



Planning Commission Staff Report

Meeting Date: February 6, 2018

Agenda Item: 8E

STAFF REPORT CASE NUMBER: WDCA17-0010 (Article 306)

BRIEF SUMMARY OF REQUEST: Define how the height of an accessory structure is measured when located within a rear yard or side yard setbacks.

STAFF PLANNER: Planner's Name: Eva Krause, AICP
 Phone Number: 775.328.3628
 E-mail: ekrause@washoecounty.us

APPLICANT: Washoe County

CASE DESCRIPTION

Development Code Amendment Case Number WDCA17-0010 (Accessory Structure height)

– For possible action, hearing and discussion to initiate an amendment to Washoe County Code Chapter 110 (Development Code) within Article 306, Accessory Uses and Structures, to amend Section 110.306.10 Detached Accessory Structures, to define how the height of an accessory structure is measured both when the structure is located within the required rear or side yard setback, and when it is located outside of all applicable setbacks; and for other matters necessarily connected therewith and pertaining thereto.

If the proposed amendment is initiated, to conduct a public hearing to deny or recommend approval of the proposed amendment and, if approval is recommended, to authorize the Chair to sign a resolution to that effect.

- ♦ Location: County wide
- ♦ Dev Code: Authorized in Article 818
- ♦ Comm. District: All Commissioners

STAFF RECOMMENDATION

INITIATE

INITIATE AND RECOMMEND APPROVAL

DO NOT INITIATE

POSSIBLE MOTION

I move that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Planning Commission initiate Development Code Amendment WDCA17-0010, recommend approval, and authorize the Chair to sign the attached resolution.

(Motion with Findings on Page 5)

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Background

Washoe County Code (WCC) Article 306, *Accessory Uses and Structures*, allows an accessory structure to be located within 5 feet of a rear or side yard property line when the structure is 12 feet in height or less (note: accessory structures are prohibited within the required front yard setback). This code provision provides flexibility for placing smaller accessory structures on a property; however, staff has identified a problem that some builders have taken advantage of based on the definition of building height per WCC Article, 902, *Definitions*. The Development Code definition for determining building height is based on the International Building Code standard that was adopted as part of the Development Code in 1993. That definition measures the building from the highest grade within 5 feet of the structure, and this measurement has caused issues with several properties. This definition is intended to provide relief for properties with moderate to steep slopes, but has enabled some builders to place accessory structures on level surfaces that are significantly taller than 12 feet in height as close as 5 feet from a rear or side property line. While allowing for a few additional feet in height may not be noticeable when the building meets all required setbacks, allowing such additional height when the structure is only five feet from a property line can greatly impact an abutting property owner.

Amendment Evaluation

- The intent of WCC Section 110.306.10 (b) is to allow a property owner to locate an unobtrusive accessory structure, such as shed, gazebo, playhouse or animal shelter, in the rear or side yard of a property, rather than locating such structures next to or near the house in order to meet required setback.
- How building height is measured is defined in WCC Article 902, *Definitions*. The definition for building height is based on the International Building Code in affect at the time the development code was adopted in 1993. That definition allows for additional height when

building on sloped surfaces. [See Attachment B, Excerpt from WCC Article 902, *Definitions*].

- The proposed code amendment will clarify that the International Building Code definition adopted as part of the Development Code is to be used to determine building height when a structure is located outside of the required setbacks.
- Per Article 902, the definition of how to measure building height: If the highest ground surface within five feet of the structure is less than 10 feet below the lowest ground surface, then the height of the structure is measured from the highest ground surface. This can result in an accessory structure claiming to be less than 12 feet high, but actually allow a portion of the structure to just under to 22 feet in height. Example: Twelve foot tall allowable height, plus ± 9.9 foot elevation gain based on slope equals 22 foot tall structure at mid peak.
- When the lowest ground surface is located between the neighbor's property and the accessory structure, and the accessory structure is located only 5 feet away from the abutting property, the impact to the neighbor can be significant compared to what the impact would be if the structure was outside of the required setback.
- The loss of privacy, blocked views and shadowing of lawns and gardens are some of the impacts felt by an adjoining property owner when the intent of the code is overridden by the existing definition for how to measure building height. The proposed code amendment will clarify that when an accessory structure is located in the side or rear yard setback, the definition for determining building height found in Article 902 does not apply.
- Staff is proposing to add language to WCC Section 110.306.10 (b)(1) to provide a simple definition of how to measure building height and to clarify that a detached accessory structure built within the rear or side yard setback shall not exceed 12 feet in height, even if built on a sloped grade.

