

**ORDINANCE NO. 3912-5-22**

**AN ORDINANCE OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AMENDING ARTICLE IV “ZONING REGULATIONS” OF THE ALLEN LAND DEVELOPMENT CODE, AS AMENDED, BY AMENDING IN ITS ENTIRETY SECTION 4.10 “RESIDENTIAL ACCESSORY USE REGULATIONS” REGARDING THE REGULATION OF ACCESSORY STRUCTURES IN RESIDENTIAL ZONING DISTRICTS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND (\$2,000) DOLLARS FOR EACH OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Planning and Zoning Commission and the governing body of the City of Allen, Texas, in compliance with the laws of the State of Texas and the Ordinances of the City of Allen, Texas, have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all persons interested and in the exercise of its legislative discretion, the City Council has concluded that the Allen Land Development Code Zoning Regulations of the City of Allen, Texas, as previously amended, should be further amended as follows:

**SECTION 1.** Article IV “Zoning Regulations” of the Allen Land Development Code, is amended by amending in its entirety Section 4.10 “Residential Accessory Use Regulations” to read as follows:

**“Sec. 4.10. - Residential accessory use regulations.”**

1. *General.* The standards in this section 4.10 shall apply to all single-family residential zoning districts.
2. *Accessory structures:*
  - a. *Building permits.* No person shall install or construct an accessory structure with a floor area of greater than 120 square feet without first obtaining a building permit issued by the city.
  - b. *Engineered floors.* Notwithstanding paragraph 2.a, above, a building permit shall be obtained by a person prior to construction of an accessory structure that is required pursuant to one or more of the codes adopted pursuant to article III to be constructed with a permanent and/or engineered foundation.
  - c. *Compliance with lot coverage limits.* The cumulative area of all accessory structures located on a single-family residential lot and the area of the main structure located on the same lot shall not exceed the maximum lot coverage permitted in the zoning district.
  - d. *Setbacks:*
    - i. *Front yard.* A detached accessory structure must be located in the rear yard or in the area of a side yard not less than 20 feet behind the front building facade.
    - ii. *Side and rear yards.* The required side and rear yard for any detached accessory structure is three feet from any side or rear lot line, except as follows:
      - (a) If no alley exists, the rear yard shall not be less than five feet from the rear lot line.

- (b) No accessory structure shall be located within any easement affecting the lot as recorded in the Official Public Records of Collin County, Texas.
  - (c) A garage entered from an alley or side street shall be set back from the side street or alley not less than 20 feet.
  - (d) An accessory structure with an area greater than 400 square feet shall comply with the side and rear setback requirements applicable in the underlying zoning district applicable to the primary structure located on the same lot or tract.
- iii. *Accessory structure height greater than 15 feet.* An accessory structure with a height greater than 15 feet shall comply with the setback requirements applicable to the primary structure or the setbacks set forth in paragraphs d.i and d.ii, above, whichever is more restrictive.
- iv. *Maximum height of accessory structures.* At no point shall the height of the accessory structure exceed the height of the primary structure or the maximum height allowed for buildings constructed in the underlying zoning district, whichever is less.
- 3. *Cooling towers and similar structures.* Air conditioning compressors and pads on a lot or tract developed with a detached single-family residential unit shall be setback not less than three feet from any property line. Cooling towers and similar accessory structures shall be located in compliance with all front, side, or rear yard setback regulations applicable to the zoning district.
- 4. *Carports.* Carports accessed from a rear alley or side street shall shelter no more than three vehicles, shall not exceed 27 feet on its longest dimension, and shall be located no closer than three feet to any side or rear lot line.
- 5. *Swimming pools.* Swimming pools (including all decking and equipment) must be located behind front building setback lines and at not less than three feet from any property line. Any swimming pool water edge shall be not less than five feet from any primary structure. All pools must be completely enclosed by a fence or wall not less than six feet in height equipped with self-latching and self-closing gates. The latching device shall be located on the poolside not less than four and one-half feet above the ground. Automatic electric gates may be used, provided closing action is initiated within 60 seconds after pass-through of a vehicle or person. Temporary fencing is required during excavation.
- 6. *Home occupations.* Home occupations are permitted as accessory uses subject to the following requirements:
  - a. The activity shall be conducted wholly within the main building and not in any accessory building.
  - b. Total floor area to be used for a home occupation shall not occupy more than 20 percent of the total floor area of the main building nor exceed 400 square feet.
  - c. Outdoor activities shall be limited to instructional activities conducted in the backyard and screened from the neighboring property.
  - d. No outside storage of materials, goods, supplies, vehicles, trailers, or equipment connected with the home occupation shall be allowed.
  - e. No advertisement, sign, or display relating to the home occupation shall be allowed on the premises. Unless otherwise required by law, no advertisement of the home occupation shall include the street address of the premises.

