



Development Services Department

STAFF REPORT

An Ordinance amending Ch. 46 Zoning, Article I In General, Article IV Zoning District Regulations, Article V Supplemental District Regulations; and providing for a savings clause and repealing conflicting ordinances and resolutions.

Date: March 28, 2023

Hearing Dates: Commission Recommendation – April 24, 2023
Council Consideration – May 16, 2023

CODE CHANGE SUMMARY

These zoning code changes are being heard by the Commission for a recommendation and Council for consideration per the above dates. These Code changes are being completed at the request of the City Council to add regulations regarding the allowance of accessory dwelling units (ADU's).

CHANGE/DISCUSSION SUMMARY

From the March workshop, the Commission reviewed the proposed Staff changes to the Zoning Code. From that meeting the following has been modified per the discussion:

1. Under Section 46-510, the minimum square footage for an accessory dwelling unit was modified from 600 sq. ft. to 370 sq. ft. and has been reworded to clarify the language regarding the size of the ADU's (see yellow highlight on Ordinance).

ORDINANCE NO. 2023-05-16-??

AN ORDINANCE AMENDING CHAPTER 46 ZONING, ARTICLE I IN GENERAL, ARTICLE IV ZONING DISTRICT REGULATIONS, & ARTICLE V SUPPLEMENTAL DISTRICT REGULATIONS; AND PROVIDING FOR A SAVINGS CLAUSE AND REPEALING CONFLICTING ORDINANCES OR RESOLUTIONS.

WHEREAS, the City Council of Elgin, Texas (“City Council”) desires to update certain regulations by adding accessory dwelling unit regulations to the zoning code; and

WHEREAS, City staff has posted proper notice and conducted public hearings in accordance with state law; and

WHEREAS, the Planning & Zoning Commission at their April 24, 2022, meeting recommended approval of the proposed changes; and

WHEREAS, City Council finds that the proposed amendments are in the best interests of the City and its residents.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELGIN, TEXAS:

I.

That Chapter 46 Zoning, Article I In General, Code of Ordinances, City of Elgin, Texas, is hereby amended by adding, amending, and deleting definitions to Section 46-1 - Definitions et. seq., which shall read as follows:

Accessory dwelling unit (ADU) means a detached dwelling unit built on a lot in addition to the main building. Accessory dwelling units are subordinate in size, location, and use to the main building.

Dwelling means any building or portion thereof, which is designed or used as living quarters for one or more families, but not including trailer homes. ~~All dwellings shall comply with the requirements in masonry construction.~~ See *Trailer home*.

Dwelling, accessory See *Accessory dwelling unit*.

Dwelling, two-family, means a ~~detached dwelling building~~ designed to be occupied by two independent dwellings whereby families live~~ing~~ independently of each other.

~~*Garage apartment* means a dwelling unit for one family erected above a private garage or a multifamily dwelling unit, with not more than three stories. The building has private outdoor space, either on grade, or a private balcony.~~

Gross floor area means the total area in square feet of all floors of a building, measured from the exterior face of exterior walls or from the centerline of dividing walls separating two buildings.

Main building See *Building, main*

II.

That Chapter 46 Zoning, Article I In General, Code of Ordinances, City of Elgin, Texas, is hereby amended by adding a permitted use to Section 46-231 – Uses Permitted et. seq., which shall read as follows:

(15) Accessory dwelling unit.

III.

That Chapter 46 Zoning, Article IV Zoning District Regulations, Code of Ordinances, City of Elgin, Texas, is hereby amended by amending side and rear yard setbacks, lot area, and impervious coverage to Section 46-233 – Area regulations et. seq., which shall read as follows:

(2) *Side yard.*

- a. For all dwellings located on interior lots there shall be a side yard on each side of the main building of not less than seven and one-half feet for dwellings of one story, and of not less than ten feet for dwellings or more than one story except as hereinafter provided in this subsection.
- b. For unattached buildings of accessory use, not including accessory dwelling units, there shall be a side yard of not less than five feet; provided, however, that unattached one story buildings of accessory use shall not be required to set back more than three feet from an interior side line when all parts of the accessory building are located more than 90 feet behind the front lot lines. In cases where the accessory building is 100 square feet or less in size there is no side setback.
- c. For dwellings and accessory buildings located on corner lots there shall be a side yard from the intersecting street of not less than 15 feet in case such lot is back to back with another corner lot, and 25 feet in every other case. The interior side yard of a corner lot shall be the same as for dwellings and accessory buildings on an interior lot.
- d. Churches and main accessory buildings, other than dwellings, and buildings accessory to dwellings, shall set back from all exterior and interior side lot lines a distance of not less than 25 feet.