Proposed Amendment

Washoe County staff is asking the Planning Commission to initiate and subsequently recommend approval of a code amendment to read as follows:

Section 110.306.10 Detached Accessory Structures. Detached accessory structures are defined in Article 304, Use Classification System, under Section 110.304.15, Residential Use Types. The following development requirements shall apply to detached accessory structures:

(b) Setbacks.

(1) Accessory structures 12 feet in height or less may be located within the required rear and side yard setbacks provided they are five feet or more from the rear and side property line. The height of an accessory structure located within the required rear or side yard setback as provided in this subsection shall be measured from the lowest finished grade of the structure to the average height of the highest gable of a pitched or hipped roof. Accessory— Except as otherwise specifically provided, all accessory structures are prohibited within the required front yard setback.

(2) Accessory structures more than 12 feet in height shall comply with the yard setbacks for the main dwelling units stipulated in Article 406, Building Placement Standards. The height of a structure is determined by using the building code

currently adopted by Washoe County. Except as otherwise specifically provided, no accessory structure shall exceed 35 feet in height.

(c) Height Limits. The height of an accessory structure located outside of all required setbacks shall be measured in accordance with the building height provision in Article 902 of this code, shall not exceed 12 feet, when the structure is erected within the required yard setbacks. The height of an accessory structure shall not exceed 35 feet when the structure is erected outside the required yard setbacks.

Findings

WCC Section 110.818.15(e) requires the Planning Commission make at least one of the following findings of fact for approval of the amendment. Staff provides the following evaluation for each of the findings and recommends that the PC make all four findings in support of the proposed amendment.

1. Consistency with Master Plan. The proposed Development Code amendment is in substantial compliance with the policies and action programs of the Washoe County Master Plan.

Staff comment: The Master Plan establishes policies governing uses on properties in Washoe County, which are then regulated through the Development Code. The proposed amendment does not add or change any allowable uses established by any regulatory zone as established in the Development Code, and thus complies with the policies of the Washoe County Master Plan.

2. Promotes the Purpose of the Development Code. The proposed Development Code amendment will not adversely impact the public health, safety or welfare, and will promote the original purposes for the Development Code as expressed in Article 918, Adoption of Development Code.

Staff comment: The proposed Development Code amendment clarifies the original intent of the Code to allow accessory structures of 12 feet or less in height within the rear and side yard setbacks. There are no anticipated adverse impacts to public health, safety or welfare.

3. Response to Changed Conditions. The proposed Development Code amendment responds to changed conditions or further studies that have occurred since the Development Code was adopted by the Board of County Commissioners, and the requested amendment allow for a more desirable utilization of land within the regulatory zones.

Staff comment: The proposed amendment responds to numerous concerns raised by Washoe County residents who have tall accessory structures build within five feet of their property lines by their neighbors under the pretense that the structure is only 12 feet in height.

4. No Adverse Affects. The proposed Development Code amendment will not adversely affect the implementation of the policies and action programs of the Conservation Element or the Population Element of the Washoe County Master Plan.

Staff comment: The Conservation Element and the Population element are not impacted by this proposed amendment.

Public Notice

Pursuant to WCC Section 110.818.20, notice of this public hearing was published in the newspaper at least 10 days prior to this meeting, and the Chairs and membership of all Citizen Advisory Boards were likewise notified of the public hearing.

Recommendation

It is recommended that the PC initiate and subsequently recommend approval of WDCA17-0010, to amend the Development Code within Article 306, *Accessory Uses and Structures*, as described in this staff report. The following motions are provided for the PC's consideration:

Motions

Initiation

I move that, after giving reasoned consideration to the information contained in the staff report and received during the public hearing, the Washoe County Planning Commission initiate the amendment to Washoe County Code Chapter 110 within Article 306, *Accessory Uses and Structures*, as described in the staff report for WDCA17-0010.

