

## MEMORANDUM

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*To:* City Planning Commission, Committee of the Whole  
*Prepared By:* Andrew Liska, Sr. City Planner, (612) 673-2264  
*Date:* January 16, 2020  
*Subject:* Proposed Zoning Code Text Amendment: Accessory Structure Height

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An ordinance amendment was introduced by CM Gordon to amend the regulations related to accessory structure height. The author has not determined final numbers for height increase however; to advance the ordinance amendment and get the Commissions opinions, this memo will address proposed changes that staff finds to be supportable.

The proposed changes included in this amendment are as follows:

- Accessory structure height maximum from 12' to 13' while also allowing the accessory structure to exceed the height of the principal structure.
- Accessory Dwelling Unit (ADU) height maximum from 20' to 21' while also allowing the ADU to exceed the height of the principal structure.
- Adding a new definition "Height, Detached Accessory Structure"
- Eliminating the definition of "Top Plate" while adding language to 537.50 regarding wall height
- The zoning code's variance authorizing requests to increase accessory structure height would be amended to remove the provision that restricts such variances based on the height of the principal structure."

The author of the amendment has indicated the intent to allow increased garage height beyond the current twelve (12) feet at the midpoint to a number yet to be determined. Further, there is an intent to allow accessory structures to exceed the height of the principal structure on the same property. Staff recognizes the need to increase garage height to better serve residents' storage needs and to reflect current construction methods. Staff proposes to increase this number to thirteen (13) feet at the midpoint to satisfy these needs. The increased height would allow for a higher pitched roof and in some cases, would allow for storage trusses to be used. The zoning code currently allows for an administrative review of garages that exceed 12 feet in height. If the structure matches the roof pitch and primary exterior materials of the home, staff may approve garage height up to 16 feet. Staff is not proposing to change this except that garages could be 13 feet in height (rather than 12) without the matching materials and roof pitch. The author has expressed an interest in developing an ordinance that provides even more flexibility.

As a part of the proposed height increase, there is currently an ordinance requirement that the accessory structure not be taller than the principal structure. The author of the ordinance has indicated the desire to eliminate this provision. Staff has reservations regarding this proposed amendment. Several photos of garages that were approved through the administrative height increase are included in the attachments. Staff finds that the

matching roof pitch and materials allows the larger accessory structure to complement the principal structure, mitigating the impact of increased height and resulting in a more cohesive built environment.

Accessory dwelling units are proposed to have a maximum height increase from twenty (20) feet to twenty-one (21) feet. Another change associated with proposal is allow ADUs at twenty-one (21) feet as of right with no limitation of this based on the height of the principal structure. This would allow two story ADUs with single story principal structures. The increase to the maximum height is to reflect current construction methods. This additional foot of height will allow for adequate insulation (eight inches) between the HVAC and plumbing and the space below. Today's height maximum of twenty (20) feet can result in builders sacrificing the amount of insulation between the garage and the living space. Increasing the maximum height by one foot will allow for more energy efficient and sustainable buildings.

Staff recognizes the need to change definitions to better regulate accessory structure height. Today, code does not differentiate the height of accessory structures and principal structures and instructs to measure all structures at a point ten (10) feet towards the front of the lot. While this is sufficient in regulating principal structure height, measuring accessory structures in this same manner creates big windfalls for some properties that have low alleys and punishes other properties where the alley is a higher grade than the rear yard. A new definition for accessory structure height is proposed that measures height from the nearest right-of-way. This will adequately allow every property a thirteen (13) foot garage.

Within this proposed ordinance amendment is to eliminate the definition of and reference to "top plate" in the regulation governing accessory structure height. Top plate is defined as, "the part of a stud wall directly below and abutting the roof rafters." This definition is not sufficient in regulating accessory structure height. Construction methods today often utilize an energy heel (or raised heel) on roof trusses. An energy heel allows for adequate space to properly insulate the space especially the point where the roof structure intersects with the wall. With the definition and code references to top plate, accessory structures could comply with the word of code but not the intent of code as the energy heel is sided and simply appears as wall when the structure is finished. Eliminating the "top plate" definition and references and replacing with language that reflects current construction methods will better regulate the size of accessory structures. Energy heels will still be able to be constructed on standard sized garages; this amendment will bring consistency to Code and better reflect the intent, which is to limit the overall bulk of accessory structures.

