

ITEM#: 38
DATE: 05-23-23
DEPT: P&H

COUNCIL ACTION FORM

SUBJECT: ZONING TEXT AMENDMENT FOR SETBACK ENCROACHMENTS FOR ACCESSORY STRUCTURES

BACKGROUND:

City Council referred to staff a request for information related to “landscape accents” as an exception to setbacks. On February 28, 2023, City Council reviewed a staff report and examples of structures that are permitted to project into required setbacks. City Council directed staff to prepare a zoning text amendment to modify the language in Municipal Code Section 29.402(2)(c)(viii) to accomplish the following:

1. Create greater definition of what constitutes a landscape accent, and
2. Limit landscape accents that exceed fence height limitations to a maximum of three structures that are no greater in size than an 8-foot x 8-foot footprint.

The Zoning Ordinance considers essentially *all constructed improvements* above ground to be structures. The Zoning Ordinance requires all structures to meet setbacks based upon the zoning district and type of structure unless specifically exempted.

Residential zoning districts typically have a 25-foot front yard setback, side setbacks of 6 or 8 feet for 1- and 2-story dwellings respectively, and a rear yard setback of 20 feet. However, certain features are allowed to fully project into required setbacks as defined in the Zoning Ordinance, such as stairs, 24-inch-high decks, driveways, fences, accessory buildings, porches, etc. Section 29.402(2)(c) includes a list of these items allowed as full projections (*see Attachment A*).

In 2020, edits to the language in Section 29.402 were included as part of Ordinance #4425. The general intent was to clarify requirements and expectations for the extension of building features into required setbacks as well as offer additional flexibility in the allowances for certain extensions. Small items such as arbors no greater than 10 square feet and statuary of up to four feet were previously allowed. However, in 2020, the allowances were broadened to allow for a greater range of features with the intent that it did not cause yard areas to become fenced inconsistent with fence standards.

Structures and features that meet the definition of being a landscape accent are not subject to setbacks, whereas a fence may be in a setback, but is limited in height to four feet within a front yard or six feet within a side or rear yard. The current standard is quoted below.

Section 29.402 (2) (c) viii. *Landscape accents that include but are not limited to arbors with a footprint coverage area no greater than 15 square feet; fountains and statuary up to four feet in height, and constructed ponds and waterfalls at or below finished grade, and similar incidental landscape accents. The design and location of accent features shall not have the effect of creating a continuous wall that does not meet fence standards.*

The 2020 change in the text was intended to allow non-intrusive, incidental landscape accents within a setback. Although some descriptive characteristics were included in the text, the lack of a permit approval process and clear expectations to size and quantity of these incidental landscape features has become problematic in application of the text for both the height of poles, enclosing structures, fences/trellis, and the overall size of features.

Per City Council's direction staff has prepared an ordinance to amendment Section 29.402 (2)(c).

Proposed Section 29.402(2)(c)(viii). Landscape accents that include features and structures, arbors less than 15 square feet, fountains and statuary up to four feet in height in front yards and six feet in other yards, and constructed ponds and waterfalls at or below finished grade, and similar incidental landscape accents. Landscape accents are distinct structures separate from fence standards. An exception to the height limit is allowed for up to three structures within a front, rear, and side yard setbacks if each of the structures does not exceed eight feet in either length or width. Examples of the exception include arbors or arches attached to fences, planting bend trellises, garden tables, standalone panels, trellis, poles, statues, arbors.

Staff has also adjusted how light poles and flag poles are addressed within the setback projection section to address the number of poles and their relationship to other features on the site as result of this proposed change. The proposed revision limits the number of flag poles to three within setbacks and clarifies that outdoor lighting poles are permitted within setbacks for parking lots, driveways, and walkways.

In providing its direction to modify the language in Section 29.402(2)(c)(viii), the City Council focused on the number and size of accents rather than the height, by limiting the landscape accents to a maximum of three that are no greater in size than 8x8 feet as the footprint of the structure. This generic dimensional limitation can then allow for structures to be utilized to shield a patio or window, create vertical decorative features, to grow plants, etc. The philosophy is that up to three eight-foot wide or long accents would not completely encroach upon a yard area and enclose it like a fence. The language would apply to standalone objects such as poles, garden tables, arbors, trellises, etc. No height limit is prescribed for these features.

Staff believes that the language will accommodate property owners desiring ornamental features and garden features, such as in a front yard, while trying to ensure the yard does not become fenced and closed without meeting fence height limitations.