Amendment

I move that, after giving reasoned consideration to the information contained in the staff report and received during the public hearing, the Washoe County Planning Commission recommend approval of WDCA17-0010, to amend Washoe County Code Chapter 110 within Article 306, *Accessory Uses and Structures*, as described in the staff report for this matter. I further move to authorize the Chair to sign the resolution contained in Attachment A on behalf of the Planning Commission and to direct staff to present a report of this Commission's recommendation to the Washoe County Board of County Commissioners within 60 days of today's date. This recommendation for approval is based on all of the following four findings in accordance with Washoe County Code Section 110.818.15(e):

1. Consistency with Master Plan. The proposed Development Code amendment is in substantial compliance with the policies and action programs of the Washoe County Master Plan;
2. Promotes the Purpose of the Development Code. The proposed Development Code amendment will not adversely impact the public health, safety or welfare, and will promote the original purposes for the Development Code as expressed in Article 918, Adoption of Development Code;
3. Response to Changed Conditions. The proposed Development Code amendment responds to changed conditions or further studies that have occurred since the Development Code was adopted by the Board of County Commissioners, and the requested amendment allow for a more desirable utilization of land within the regulatory zones; and,
4. No Adverse Affects. The proposed Development Code amendment will not adversely affect the implementation of the policies and action programs of the Conservation Element or the Population Element of the Washoe County Master Plan.

Appeal Process

An appeal of the Planning Commission's denial of a Development Code amendment may be made to the Washoe County Board of County Commissioners within 10 calendar days from the date that the Planning Commission's decision is filed with the Secretary to the Planning Commission, pursuant to WCC Sections 110.818.25 and 110.912.20.

xc: Applicant: Washoe County Community Services Department, Planning and Building Director

Staff Report xc: David M. Solaro, Assistant County Manager



RESOLUTION OF THE WASHOE COUNTY PLANNING COMMISSION

INITIATING AND RECOMMENDING APPROVAL OF AN AMENDMENT TO WASHOE COUNTY CODE CHAPTER 110 (DEVELOPMENT CODE) WITHIN ARTICLE 306, *ACCESSORY USES AND STRUCTURES*, TO AMEND SECTION 110.306.10 DETACHED ACCESSORY STRUCTURES, RELATING TO DETERMINING THE HEIGHT OF A BUILDING WHEN THE STRUCTURE IS LOCATED WITHIN THE REAR OR SIDE YARD SETBACK, AND TO CLARIFY THAT WHEN THE STRUCTUE IS NOT LOCATED WITHIN ANY APPLICABLE SETBACKS THE HEIGHT IS MEASURED IN ACCORDANCE WITH BUILDING HEIGHT PROVISIONS IN ARTICLE 902 OF THIS CODE; AND OTHER MATTERS NECESSARILY CONNECTED THEREWITH AND PERTAINING THERETO.

Resolution Number 18-07

WHEREAS

- A. Washoe County Code Section 110.818.05 requires that amendments to Washoe County Code Chapter 110 (Development Code) be initiated by resolution of the Washoe County Board of Commissioners or the Washoe County Planning Commission; and
- B. The Washoe County Planning Commission initiated amendments to the Washoe County Code Chapter 110 (Development Code) within Article 306, *Accessory Uses and Structures*, on February 6, 2018 as fully described in Attachment A-1 to this resolution; and
- C. Development Code Amendment Case Number WDCA17-0010, came before the Washoe County Planning Commission for a duly noticed public hearing on February 6, 2018; and
- D. The Washoe County Planning Commission gave reasoned consideration to the information it received regarding the proposed Development Code Amendment; and
- E. Whereas, pursuant to Washoe County Code Section 110.818.15(e), the Washoe County Planning Commission made the following findings necessary to support its recommendation for adoption of the proposed Development Code amendment Case Number WDCA17-0010:
 1. Consistency with Master Plan. The proposed amendment is in substantial compliance with the policies and action programs of the Washoe County Master Plan;
 2. Promotes the Purpose of the Development Code. The proposed Development Code amendment will not adversely impact the public health, safety or welfare, and will

promote the original purposes for the Development Code as expressed in Article 918, Adoption of Development Code;