Code today does not allow accessory structures to be taller than principal structures even through the variance process. While CPED staff is supportive of some increased flexibility related to garage height, staff is also concerned about conflicting with the intent of the ordinance in governing the relationship between principal and accessory uses. Section 537.20(2), spells out this intent: "The accessory use or structure shall be subordinate in area, extent and purpose to the principal use or structure served." It's worth noting that staff would continue to interpret that residential garages cannot exceed the overall floor area of the structures to which they are accessory.

CPED staff is seeking the City Planning Commission's feedback regarding the proposed amendment. The amendment would impact the following chapters of the zoning code and subdivision ordinance:

- Chapter 520 Introductory Provisions
- Chapter 525 Administration and Enforcement
- Chapter 537 Accessory Uses and Structures

## **APPLICABLE POLICIES**

### **Minneapolis 2040**

## *Policy 5*

### ***Visual Quality of New Development***

*o. Regulate setbacks, orientation, pattern, materials, height and scale of small scale residential buildings to ensure consistency with built-form guidance and existing context.*

*p. Encourage detached garages and discourage attached garages for small scale residential buildings, ensure that detached garages are accessory in size and use to the primary small scale residential building.*

## *Policy 68*

### **Energy Efficient and Sustainable Buildings**

f. Continue to pursue building code and other regulatory changes such as a stretch energy code to advance energy efficient design and building operations.

### **FEEDBACK REQUESTED**

1. Do the proposed changes sufficiently retain the intent of the relationship between principal and accessory structures?
2. Is the idea of having a two story ADU accessory to a single-story home okay, especially in predominantly single-story areas?

### **SPECIFIC ORDINANCE LANGUAGE**

See Attachment A for the proposed changes to the zoning code regarding accessory structure height.

## ORDINANCE

By Gordon

### Amending Title 20 of the Minneapolis Code of Ordinances relating to Zoning Code.

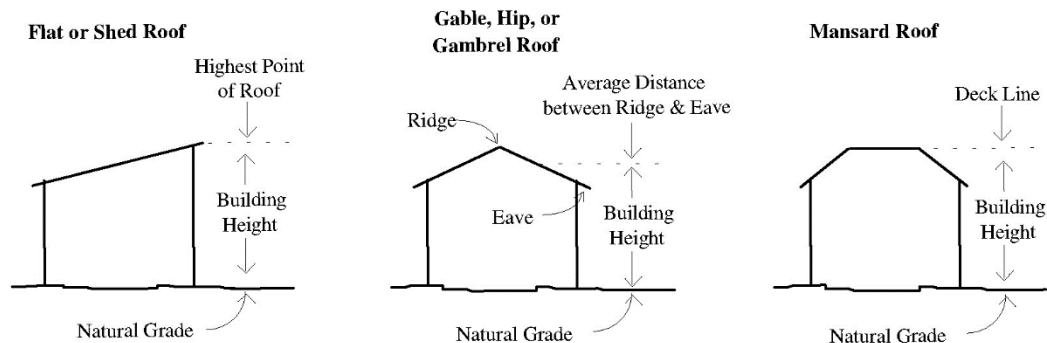
The City Council of the City of Minneapolis do ordain as follows:

Section 1. That the definition for height contained in Section 520.160 of Chapter 20, Introductory Provisions, be amended to read as follows:

**520.160. – Definitions.** Unless otherwise expressly stated, or unless the context clearly indicates a different meaning, the words and phrases in the following list of definitions shall, for the purposes of this zoning ordinance, have the meanings indicated. Additional definitions may be found with specific chapters of this zoning ordinance. All words and phrases not defined shall have their common meaning.

*Height, Detached accessory structure.* The vertical distance from natural grade measured either at the curb level or a point 10 feet towards the nearest right-of-way, whichever is closest, to the top of the highest point of the structure including parapets, or to the top of the highest point of the roof on a flat or shed roof, the deck line on a mansard roof, or the average distance between the eave edge and the ridge level for gable, hip and gambrel roofs. Dormers exceeding fifty (50) percent of the building width below a gable, hip and gambrel roof shall be included in the measured vertical distance.

*Height, Principal structure or building.* The vertical distance from the natural grade measured either at the curb level or at a point ten (10) feet away from the front center of the structure or building, whichever is closer, to the top of the highest point of the structure including parapets, or to the top of the highest point of the roof on a flat or shed roof, the deck line on a mansard roof, or the average distance between the eave edge and the ridge level for gable, hip and gambrel roofs. Dormers exceeding fifty (50) percent of the building width below a gable, hip and gambrel roof shall be included in the measured vertical distance. On a corner lot, height shall be measured on that side of a building facing the front lot line. On a through lot, height shall be measured on that side of a building facing the front lot line where the natural grade is lowest.