(3) *Rear yard.* There shall be a rear yard for a main building and accessory dwelling units of not less than ten feet. Unattached buildings of accessory use are located in the rear yard of a main building.

(5) *Lot area.*

- a. For each main dwelling, and building accessory thereto, there shall be lot area of not less than 9,000 square feet.
- b. For churches and main and accessory buildings, other than dwellings and accessory to buildings, the lot area shall be adequate to provide the yard areas required by this subsection and the off-street parking areas required; provided, however, that the lot area for a church shall not be less than 21,000 square feet
- c. For each accessory dwelling unit there shall be a lot area of not less than 10,000 square feet.

(6) *Impervious coverage.* Main buildings, accessory dwelling units, and accessory buildings and other impervious cover shall not cover more than 45 percent of lot area on interior lots, and 50 percent of the lot area on corner lots. Accessory buildings shall not cover more than ten percent of the impervious cover requirements, this 10% is not applicable to accessory dwelling units.

IV.

That Chapter 46 Zoning, Article IV Zoning district regulations, Code of Ordinances, City of Elgin, Texas, is hereby amended by deleting a permitted use to Section 46-263 – Uses Permitted et. seq., which shall read as follows:

~~(2) Garage apartments.~~

(~~3~~) Duplex.

V.

That Chapter 46 Zoning, Article IV Zoning district regulations, Code of Ordinances, City of Elgin, Texas, is hereby amended by amending side and rear yard setbacks, lot area, and impervious coverage to Section 46-265 – Area Regulations et. seq., which shall read as follows:

(2) *Side yard.*

- a. For all dwellings located on interior lots there shall be a side yard on each side of the main building of not less than seven and one-half feet for dwellings of one story, and of not less than ten feet for dwellings or more than one story except as hereinafter provided in this subsection.
 - b. For unattached buildings of accessory use, not including accessory dwelling units, there shall be a side yard of not less than five feet; provided, however, that unattached one story buildings of accessory use shall not be required to set back more than three feet from an interior side line when all parts of the accessory building are located more than 90 feet behind the front lot lines. In cases where the accessory building is 100 square feet or less in size there is no side setback.
 - c. For dwellings and accessory buildings located on corner lots there shall be a side yard from the intersecting street of not less than 15 feet in case such lot is back to back with another corner lot, and 25 feet in every other case. The interior side yard of a corner lot shall be the same as for dwellings and accessory buildings on an interior lot.
 - d. Churches and main accessory buildings, other than dwellings, and buildings accessory to dwellings, shall set back from all exterior and interior side lot lines a distance of not less than 25 feet.
- (3) *Rear yard.* There shall be a rear yard for a main building and accessory dwelling units of not less than ten feet. Unattached buildings of accessory use are located in the rear yard of a main building.

(5) *Lot area.*

- a. For each main dwelling, and building accessory thereto, there shall be lot area of not less than 7,500 square feet.
 - b. For each accessory dwelling unit there shall be a lot area of not less than 10,000 square feet.
 - c. For churches and main and accessory buildings, other than dwellings and accessory to buildings, the lot area shall be adequate to provide the yard areas required by this subsection and the off-street parking areas required; provided, however, that the lot area for a church shall not be less than 21,000 square feet
- (6) *Impervious coverage.* Main buildings, accessory dwelling units, and accessory buildings and other impervious cover shall not cover more than 45 percent of lot area on interior lots, and 50 percent of the lot area on corner lots. Accessory buildings shall not cover more than ten percent of the impervious cover requirements, this 10% is not applicable to accessory dwelling units.

VI.