3. Response to Changed Conditions. The proposed Development Code amendment responds to changed conditions or further studies that have occurred since the Development Code was adopted by the Board of County Commissioners, and the requested amendment allow for a more desirable utilization of land within the regulatory zones; and,
4. No Adverse Affects. The proposed Development Code amendment will not adversely affect the implementation of the policies and action programs of the Conservation Element or the Population Element of the Washoe County Master Plan.

NOW, THEREFORE, BE IT RESOLVED that the Washoe County Planning Commission recommends approval of the ordinance attached hereto as Attachment A-1.

A report describing this amendment, discussion at this public hearing, this recommendation, and the vote on the recommendation will be forwarded to the Washoe County Board of County Commissioners within 60 days of this resolution's adoption date.

ADOPTED on February 6, 2018.

WASHOE COUNTY PLANNING COMMISSION

ATTEST:

Trevor Lloyd, Secretary

Sarah Chvilicek, Chair

DRAFT: January 18, 2018

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INFORMATION ONLY

REGULAR TEXT: NO CHANGE IN LANGUAGE

~~STRIKEOUT TEXT: DELETE LANGUAGE~~

BOLD TEXT: NEW LANGUAGE

Notice: Per NRS 239B.030, this document does not contain personal information as defined in NRS 603A.040

Summary: Amends the Development Code by updating the standards within Section 110.306.10, Detached Accessory Structures, to define how the height of an accessory structure is measured both when located within a rear or side yard setback, and when not located within any applicable setback; and other related matters.

BILL NO. _____

ORDINANCE NO. _____

Title:

An ordinance amending the Washoe County Code at Chapter 110 (Development Code), within Article 306, Accessory uses structures, at Section 110.306.10, Detached Accessory Structures, to define how the height of an accessory structure is measured both when the structure is located within the required rear or side yard setback, and when not located within any applicable setback; and other matters necessarily connected therewith and pertaining thereto.

WHEREAS:

- A. The Washoe County Planning Commission initiated the proposed amendments to Washoe County Code Chapter 110 (Development Code) by Resolution Number 18-___ on February 6, 2018; and,
- B. The amendments and this ordinance were drafted in concert with the District Attorney; and the Planning Commission held a duly noticed public hearing for WDCA17-0007 on

February 6, 2018, and adopted Resolution Number 18-____ recommending adoption of this ordinance; and,

- C. This Commission desires to amend Article 306 of the Washoe County Code Chapter 110 (Development Code) in order to update the standards within Section 110.306.10, *Detached Accessory Structures*; and,
- D. Following a first reading and publication as required by NRS 244.100 (1), and after a duly noticed public hearing, this Commission desires to adopt this Ordinance; and,
- E. This Commission has determined that this ordinance is being adopted pursuant to requirements set forth in Chapter 278 of NRS, therefore it is not a "rule" as defined in NRS 237.060 requiring a business impact statement.

THE BOARD OF COUNTY COMMISSIONERS OF WASHOE COUNTY DOES HEREBY ORDAIN:

SECTION 1. Section 110.306.10 of the Washoe County Code is hereby amended to read as follows:

Section 110.306.10 Detached Accessory Structures. Detached accessory structures are defined in Article 304, Use Classification System, under Section 110.304.15, Residential Use Types. The following development requirements shall apply to detached accessory structures:

- (a) Lot Coverage. The establishment of detached accessory structures shall not exceed the following lot coverage limitations:
 - (1) On lots in the High Density Suburban (HDS) and Medium Density Suburban (MDS) Regulatory Zones, the combined area (i.e. square footage) of all building footprints on the lot shall not exceed 50 percent of the total lot acreage;
 - (2) On lots in the Low Density Suburban (LDS) Regulatory Zones, the combined area (i.e. square footage) of all building footprints on the lot shall not exceed 25 percent of the total lot acreage;
 - (3) On lots in the High Density Rural (HDR) Regulatory Zone, the combined area (i.e. square footage) of all building footprints on the lot shall not exceed 20 percent of the total lot acreage;