### *Height, structure or building*

Section 2. That the definition for top plate contained in Section 520.160 of Chapter 20, Introductory Provisions, is hereby removed:

~~Top plate. The part of a stud wall directly below and abutting the roof rafters.~~

Section 3. That the authorized variance for structure height contained in Section 525.520 of Chapter 20, Authorized variances, be amended to read as follows:

#### **525.520. - Authorized variances.**

Variances from the regulations of this zoning ordinance shall be granted by the board of adjustment, city planning commission, or city council only in accordance with the requirements of section 525.500, and may be granted only in the following instances, and in no others:

(4) Unless otherwise controlled by conditional use permit, to vary the height requirements for any structure, except signs, ~~provided that the total floor area ratio on the site shall not be exceeded, and provided further that the maximum height of any accessory structure shall not exceed sixteen (16) feet or sixty (60) percent of the height of the structure to which it is accessory, whichever is greater. The maximum height of a detached accessory dwelling unit may be varied, provided that the height of the detached accessory dwelling unit shall not exceed the height of the principal structure.~~

Section 4. That the maximum height contained in Accessory Uses and Structures in Section 537.50, be amended to read as follows:

#### **537.50. - Maximum height.**

(a) *In general.* The maximum height for all accessory structures shall be limited to the maximum height requirements for principal structures in the district in which the accessory structure is located, except as otherwise provided in this zoning ordinance. The maximum height of detached accessory dwelling units shall be governed by section 537.110.

(b) *Accessory structures located in the residence and OR1 Districts.* A detached accessory structure, accessory to a principal use located in a residence or OR1 district shall not exceed ~~the height of the principal structure or twelve (12) thirteen (13) feet, whichever is less.~~ The wall height shall not exceed ten (10) feet from grade to the exterior intersection of the wall and the roof rafters for hip, gable, or flat roofs and for the low eave side for shed roofs. The maximum height may be increased to sixteen (16) feet or the height of the principal structure, whichever is less, where the primary exterior materials of the accessory structure match the primary exterior materials of the principal structure and the roof pitch matches the primary roof pitch of the principal structure, ~~and provided the wall height shall not exceed ten (10) feet from the floor to the top plate.~~ The zoning administrator shall conduct the administrative review of all applications to increase the maximum height of accessory structures. All findings and decisions of the zoning administrator shall be final, subject to appeal to the board of adjustment, as specified in Chapter 525, Administration and Enforcement.

(c) *Accessory structures located in all other districts.* Structures accessory to a structure originally designed or intended as a single-, or two- and three- family dwelling ~~or a multiple-family dwelling of three (3) or four (4) units,~~ shall not exceed ~~the height of the principal structure or twelve (12) thirteen (13) feet whichever is less.~~ The wall height shall not exceed ten (10) feet from grade to the exterior intersection of the wall and the roof rafters for hip, gable, or flat roofs and for the low eave side for shed roofs, whichever is less. The maximum height may be increased to sixteen (16) feet or the height of the principal structure, whichever

is less, where the primary exterior materials of the accessory structure match the primary exterior materials of the principal structure, ~~and provided the wall height shall not exceed ten (10) feet from the floor to the top plate.~~

Section 5. That the allowed accessory uses and structures contained in Section 537.110, be amended to read as follows:

**537.110. - Allowed accessory uses and structures.**

The following accessory uses and structures shall be allowed, subject to the following development standards:

*Accessory dwelling units.* Internal, attached, and detached accessory dwelling units shall be allowed accessory to a principal residential structure, subject to the following:

(1) The principal residential structure shall be a permitted or conditional single-family or two-family dwelling, accessory dwelling units shall be prohibited accessory to all other uses.

(2) No more than one (1) accessory dwelling unit shall be allowed on a zoning lot.

(3) The creation of an accessory dwelling unit shall not create a separate tax parcel.

(4) Balconies and decks shall not face an interior side yard.

(5) Rooftop decks shall not be allowed.

(6) An owner of the property must occupy at least one (1) dwelling unit on the zoning lot as their primary place of residence.

a. If an owner is unable or unwilling to fulfill the requirements of this section, the owner shall remove those features of the accessory dwelling unit that make it a dwelling unit. Failure to do so will constitute a violation of this section.

b. Prior to issuance of a permit establishing an accessory dwelling unit, the owner(s) shall file with the Hennepin County recorder a covenant by the owner(s) to the City of Minneapolis stating that the owner(s) agree to restrict use of the principal and accessory dwelling units in compliance with the requirements of this section and notify all prospective purchasers of those requirements.

c. The covenant shall run with the land and be binding upon the property owner, their heirs and assigns, and upon any parties subsequently acquiring any right, title, or interest in the property. The covenant shall be in a form prescribed by the zoning administrator that includes the legal description of the zoning lot. The property owner(s) shall return the original covenant with recording stamp to the zoning administrator before the building permit for the accessory dwelling unit is issued.

d. At the request of a property owner and upon an inspection finding that an accessory dwelling unit has been removed from the owner's property, the zoning administrator shall record a release of any previously recorded covenant for that accessory dwelling unit.

