

ORDINANCE NO. 2023-969

AN ORDINANCE OF THE CITY OF WACO, TEXAS, AMENDING ARTICLE IV “DISTRICT REGULATIONS” OF CHAPTER 28 “ZONING” OF THE CODE OF ORDINANCES, TO ADD ACCESSORY DWELLING UNITS AS A PERMITTED USE IN THE R-E, R-1A, R-1B, R-1C, R-2, R-3A, R-3B, R-3C, R-3D, R-3E, O-1, O-2, AND O-3 ZONING DISTRICTS; CREATING A NEW DIVISION 9 “ACCESSORY DWELLING UNITS” INCLUDING SECTIONS 28-970.5.1-28-970.5.3 TO ARTICLE V “SUPPLEMENTARY DISTRICT REGULATIONS” OF CHAPTER 28 “ZONING” TO PROVIDE A PURPOSE, DEFINITIONS, AND DESIGN AND DEVELOPMENT STANDARDS FOR ACCESSORY DWELLING UNITS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR PENALTIES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City of Waco is making changes to certain Divisions of Article IV “District Regulations” of Chapter 28 “Zoning” of the Code of Ordinances, to add “Accessory dwelling units” as a permitted use in the R-E, R-1A, R-1B, R-1C, R-2, R-3A, R-3B, R-3C, R-3D, R-3E, O-1, O-2, and O-3 zoning districts; and

WHEREAS, the City of Waco is making changes to create a new Division 9 “Accessory Dwelling Units” including Sections 28-970.5.1-28-970.5.3 to Article V “Supplementary District Regulations” of Chapter 28 “Zoning” to provide a purpose, definitions, and design and development standards for “Accessory dwelling units”; and

WHEREAS, on September 26, 2023, the City Plan Commission conducted a public hearing on these proposed changes to Chapter 28 “Zoning” of the Code of Ordinances of the City of Waco concerning the allowance and regulations of “Accessory dwelling units”; and

WHEREAS, the City Council conducted a public hearing on these proposed changes on October 17, 2023,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WACO, TEXAS:

Section 1. That Article IV “District Regulations” and Article V “Supplementary District Regulations” of Chapter 28 “Zoning” of the Code of Ordinances of the City of Waco, Texas shall be amended as follows (Additions / ~~Deletions~~):

Chapter 28 - ZONING.

ARTICLE IV. - DISTRICT REGULATIONS

DIVISION 2. - R-E SINGLE FAMILY RESIDENCE DISTRICT
Sec. 28-272. - Permitted uses.

(19) Accessory Dwelling Units.

DIVISION 3. - R-1A SINGLE FAMILY RESIDENCE DISTRICT
Sec. 28-297. - Permitted uses.

(19) Accessory Dwelling Units.

DIVISION 4. - R-1B SINGLE FAMILY RESIDENCE DISTRICT
Sec. 28-322. - Permitted uses.

(20) Accessory Dwelling Units.

DIVISION 5. - R-1C SINGLE FAMILY RESIDENCE DISTRICT
Sec. 28-347. - Permitted uses.

(20) Accessory Dwelling Units.

DIVISION 6. - R-2 TWO-FAMILY AND ATTACHED SINGLE FAMILY RESIDENCE DISTRICT
Sec. 28-372. - Permitted uses.

(28) Accessory Dwelling Units.

DIVISION 7. - R-3A MULTIPLE FAMILY RESIDENCE DISTRICT
Sec. 28-397. - Permitted uses.

(30) Accessory Dwelling Units.

DIVISION 8. - R-3B MULTIPLE FAMILY RESIDENCE DISTRICT
Sec. 28-422. - Permitted uses.

(31) Accessory Dwelling Units.

DIVISION 9. - R-3C MULTIPLE FAMILY RESIDENCE DISTRICT
Sec. 28-447. - Permitted uses.

(31) Accessory Dwelling Units.

DIVISION 10. - R-3D MULTIPLE FAMILY RESIDENCE DISTRICT
Sec. 28-472. - Permitted uses.

(31) Accessory Dwelling Units.

DIVISION 11. - R-3E MULTIPLE FAMILY RESIDENCE DISTRICT

Sec. 28-497. - Permitted uses.

(31) Accessory Dwelling Units.

DIVISION 12. - O-1 OFFICE DISTRICT

Sec. 28-522. - Permitted uses.

(41) Accessory Dwelling Units.

DIVISION 13. - O-2 OFFICE-RESIDENCE DISTRICT

Sec. 28-547. - Permitted uses.

(54) Accessory Dwelling Units.

DIVISION 14. - O-3 OFFICE-LIMITED COMMERCIAL DISTRICT

Sec. 28-572. - Permitted uses.

(56) Accessory Dwelling Units.

ARTICLE V. - SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 9. - ACCESSORY DWELLING UNITS

Sec. 28-970.5.1. - Purpose.