(4) On lots in the Medium Density Rural (MDR) Regulatory Zone, the combined area (i.e. square footage) of all building footprints on the lot shall not exceed 15 percent of the total lot acreage;

(5) On lots in the Low Density Rural (LDR) Regulatory Zone, the combined area (i.e. square footage) of all building footprints on the lot shall not exceed ten percent of the total lot acreage or 80,000 square feet, whichever is less;

(6) Exemptions to lot coverage limitations. Parcels 40 acres in size or larger in the General Rural (GR) and General Rural Agricultural (GRA) Regulatory Zones, and all parcels in the Commercial, Industrial, and Urban Regulatory Zones, are exempt from the lot coverage limitations of this section.

(b) Setbacks.

(1) Accessory structures 12 feet in height or less may be located within the required rear and side yard setbacks provided they are five feet or more from the rear and side property line. **The height of an accessory structure located within the required rear and side yard setback as provided in this subsection shall be measured from the lowest finished grade of the structure to the average height of the highest gable of a pitched or hipped roof.** ~~Accessory~~ **Except as otherwise specifically provided, all accessory** structures are prohibited within the required front yard setback.

(2) Accessory structures more than 12 feet in height shall comply with the yard setbacks for the main dwelling units stipulated in Article 306, Building Placement Standards. ~~The height of a structure is determined by using the building code currently adopted by Washoe County.~~ **Except as otherwise specifically provided, no accessory structure shall exceed 35 feet in height.**

(c) Height Limits. ~~The height of an accessory structure located outside of all required setbacks shall be measured in accordance with the building height provision in Article 902 of this Code. shall not exceed 12 feet when the structure is erected within the required yard setbacks. The height of an accessory structure shall not exceed 35 feet when the structure is erected outside the required yard setbacks.~~

(d) Size. A proposal to establish a detached accessory structure that is larger (i.e. has more square footage or a larger building footprint) than the existing main structure shall require the approval of an Administrative Permit (pursuant to Article 808), to include review of building

height and architectural compatibility with surrounding dwellings, prior to the issuance of a building permit. Parcels 40 acres in size or larger in the General Rural (GR) and General Rural Agricultural (GRA) Regulatory Zones, and all parcels in the Commercial and Industrial Regulatory Zones, are exempt from this requirement.

- (e) Location/Slopes. A detached accessory structure used as a private garage on any interior lot where the slope of the front half of the lot is greater than a two foot rise (or fall) for every ten feet above (or below) the established street grade may be built to the property line, provided such structure shall not exceed 15 feet in interior height when measured from parking surface and providing the Engineering Division has been able to determine that:
- (1) County snow removal operations will not be impeded or sufficient measures have been incorporated in the structure's design to mitigate an impediment to County snow removal operations and/or the County has been held harmless from liability resulting from the County's snow removal operations;
 - (2) The speed of traffic and the volume of traffic on the street is such that the placing of the garage at the property line will not cause a safety problem for vehicles using the street; and
 - (3) The placement of the garage at the property line will not impede the ability of the County to widen the street in accordance with the adopted Capital Improvements Program, or in accordance with a possible widening of the street as shown in the adopted Master Plan.
- (f) Building Setback. A detached accessory structure shall not be located closer than ten feet to any main building on an adjoining parcel.
- (g) Cargo Containers, to include Sea-land Containers, Cargo Containers or Other Portable Storage Containers not Designed for Independent or "In-tow Trailer" Highway Use. Cargo containers designed and constructed as a standardized, reusable vessel to be loaded on a truck, rail car or ship may be established as a detached accessory structure for the sole purpose of storage with the following restrictions:
- (1) Must meet all Washoe County placement standards for a detached accessory structure;
 - (2) Only one cargo container shall be allowed on a parcel of land having less than five acres in size, and shall

not exceed a maximum size of ten feet wide by nine feet high by 40 feet in length;