- f. There shall be no activity that regularly attracts people who do not reside at the location of the home occupation, except those related to instructional activities.
- g. Instructional activities shall be limited to a maximum of six students at any time.
- h. Parking, picking up, or dropping off students is prohibited in city alleys.
- i. Merchandise or products of the home occupation shall not be offered or displayed for sale at or on the premises. Exception: Garage sales may be held twice in one calendar year provided that: (1) merchandise is not acquired solely for the purpose of resale on the premises; (2) the duration of sale shall not exceed three calendar days; (3) signage shall be in conformance with section 7.09 of this Code.
- j. Sales incidental to a service are allowed, provided that orders previously made by telephone generally are filled off the premises of the person conducting the home occupation, or at a sales party conducted off the premises of the person conducting the home occupation.
- k. There shall be no external evidence of the home occupation. No activity shall indicate, from the exterior of the structure, that the premises are being used for anything other than a dwelling unit.
- l. The activity shall employ only residents of the location of the home occupation.
- m. A home occupation shall produce no offensive odor, noise, dust, smoke, fumes, glare, vibration, electrical disturbance, or heat in excess of those normally found in residential areas.
- n. No traffic or parking of vehicles shall be generated by a home occupation in greater volumes than normally expected in a residential neighborhood and any need for parking must be accommodated within the required off-street parking for the dwelling unit.
- o. Childcare in a registered family home will be allowed and shall be limited to the number of children allowed under applicable state law or city regulation.
- p. Any business, occupation, or activity conducted within a dwelling unit, and which does comply with this Section 4.10.6 shall be construed to be a commercial activity and shall be cause for the city to order a cease to all such activity within such dwelling unit.
- q. Except for a person working on or selling a motor vehicle owned by the person and subject to all other applicable laws, rules, ordinances and regulations, the service, repair, painting, or onsite selling of any motor vehicle, including, but not limited to, automobiles, motorcycles, trailers, boats, personal watercraft, recreation vehicles and lawn equipment is not authorized as, and is specifically excluded from the definition of, "a home occupation."

**SECTION 2.** In the event of an irreconcilable conflict between the provisions of another previously adopted Ordinance of the City of Allen and the provisions of this Ordinance, the provisions of this Ordinance shall be controlling.

**SECTION 3.** Should any word, sentence, paragraph, subdivision, clause, phrase or section of this Ordinance, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said Ordinance, or the Allen Land Development Code, as amended hereby, which shall remain in full force and effect.

**SECTION 4.** An offense committed before the effective date of this Ordinance is governed by prior law and the provisions of the Allen Land Development Code, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

**SECTION 5.** Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in the Allen Land Development Code, as amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense, and each and every day such violation shall continue shall be deemed to constitute a separate offense.

**SECTION 6.** This Ordinance shall take effect immediately from and after its passage and publication in accordance with its provisions of the Charter of the City of Allen, and it is accordingly so ordained.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 10<sup>TH</sup> DAY OF MAY 2022.**

**APPROVED:**

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**Kenneth M. Fulk, MAYOR**

**APPROVED AS TO FORM:**

**ATTEST:**

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**Peter G. Smith, CITY ATTORNEY**  
(kbl:4/25/2022:128965)

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**Shelley B. George, TRMC, CITY SECRETARY**