(7) Accessory dwelling units that are internal to a principal residential structure shall also comply with the following requirements:

a. Internal accessory dwelling units are limited to eight hundred (800) square feet. The gross floor area of an internal accessory dwelling unit may exceed eight hundred (800) square feet only if the portion of the structure in which the accessory dwelling unit is located was in existence as of January 1, 2015. In no case shall the floor area of the internal accessory dwelling unit exceed the floor area of the first floor of the primary structure.

b. The entire internal accessory dwelling unit shall be located on one (1) level.

c. The creation of the accessory dwelling unit shall not result in additional entrances facing the public street on the primary structure.

d. Stairways leading to an attached accessory dwelling unit located above the ground floor of a principal residential structure shall be enclosed or located entirely to the rear of the principal residential structure.

(8) Accessory dwelling units that are attached to a principal residential structure shall also comply with the following requirements:

- a. The maximum gross floor area for an attached accessory dwelling unit shall be eight hundred (800) square feet.
- b. The creation of the accessory dwelling unit shall not result in additional entrances facing the public street on the primary structure.
- c. Stairways leading to an internal accessory dwelling unit located above the ground floor of a principal residential structure shall be enclosed or located entirely to the rear of the principal residential structure.
- d. The primary exterior materials of an attached accessory dwelling unit shall match the primary exterior materials of the principal structure.

(9) Detached accessory dwelling units shall also comply with the following requirements:

- a. ~~A detached accessory dwelling unit shall not exceed the height of the principal residential structure or twenty (20) feet, whichever is less. In no case shall the highest point of the roof of the detached accessory dwelling unit exceed the highest point of the roof of the principal residential structure.~~ Except as authorized by variance, a detached accessory dwelling unit shall not exceed twenty-one (21) feet in height.
- b. The gross floor area of a detached accessory dwelling unit, including any areas designed or intended to be used for the parking of vehicles and habitable floor area on all levels, shall not exceed one thousand three hundred (1,300) square feet or sixteen (16) percent of the lot area, whichever is greater. In no case shall the gross floor area exceed one thousand six hundred (1,600) square feet or exceed the gross floor area of the principal dwelling, whichever is less.
- c. When a lot includes a detached accessory dwelling unit, the combined floor area of the footprint of the detached accessory dwelling unit, and all other accessory structures and uses designed or intended to be used for the parking of vehicles, shall not exceed six hundred seventy-six (676) square feet or ten (10) percent of the lot area, whichever is greater, not to exceed one-thousand (1,000) square feet.
- d. The minimum interior side yard requirement for a detached accessory dwelling unit shall not be less than three (3) feet.
- e. The minimum rear yard requirement for a detached accessory dwelling unit may be reduced to three (3) feet, except where vehicle access doors face the rear lot line, in which case no reduction of the required yard is permitted.
- f. A detached accessory dwelling unit on a reverse corner lot shall be no closer to the side lot line adjacent to the street than a distance equal to two-thirds of the depth of the required front yard specified in the yard requirements table of the district of the adjacent property to the rear. Further, a detached accessory dwelling unit shall not be located within five (5) feet of a rear lot line that coincides with the side lot line of a property in a residence or office residence district.
- g. The distance between the detached accessory dwelling unit and the habitable portion of the principal residential structure shall be a minimum of twenty (20) feet.
- h. The primary exterior materials of the detached accessory structure shall be durable, including but not limited to masonry, brick, stone, wood, cement-based siding, or glass.
- i. Not less than five (5) percent of the total area of the façade of a detached accessory dwelling unit facing an alley or public street shall be windows.
- j. Exterior stairways shall be allowed, provided that the finish of the railing matches the finish or trim of the detached accessory dwelling unit. Raw or unfinished lumber shall not be permitted on an exterior stairway.

(10) The zoning administrator shall conduct the administrative review of all applications for an accessory dwelling unit. All findings and decisions of the zoning administrator shall be final, subject to appeal to the board of adjustment, as specified in Chapter 525, Administration and Enforcement.

















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