That Chapter 46 Zoning, Article IV Zoning district regulations, Code of Ordinances, City of Elgin, Texas, is hereby amended by amending side and rear yard setbacks, lot area, and impervious coverage to Section 46-303 – Area Regulations et. seq., which shall read as follows:

(2) *Side yard.*

- a. For all dwellings located on interior lots there shall be a side yard on each side of the main building of not less than seven and one-half feet for dwellings of one story, and of not less than ten feet for dwellings or more than one story except as hereinafter provided in this subsection.
 - b. For unattached buildings of accessory use, not including accessory dwelling units, there shall be a side yard of not less than five feet; provided, however, that unattached one story buildings of accessory use shall not be required to set back more than three feet from an interior side line when all parts of the accessory building are located more than 90 feet behind the front lot lines. In cases where the accessory building is 100 square feet or less in size there is no side setback.
 - c. For dwellings and accessory buildings located on corner lots there shall be a side yard from the intersecting street of not less than 15 feet in case such lot is back to back with another corner lot, and 25 feet in every other case. The interior side yard of a corner lot shall be the same as for dwellings and accessory buildings on an interior lot.
 - d. Churches and main accessory buildings, other than dwellings, and buildings accessory to dwellings, shall set back from all exterior and interior side lot lines a distance of not less than 25 feet.
- (3) *Rear yard.* There shall be a rear yard for a main building and accessory dwelling units of not less than ten feet. Unattached buildings of accessory use are located in the rear yard of a main building.
- (5) *Lot area.*
- a. For each main dwelling, and building accessory thereto, there shall be lot area of not less than 6,000 square feet.
 - b. For each accessory dwelling unit there shall be a lot area of not less than 10,000 square feet.
 - c. For churches and main and accessory buildings, other than dwellings and accessory to buildings, the lot area shall be adequate to provide the yard areas required by this subsection and the off-street parking areas required; provided, however, that the lot area for a church shall not be less than 10,000 square feet
- (6) *Impervious coverage.* Main buildings, accessory dwelling units, and accessory buildings and other impervious cover shall not cover more than 45 percent of lot area on interior lots, and 50 percent of the lot area on corner lots. Accessory buildings shall not cover more than ten percent of the impervious cover requirements, this 10% is not applicable to accessory dwelling units.

VII.

That Chapter 46 Zoning, Article V Supplemental District Regulations, Code of Ordinances, City of Elgin, Texas, is hereby amended by amending side and rear yard setbacks, lot area, and impervious coverage to Section 46-510 – Impervious Driveway Required; Minimum Square Footage of Dwellings et. seq., which shall read as follows:

(d) Accessory dwelling units shall be one half (1/2) of the gross floor area of the main building not to exceed 900 sq. ft. and shall be a minimum of 370 sq. ft.

VIII.

That Chapter 46 Zoning, Article V Supplemental district regulations, Code of Ordinances, City of Elgin, Texas, is hereby amended by adding accessory building regulations to Section 46-540 – Accessory Building Restrictions et. seq., which shall read as follows:

Sec. 46-540. Accessory building restrictions & accessory dwelling unit restrictions.

- (a) No accessory building and/or accessory dwelling unit shall be constructed upon a lot until the construction of the main building has been actually commenced, ~~and~~
- (b) An accessory dwelling unit shall not be rented out for a period of less than thirty (30) consecutive calendar days in a year.
- (c) An accessory dwelling unit shall not be sold separately from the property.
- (d) An accessory dwelling unit is subject to the applicable density standards in its applicable zoning category.
- (e) An accessory dwelling unit cannot be located past the front elevation of the main building.
- (f) ~~n~~No accessory building shall be used unless the main building on the lot is also being used.

IX.

That Chapter 46 Zoning, Article V Supplemental district regulations, Code of Ordinances, City of Elgin, Texas, is hereby amended by adding clarification to Dwelling, single family or two-family & adding standards for accessory dwelling unit to Section 46-635 – Amount of Off-Street Parking and Loading Requirements et. seq., which shall read as follows:

