

Planning and Development Department Director's Administrative Code Interpretation

File No. MIS16-0009

Date Issued: April 1, 2016

Subject: HVAC equipment and property setbacks on residentially developed properties

Code References: Zoning Code Sections
ACC 18.04.810, 811, and 815 (Definitions)
ACC 18.31.070 (Setbacks)

Zoning Designation(s): All Zoning designations with residentially developed properties.

Background

Pursuant to the State and City adopted International Building Codes, residential air conditioners and heat pumps may be installed on residential properties following issuance of a residential mechanical permit. The City routinely receives inquiries as to whether newly installed HVAC units must adhere to adopted zoning code setback requirements applicable to "structures". These inquiries have been received from contractors and property owners seeking to install a new unit, as well as property owners who have expressed concern over noise emanating from units that are placed within side yard setbacks. The purpose of this interpretation is to provide more immediate clarity and a consistent answer to this question.

Discussion/Analysis

ACC 18.04.810 sets forth the definition for a "setback". The related definitions of ACC 18.04.811 "setback area" and 18.04.815 "setback line" provide more information about the purpose of the setback. The definitions for Setback Area and Setback Line both indicate that buildings and structures are not allowed within a setback and that the setback area is to remain "unoccupied and unobstructed from the ground upward". However, each definition also provides an exception to this prohibition in those events where a more specific provision within Title 18 allows for an encroachment into a setback.

ACC 18.31.070 sets forth the exceptions to the typical setback requirements which includes specific types of building projections (e.g. fireplace, bay windows), porches and platforms, eaves, planting boxes, and certain types of canopy covers. Mechanical equipment is not listed as an example of a structure, or object that is allowed within a setback.

Over the last couple of decades, newly created residential lots have gradually gotten smaller and narrower. This trend has resulted in houses being placed closer together. When residential air conditioners and heat pumps are placed within a setback between two houses that may be located 10 feet from each other, or as close as 6 feet in some planned unit developments, the noise generated by these HVAC units increases due to the echo effect as

the noise bounces off each home. Rather than interpret or amend City code to permit units to be placed within a setback, the City code is interpreted to preclude new HVAC mechanical units from being placed within all zoning setbacks as if it were a detached accessory structure.

Findings/Interpretation:

1. Auburn City Code states that setbacks shall remain unobstructed unless other sections of City Code specify otherwise.
2. Auburn City Code lists several examples of structures or portions of structures that are allowed within setbacks. Mechanical equipment is not listed in the examples.
3. Under normal conditions mechanical units generate noise during both the day and night time hours.
4. It is appropriate to prohibit HVAC units from being placed in all zoning code setbacks as the Setback Area may not be the same on adjacent lots
5. Noise levels are amplified where units are placed in between two homes that are located within close proximity of each other.
6. Precluding HVAC mechanical units from being placed within all setbacks helps mitigate noise experienced by neighbors and potentially reducing complaints.

Decision

Residential HVAC mechanical equipment shall meet all zoning setbacks for the zoning district in which the property is located, irrespective of whether the zoning is residential or non-residential if the HVAC unit is for a residential use.

A condition will be placed on all residential mechanical permits that are issued over the counter or via the City's web based permit system which states that a HVAC unit cannot be located within a setback that is applicable to that property.

During inspections for the mechanical permit, City building inspector's will enforce the requirement for any permit that is issued after April 15, 2016 and that has the above referenced condition printed on the permit card.

This interpretation is not retroactive for units installed with a City of Auburn mechanical permit that has an issued date of April 15, 2016 or earlier.

Signature:


Jeff Tate, Assistant Director

Date Issued:

April 1, 2016

Appeals

Any person aggrieved of this decision may file an appeal with the Planning and Development Director within fourteen (14) days of mailing of the City's written code interpretation. This decision was mailed on April 1, 2016. The appeal must be filed at the Planning and Development Department at second floor, 1 East Main Street, Auburn, WA 98001 prior to 5:00 PM on or before April 15, 2016. The appeal must be accompanied with justification for

the appeal required per ACC 18.70.050.E and include the required filing fee payable to the City of Auburn. Once filed, a hearing on the appeal is scheduled with the Hearing Examiner as prescribed in ACC 18.70.050.B.

Code References

ACC 18.02.060 Rules for administrative interpretations.

- A. The planning director shall be authorized to interpret the meaning of words, phrases and sentences which relate to the determining of uses permitted in the various zones, approval or disapproval of development plans, or other related zoning actions. Any interpretations regarding implementation of this title shall be made in accordance with the intent or purpose statement of the specific regulation and the comprehensive plan. Life, safety and public health regulations are assumed to prevail over all other regulations.
- B. The planning director may authorize uses in a zone other than those which are listed, if the planning director determines the use is consistent with the intent of the zone and is of the same general character of the uses permitted within the zone. Further guidance on administrative interpretations of land uses can be found in ACC 18.02.120.
- C. Administrative interpretations may be appealed to the hearing examiner as prescribed in Chapter 18.70 ACC.
- D. Administrative interpretations made by the planning director shall be documented, made available for public review, and docketed for inclusion to this title, when consistent with the title format and level of detail required. The city shall incorporate administrative interpretations upon approval of the legislative authority.

ACC 18.04.810 Setback.

"Setback" means that distance between a lot line and the corresponding parallel setback.

ACC 18.04.811 Setback area.

"Setback area" means that area of a lot bounded on opposite sides by a lot line and the corresponding setback line that is unoccupied and unobstructed from the ground upward unless specifically permitted in this title.

ACC 18.04.815 Setback line.

"Setback line" means a line which defines a setback as required by this title, which is parallel to but other than a lot line, between which no building, structure, or portion thereof shall be permitted, erected, constructed, or placed unless specifically permitted by this title.