Accessory dwelling units are intended to provide an opportunity for alternative housing options in single-family residential neighborhoods while preserving the character of these neighborhoods. This is intended to make neighborhoods more resilient against changing market conditions, allow more efficient use of existing infrastructure, provide alternative housing options, and a means for property owners to realize additional income while residents remain in place.

Sec. 28-970.5.2. - Definitions.

Accessory dwelling unit. A separate additional living unit, providing separate complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation, attached or detached from a primary dwelling unit, on a legally platted single-family lot.

Owner occupancy. Means a property owner, as reflected in title records, makes his or her legal residence at the site, as evidenced by voter registration, vehicle registration, or similar means.

Sec. 28-970.5.3. - Design and Development Standards.

All accessory dwelling units must conform to the following standards:

1. Number of Accessory dwelling units per lot. Only one accessory dwelling unit shall be allowed per lot.
2. Number of bedrooms of Accessory dwelling units. Only one bedroom permitted per Accessory Dwelling Unit.
3. Existing development on the lot. A detached single-family primary dwelling unit must exist on the lot or will be constructed in conjunction with the accessory dwelling unit. Accessory dwelling units are not permitted with any other type of housing units.
4. Setbacks for Detached Accessory dwelling units. Detached accessory dwelling units shall have a minimum rear yard setback of 10 feet; side yard setback of 5 feet; and front yard setback the same as the primary dwelling unit. A detached accessory dwelling unit must have at least a 10-foot separation from the primary dwelling unit. Existing structures that are adapted or renovated are exempt from the setback requirements.
5. Setbacks for Attached Accessory dwelling units. Attached accessory dwelling units shall meet the same minimum setbacks required by the zoning district of the primary dwelling unit.
6. Accessory dwelling unit size. The maximum floor area of the accessory dwelling unit shall not exceed 500 square feet or 30% of the size of the floor area of the primary dwelling unit whichever is greater. The floor area calculation of the primary dwelling unit excludes garages. Existing structures that are adapted or renovated are exempt from the accessory dwelling unit size requirements.
7. Height. The maximum height of an accessory dwelling unit shall not exceed the height of the primary dwelling unit.
8. Occupancy. In single-family residence districts, the property owner shall sign an affidavit before a notary public, to be recorded with the McLennan County Clerk's Office, affirming that the owner occupies either the primary dwelling unit or the accessory dwelling unit. It shall be unlawful in a single-family residence district to lease both the primary dwelling unit and the accessory dwelling unit.
9. Parking. Off-street parking shall be provided at a minimum of one space for accessory dwelling unit in addition to the two spaces required for the primary dwelling unit. In addition, the following requirements shall apply:
 - (a) Parking access for the accessory dwelling unit shall be the same as the primary dwelling unit's parking access.
 - (b) Where a lot abuts a public alley, vehicular access for the accessory dwelling unit may be provided from the alley at the rear of the lot.

10. Site coverage and open space. The maximum coverage of the lot by buildings and paved areas shall not exceed 75 percent of the total lot.
11. Building elevations and materials. Exterior design of accessory dwelling units shall be compatible with the primary dwelling unit and have complementary wall materials, window types, door & window trims, roofing material, & roof pitch.
12. Utility connection. An accessory dwelling unit must be connected to the City water and wastewater services of the primary dwelling unit and may not have separate services.
13. Other code requirements. The accessory dwelling unit must meet all other applicable City codes before occupancy.

Section 3. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 4. That it is the intention of the City Council and is hereby ordained that the provisions of this ordinance shall become and be a part of the Code of Ordinances of the City of Waco, Texas, and that sections of this ordinance may be renumbered or relettered to accomplish such intention.

Section 5. That a violation of this ordinance shall be a Class C misdemeanor and the penalty for violating this ordinance shall be as provided for in Sec. 1-14 of the Code of Ordinances of the City of Waco, which shall be a fine of not less than \$1.00 and no more than \$2,000.00, and each day a violation exists shall be a separate offense.

Section 6. That nothing in this ordinance shall be constructed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or prior ordinance; nor shall any legal right or remedy of any character be lost, impaired, or affected by this ordinance.

Section 7. That the terms and provisions of this ordinance shall be deemed to be severable and that if any section, subsection, sentence, clause, or phrase of this ordinance shall be declared to be invalid or unconstitutional, the same shall not affect the validity of any other section, subsection, sentence, clause, or phrase of this ordinance and the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof.

Section 8. That it is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED:

FIRST READING: this 17th day of October 2023.

SECOND READING: this 7th day of November 2023.

Dillon Meek, Mayor
City of Waco, Texas

ATTEST:

Michelle Hicks,
City Secretary

APPROVED AS TO FORM AND LEGALITY:

Jennifer Richie, City Attorney

APPROVED:

Clint Peters, Director of Development Services