- (a) Off-street parking and loading facilities shall be provided in all zoning districts, except within the Downtown Historic District, in accordance with the following schedule:
 - (1) Dwelling, single-family or two-family: Two parking spaces for each separate dwelling unit within a garage and two separate parking spaces within a driveway for each dwelling unit; parking may only be in tandem for a single-family dwelling unit. This does not include an accessory dwelling unit.
 - (2) Accessory dwelling unit: Two parking spaces for each dwelling unit; parking may be in tandem.
 - (3) Dwelling, multiple family: 1.5 spaces per one bedroom unit; 2 spaces per two bedroom unit; 2.5 spaces per 3+ bedroom unit; guest parking at a ratio of 5% of the required spaces. At least 25% of all overall parking spaces shall be covered parking. All parking spaces shall be so arranged as to permit vehicles to be parked and removed without moving one car to facilitate the movement of the other. All parking areas shall be paved according to the city's standard specifications.
 - (~~34~~) Boardinghouse, rooming house, tourist home, bed and breakfast or hotel: 1 parking space per room + 1 parking space per 200 sq. ft. of commercial gross floor area or + 4 parking spaces for a use that doesn't have a commercial gross floor area.
 - (~~45~~) Hospitals: One space for each four patient beds, exclusive of bassinets, plus adequate area for the parking of emergency vehicles.
 - (~~56~~) Medical or dental clinics or offices: 1 parking space per 200 sq. ft. of gross floor area.
 - (~~67~~) Sanatoriums, convalescent or nursing homes: 1 parking space per one bedroom unit + 4 additional parking spaces.
 - (~~78~~) Community center, theater, auditorium, church sanctuary: One parking space for each four seats, based on maximum seating capacity.
 - (~~89~~) Convention hall, lodge, club, library, museum, place of amusement or recreations: One parking space for each 50 square feet of floor area used for assembly or recreation in the building.
 - (~~910~~) Office building: One parking space for each 300 square feet of gross floor area in the building, exclusive of the area used for storage, utilities and building service.

- (101) Restaurants, cafes, dinners, clubs, bars and other establishments which provide tables and/or bar seating: 1 parking space per 100 sq.ft. of gross floor area (includes outdoor seating, outdoor smoking areas, and waiting areas).
- (112) Commercial establishments not otherwise classified: One parking space for each 200 square feet of floor space used for retail trade in the building and including all areas used by the public.
- (123) Industrial establishments: 1 parking space per 600 sq. ft. of gross floor area for indoor facility; and 1 parking space per additional 1,000 sq. ft. gross floor area for outdoor facility; and 1 parking space per 2,500 sq. ft. indoor storage area.
- (134) Public elementary school and middle school (junior high): One space per 300 square feet of classrooms.
- (145) Private school, primary: One space per 300 square feet of classrooms.
- (156) Private school, secondary: One space per 200 square feet of classrooms.
- (167) Public high school: One space per 200 square feet of classrooms.
- (178) Post-secondary institution: One space for each two residents for dormitories or other residences; one space for each 500 square feet of gymnasium and classrooms; one space for each 300 square feet of administrative and office space.

X.

That Chapter 46 Zoning, Article V Supplemental district regulations, Code of Ordinances, City of Elgin, Texas, is hereby amended by adding accessory dwelling unit regulations to Section 46-692 – Location of dwellings and buildings et. seq., which shall read as follows:

- (a) Only one main building for single-family or two-family use, with permitted accessory buildings, may be located upon a lot or unplatted tract. Every dwelling shall front upon a street or officially approved place, other than an alley.
- (b) Only one (1) accessory dwelling unit may be located upon a lot or unplatted tract. Every dwelling shall front upon a street or officially approved place, other than an alley.
- (c) Where a lot or tract of land is used for multifamily, commercial, or industrial purposes, more than one main building may be located upon the lot but only when such buildings conform to all the open space, parking and density requirements applicable to the uses and district, and when all such main buildings face upon a street or officially approved place, other than an alley.

XI.

- A. All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.
- B. The invalidity of any section or provision of this ordinance shall not invalidate other sections or provisions thereof.
- C. The City Council hereby finds and declares that written notice of the date, hour, place and subject of the Planning & Zoning Commission meeting at which this Ordinance was recommended was posted and that such meeting was open to the public as required by law at all times during which this Ordinance and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.
- D. The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Ordinance was adopted was posted and that such meeting was open to the public as required by law at all times during which this Ordinance and the subject matter

hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

READ, PASSED, and ADOPTED on this **16th** day of **May**, 2023.

THERESA Y. MCSHAN, Mayor
City of Elgin, Texas

ATTEST:

JENNIFER STUBBS, City Secretary