- (3) In the Suburban and Urban Regulatory Zones, the cargo container shall be:
 - (i) Located within an area fenced by either a six foot high slatted chain link fence, wooden fence or other durable and opaque fencing, or
 - (ii) Located within an area screened by existing solid vegetation having a minimum height of six feet. If existing landscaping is used as screening, it shall be indicated on the building plans and photos shall be submitted as evidence; or
 - (iii) Painted one, solid, muted color that blends with the surrounding vegetation, or structures or topography.
- (4) All cargo containers shall be free from damage, shall not be structurally altered, shall be free from severe rust, and shall not have exposed bare metal;
- (5) Shall not include plumbing fixtures;
- (6) Shall not be stacked; except in the Commercial and Industrial land use designations, and then not stacked above two high. Setback requirements shall be determined by the total height of the stacked structure;
- (7) Shall not display off-premise advertising, company logos, names, or other markings painted on, or otherwise attached to, the exterior of the cargo container;
- (8) Shall not occupy any required off-street parking spaces for the site;
- (9) Shall not be placed between a residence and the adjoining street or road right-of-way that provides primary access to the residence;
 - (i) On a parcel fronted by two or more street or road right-of-ways, the Director of the Planning and Development Division shall have the authority to determine the primary access to the residence.
- (10) When placed on a parcel fronted by two or more street or road right-of-ways, shall be placed at least one 75 feet from all street or road right-of-ways, excepts as provided for in (9), above.

- (i) The Director of the Planning and Development Division shall have the authority to allow a minor deviation in setbacks of up to 25 feet to the standards in (10) above, when the Director is presented with sufficient evidence that the proposed cargo container will be aesthetically enhanced to blend with the surrounding residences.
- (ii) Aesthetic enhancements, as required in (i) above shall consist of one or more of the following: siding and/or painting to match the residence on the parcel; landscaping to obscure the cargo container from view from off-site; placement of the cargo container to obscure view from off-site; other techniques as proposed by the applicant and acceptable to the Director.
- (iii) Approval of a minor deviation to setback standards in (10) above shall be by means of application for a Director's Modification of Standards.
- (11) Shall be separated from any other structure, storage shed or other cargo containers by a minimum of ten feet, when located within 100 feet of any property line;
- (12) A cargo container may be allowed in a Commercial or Industrial land use regulatory zone for storage purposes if there is a lawful, principal established use on the property where it is located, is located to the rear of any principal use, is not located adjacent to a street, does not impact required parking, and is located behind a slatted chain link fence, wooden fence or other acceptable fencing having a minimum height of eight feet, or existing solid vegetation having a minimum height of eight feet;
- (13) Shall obtain an appropriate permit from the Building and Safety Division if the cargo container is over the allowable exempted square footage as established in Article 105, Permits, of Chapter 100 of this Code; and
- (14) The Building and Safety Division may additionally require foundations, tie-downs or other safety apparatus to assure compliance with wind load and other safety standards. Any electrical wiring shall require a building permit from the Building and Safety Division.
- (15) Shall not be established as an Agricultural Building as a Main Use pursuant to Article 330, Domestic Pets and Livestock, of this Development Code.

