard requirements. If the amendment is denied, the ordinance would not be in keeping with the interpretations of the zoning administrator and policies of the Development Services office. Also, proposed open porches greater than six feet in depth on single or two family dwellings may continue to require a variance in order to project into a front or corner side yard.

Comprehensive Plan:

How will this amendment implement the Comprehensive Plan?

The following policies of the comprehensive plan apply:

9.8 Minneapolis will maintain and strengthen the character of the city's various residential areas.

Applicable Implementation Steps

Create traditional setbacks, orientations, pattern, height and scale of dwellings in areas where no clear architectural pattern exists.

9.18 Minneapolis will establish land use regulations, in order to achieve the highest possible development standards, enhance the environment, promote flexibility in approaches and otherwise carry out the comprehensive plan.

The proposed amendments would affect residential uses and would likely encourage traditional setbacks. Authorizing obstructions in permitted yards also allows flexibility in the ordinance to integrate old and new dwellings in established residential areas.

Recommendation of The Community Planning and Economic Development--Planning Division:

The Community Planning and Economic Development Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **approve** the zoning code text amendment affecting obstructions allowed in required yards.