As drafted, the exception for 8x8 foot structures would allow for three such structures in any given yard area (e.g., three for each of the front, left side, right side, and a rear.) However, if desired by the City Council, the allowance could be restricted to a maximum number for the entire property rather than up to three per yard/setback area.

PLANNING & ZONING COMMISSION RECOMMENDATION:

On May 3, 2023, the Planning & Zoning Commission voted 5-0 to recommend approval of the modified text for Section 29.402(2)(c)(vii) which limits the number of landscape accents that exceed fence heights to three structures that are no greater in any dimension than 8x8 feet.

ALTERNATIVES:

1. Approve first reading of text amendments for Section 29.402(2)(c)(viii) and (xv) and a new subsection 2(c)(xvi), which would modify the text to limit the number of landscape accents in any individual yard area that exceed fence heights to three structures, with such landscape accents being no greater in any dimension than eight feet and addressing flagpoles and outdoor lighting poles, as shown in the attached ordinance.
2. Approve first reading of a text amendment with alternative language for Section 29.402(2)(c)(viii), (xv) and (xvi).
3. Do not approve the proposed text amendment.

CITY MANAGER'S RECOMMENDED ACTION:

A text amendment is appropriate to assist in administration of the allowed projections into setbacks compared to the current language. The proposed text amendment will clarify requirements and expectations for landscape accents while offering substantial flexibility. Therefore, it is the recommendation of the City Manager that the City Council approve Alternative #1.

ATTACHMENT A
Current Zoning Code Requirements for Extensions into Setbacks

Sec. 29.402. SETBACKS.

- (1) **Building Setback Standard.** Except as provided below, all buildings and structures, Principal and Accessory, shall be located to comply with the minimum and maximum Building Setbacks established for Principal and Accessory Buildings listed in each Zone Development Standards Table, Supplemental Development Standards Table, condition, or other regulation applicable to the lot or the use being employed at the site.
- (2) **Extensions into Required Building Setbacks.** Certain building elements and site features are allowed to be located within or project into required setbacks.
 - (c) **Full projections allowed.** In addition to the minor projections listed in the previous section, the following features are allowed to fully project into required setbacks:
 - (i) Covered walkways leading to main entrances in commercial and industrial zones;
 - (ii) Uncovered stairways (including landings), wheelchair lifts, and accessible access ramps and associated handrails that lead directly to a first floor, basement, or at-grade building entrance;
 - (iii) At-grade steps, above-grade steps up to three feet in height, and associated handrails, sidewalls, and landings;
 - (iv) Uncovered decks, with or without railings, no higher than 24 inches above finished grade;
 - (v) Retaining walls that retain fill and which are up to four feet in height in front setbacks and up to six feet in height in side and rear setbacks.
 - (vi) Retaining walls of any height that retain existing natural grade;
 - (vii) Driveways, patios, sidewalks, and similar at-grade surfaces;
 - (viii) Landscape accents that include but are not limited to arbors with a coverage area no greater than 15 square feet; fountains and statuary up to four feet in height, and constructed ponds and waterfalls at or below finished grade, and similar incidental landscape accents. The design and location of accent features shall not have the effect of creating a continuous wall that does not meet fence standards.
 - (ix) Mechanical Units (in rear and side yards only);
 - (x) Play structures (within rear and side yards only), no closer than three feet to property lines;
 - (xi) Fences as allowed in Section 29.408(2), Note features attached to a fence are considered part of a fence.; (STAFF NOTE-Fences limited to 4 feet in height anywhere in a front yard, even if it is beyond the first 25-foot setback.

Fences may be up to 6 feet in height in side and rear yard setbacks, anything greater in height would need to meet setbacks.)

(xii) Planter boxes/walls at allowable fence heights;

(xiii) Alternative Energy devices as allowed in Sections 29.1309 & 29.1310;

(xiv) Satellite dishes less than one meter in diameter;

(xv) Mailboxes, little libraries, cluster box units, flagpoles, and lamp poles;

(xvi) Signs are subject to the standards of Chapter 21 and Chapter 29. Free standing signs described as ground, pole, or monument signs, including any support structure of said signs, where the sign has less than 150 square feet of coverage. Signs attached to a principal building, such as wall signs and projecting signs, that do not have support extending to the ground;

(xvii) Public Art when located within a public art easement accepted by the City of Ames.

(xviii) Bicycle Parking Systems. Bicycle Parking Systems may be located in the front setback of nonresidential zoning districts when it is no higher than four feet in height and it does not interfere with required landscaping. This exception does not allow for parking areas where otherwise not permitted.

ATTACHMENT B
Proposed Ordinance