- (h) Deed Restriction Required for Connection to Water or Wastewater Facilities. Any detached accessory structure proposed to be connected to a potable water supply line or a septic system or community sewer system (i.e. sanitary sewer) as part of a building permit application shall require a deed restriction to be filed with the County Recorder's office stipulating that the structure will not be converted to an accessory dwelling unit as defined in Section 110.304.15. Said deed restriction shall make the County a party to the restriction and shall be obtained through the Planning and Development Division. A copy of the recorded deed restriction shall be required prior to the issuance of the building permit. The Planning and Development Division shall agree in writing to the removal of the deed restriction if the owner legally converts the accessory structure to an accessory dwelling unit (pursuant to the provisions of this article and applicable building codes) or if the structure has been permanently disconnected from the potable water supply and sanitary sewer system. Installation of both a kitchen (as defined in Article 902) and a toilet in a detached accessory structure shall render the structure as a dwelling unit subject to the provisions of this article.
- (i) Use of Mobile/Manufactured Homes as Detached Accessory Structures. A detached accessory structure shall not be comprised of a mobile or manufactured home due to Federal Housing and Urban Development (HUD) standards prohibiting the removal or modification of any interior structural components, such as plumbing fixtures (see HUD 24 CFR Part 3280).
- (j) Hoop Houses and High Tunnels. Hoop houses and high tunnels, as defined in Section 110.902.15, General Definitions, may be established subject to the following regulations:
- (1) Must meet all Washoe County placement standards for a detached accessory structure;
 - (2) Are exempt from the lot coverage limitations established in Section 110.306.10(a); and
 - (3) The height of a hoop house or high tunnel at its tallest point shall not exceed the allowable height for the regulatory zone within which it is located.

SECTION 2. General Terms.

1. All actions, proceedings, matters, and things heretofore taken, had and done by the County and its officers not inconsistent with the provisions of this Ordinance are ratified and approved.

2. The Chairman of the Board and officers of the County are authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance. The District Attorney is authorized to make non-substantive edits and corrections to this Ordinance.
3. All ordinances, resolutions, bylaws and orders, or parts thereof, in conflict with the provisions of this Ordinance are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance, resolution, bylaw or order, or part thereof, heretofore repealed.
4. Each term and provision of this Ordinance shall be valid and shall be enforced to the extent permitted by law. If any term or provision of this Ordinance or the application thereof shall be deemed by a court of competent jurisdiction to be in violation of law or public policy, then it shall be deemed modified, ipso facto, to bring it within the limits of validity or enforceability, but if it cannot be so modified, then the offending provision or term shall be excised from this Ordinance. In any event, the remainder of this Ordinance, or the application of such term or provision to circumstances other than those to which it is invalid or unenforceable, shall not be affected.

Passage and Effective Date

Proposed on _____ (month) _____ (day), 2018.

Proposed by Commissioner _____.

Passed on _____ (month) _____ (day), 2017.

Vote:

Ayes: Commissioners _____

Nays: Commissioners _____

Absent: Commissioners _____.

ATTEST:

County Clerk

Chair of the Board

This ordinance shall be in force and effect from and after the

DRAFT: January 18, 2018

_____ day of the month of _____ of the year _____.

DRAFT



How building height is determined

Article 902 Definitions

No changes are proposed to this definition.

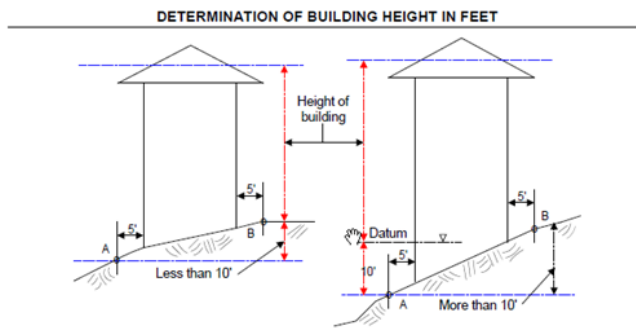
All structures that **conform to the required setbacks** will still use this definition to determine building height

Building Height. "Building height" is the vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. As illustrated in Figure 110.902.15.BH1, the reference datum shall be selected by either of the following, whichever yields a greater height of building:

- The elevation of the highest adjoining sidewalk or ground surface within a five (5) foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than ten (10) feet above lowest grade.
- An elevation ten (10) feet higher than the lowest grade when the sidewalk or ground surface described in Item 1 above is more than ten (10) feet above lowest grade.

The height of a stepped or terraced building is the maximum height of any segment of the building.

Figure 110.902.15.BH1



Source: International Building Code Interpretation Manual.



Proposed Code Change

Structures built in the setback shall be measured from finished grade to mid peak – Maximum allow height of 12 feet.

Building that conform to setback are still allowed to be up to 35 feet in height

Code amendment does not change how building height is determined when a structure outside of the required setback.

