

TOWN OF LITTLE ELM

ORDINANCE NO. 1285

AN ORDINANCE OF THE TOWN OF LITTLE ELM, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE TOWN, BY AMENDING 106-82 (ACCESSORY STRUCTURES) TO REVISE ACCESSORY STRUCTURE REGULATIONS AND STANDARDS; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Little Elm ("Town") is a home rule municipal corporation organized and existing by virtue of the Constitution and laws of the State of Texas and by its Charter adopted on May 1, 2001; and

WHEREAS, the Town possesses all the rights, powers, and authorities possessed by all home rule municipalities, including the authority to regulate land uses and provide for development standards under Chapter 211 of the Texas Local Government Code; and

WHEREAS, the Little Elm Town Council, at its November 18th, 2014 work session, directed staff to revise multiple development related ordinances, including the Accessory Structure ordinance; and

WHEREAS, the Town Council and the Planning & Zoning Commission of the Town of Little Elm, in compliance with the laws of the State of Texas and the ordinances of the Town of Little Elm, has provided legal notice and held public hearings regarding the amendments contained in this Ordinance; and

WHEREAS, after public notice was given and a public hearing was conducted, and after due deliberations and consideration of the recommendation of the Planning & Zoning Commission and any other information and materials received at the public hearing, the Town Council has determined that the amendments set forth herein should be adopted, and that such amendments are in the best interest of the public health, safety, and welfare of the citizens of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LITTLE ELM, TEXAS:

SECTION 1. INCORPORATION OF PREMISES. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2. AMENDMENT AND ADOPTION. That Chapter 106-82 (Accessory Structures) of the Town of Little Elm Code of Ordinances, is hereby revised and replaced, in its entirety, to read per the attached Accessory Structure regulations.

SECTION 3. SAVINGS. This Ordinance shall be cumulative of all other ordinances of the Town, and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this

Ordinance; provided, however, that any complaint, notice, action, cause of action, or claim which prior to the effective date of this Ordinance has been initiated or has arisen under or pursuant to such other ordinance(s) shall continue to be governed by the provisions of that ordinance or those ordinances, and for that purpose that ordinance or those ordinances shall be deemed to remain and shall continue in full force and effect.

SECTION 4. PENALTY. Any person, firm, or corporation violating any of the provision of this ordinance shall be punished by a penalty of a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense and each and every day such offense shall continue shall be deemed to constitute a separate offense.

SECTION 5. SEVERABILITY. The sections, paragraphs, sentences, phrases, and words of this Ordinance are severable, and if any section or provision of this ordinance or the application of that section or provision to any person, firm, corporation, situation or circumstance is for any reason judged invalid or unconstitutional, the adjudication shall not affect any other section or provision of this ordinance or the application of any other section or provision to any person, firm, corporation, situation or circumstance, nor shall adjudication affect any other section or provision of the Comprehensive Zoning Ordinance of the Town of Little Elm, Texas, and the Town Council hereby declares that it would have adopted the valid portions and applications of the ordinance without the valid parts and to this end the provisions of this ordinance shall remain in full force and effect.

SECTION 6. REPEALER. That all ordinances of the Town of Little Elm in conflict with the provisions of this ordinance be and the same are hereby repealed to the extent of that conflict.

SECTION 7. EFFECTIVE DATE. That this Ordinance shall take effect immediately upon its adoption and publication in accordance with and as provided by law and the Town Charter.

PASSED AND APPROVED by the Town Council of the Town of Little Elm, Texas on the 4th day of August, 2015.

ATTEST:

The Town of Little Elm, Texas

Kathy Phillips, Town Secretary

David Hillock, Mayor

**ARTICLE III.
SUPPLEMENTARY REGULATIONS.
DIVISION I.
SUPPORTING REGULATIONS.**

Sec. 106-82. Accessory Structures.

- A. *Subordinate use of building.* An accessory building or structure is a subordinate building/structure, the use of which is secondary to and supportive of the main building or primary use. Accessory buildings or structures shall not be permitted without a main building or primary use in existence.
- B. *Regulations for Non-Residential Districts.* The following area regulations shall be observed for all accessory buildings and structures in all commercial, retail, office, industrial, and multi-family districts:
1. All accessory structures require a building permit and site plan approval. Modular storage units, portable on demand storage containers, donation bins, and drop off bins/trailers are considered an accessory structure.
 2. Accessory structures shall abide by all architectural standards in regards to masonry coverage and match the primary building. Accessory structures with pervious roofs may be constructed with fire-treated and rot-resistant wooden material, provided that the columns are encased in masonry matching the primary building.
 3. Non-enclosed accessory structures (non-buildings) shall be screened by a minimum 8' masonry wall and opaque metal gate.
 4. Accessory structures shall abide by the setbacks of the primary structure and shall not conflict with site features such as fire lanes, landscape buffers, required parking, and other issues deemed pertinent by the Director.
- C. *Regulations for all Single-Family, Duplex, and Manufactured Home Districts.* The following area regulations shall be observed for all accessory buildings or accessory structures in all Single-Family, Duplex or Manufactured Home Districts:
- 1) All accessory structures over 120 square feet in size require a building permit and shall be constructed on a permanent foundation. Permanent and/or engineered foundations may be required for accessory structures, per the adopted international codes. Accessory structures not requiring a permit must still be in compliance with the code.
 - 2) *Front yard.* Accessory structures cannot be located in the front yard area.
 - 3) *Side yard, standard interior lot.* Side yard setback shall be a minimum of three feet.
 - 4) *Side yard, corner lot.* Side yard setback adjacent to a street right-of-way shall be a minimum of 18 feet from the curb and behind a fence.
 - 5) *Rear yard.* Rear yard setback shall be a minimum of three feet, unless encroaching an

easement.

- 6) *Siting*. No minimum separation is required between buildings and structures. Attached structures must meet the setbacks of the primary structure.. An accessory structure located within 20 feet of a property line shall have at minimum a 6' high wooden fence installed along the property line in compliance with 106-84.
- 7) *Square footage*. Accessory buildings shall not exceed the square footage of the primary building and be limited in size of footprint and in number as follows:
 - a. Property or lot less than $\frac{1}{2}$ acre in area = Maximum of 750 square feet (measured by total floor area) and 1 accessory structure.
 - b. Property or lot bigger than $\frac{1}{2}$ acre and smaller than 1 acre = Maximum of 1000 square feet (measured by total floor area) and 2 accessory structures.
 - b. Property or lot more than 1 acre in area = Maximum of 2,500 square feet, cumulatively applied to a maximum of 3 accessory structures.
- 8) *Height*. Maximum height shall be 10'. An accessory structure cannot exceed the height of the primary structure and shall be limited to one story in height. Accessory buildings more than ten feet in height shall be set back from the rear and side yard setback lines an additional foot for each additional foot of height over ten feet. This allowance is limited to properties $\frac{1}{2}$ acre and larger in area with a maximum height restriction of 20 feet.
- 9) *Swimming pools and Jacuzzi/hot tubs*. Shall not be located in the front yard area, shall comply with the minimum side yard and corner lot requirements for accessory structures; and be a minimum five foot setback from an interior side yard or rear yard property line.
- 10) *Detached Garages*. Private detached garages have a rear yard setback of 10 feet, side yard setback of 5 feet, and a side yard at corner setback of 20 feet. Alley access garages shall be setback a minimum 20 feet. The size (area), height, and architectural restrictions are the same as for accessory structures, except that a minor height waiver for associated pitched roofs may be discretionarily granted by the Director.
- 11) *Carports*. Carports are prohibited in single family and duplex residential districts, unless its support poles are fully encased in masonry (brick/stone), has a pitched roof, is attached to the primary residence, and meets all setbacks. Manufactured homes may install a carport, which shall not be designed to shelter more than 2 vehicles, shall not exceed 10' in height, and shall not be located closer than 3 feet to any side or rear lot line (i.e. overhang to property line).
- 12) *Accessory Dwelling Units*. Whether located on the ground or erected over a private garage, the following regulations apply:

- a. Accessory dwelling units may not be sold separate from the sale of the entire property, including the main dwelling unit, and shall be located on the same lot as the primary structure.
- b. Utility services shall be metered by the same meter as those serving the main structure on the premises.
- c. Shall abide by the same setback, height, and architectural regulations as detached garages, except that the rear yard setback is 20 feet.
- d. The total square footage is limited to 800 square feet. Lots that are ½ acre or greater in area may build up to 1,200 square feet.

13) *Flatwork*. The following restrictions shall apply to all impervious surface, concrete, grading, and other similar installations.

- a. All flatwork requires a permit.
- b. All new parking and drives must be constructed with concrete to the Town's engineering design criteria. Where drives exceed 100 feet in length, an all-weather surface is permitted beyond the drive approach.
- c. No flatwork is allowed within 3' of any property line, nor in the front yard area. This shall not be interpreted to allow for enlarged driveways, whose width should match the width of the enclosed garage and not be expanded into the side yard setback.
- d. Nothing within this section allows the creation of a drainage hazard/issue, and all flatwork must be sloped/graded to drain.
- e. Paving is limited to 10% of total lot coverage, including the driveway, and should be limited in application.
- f. A residential property shall continue to maintain the majority of each of its yards in living landscape, as required by the Landscape ordinance and administered by the Director. Mulch, gravel, rock gardens, decorative stone, and similar material may be used for patterns, beds, erosion control, and in other limited application with adequate associated landscaping; however, their use shall not be the predominant groundcover.

14) *Architecture*. Accessory building and detached garage design elements:

- a. The exterior facades of a detached garage or other accessory building or structure shall be constructed of a masonry material (brick, stone, stucco) that matches the main building or structure.
- b. Cementitious fiberboard or engineered wood may be used to fulfill masonry requirements for an accessory building or structure of 200 square feet or less in a single-family or two-family district, and cementitious fiberboard or engineered wood may be used to fulfill masonry requirements for structures accessory to an existing primary structure constructed entirely of wood, metal, or vinyl siding.
- c. Metal or wood may be used as an exterior construction material for an accessory building or structure of 120 square feet or less in a single-family or two-family district.

(Ord. No. 226, 10-20-1986; Ord. No. 701, § 2, 4-19-2005)