

ORDINANCE NO. 2023-10735

AN ORDINANCE AMENDING UNIFIED DEVELOPMENT CODE (“UDC”) SECTION 3.1 “ACCESSORY STRUCTURES” TO REVISE MEASUREMENT, SIZE, AND HEIGHT REGULATIONS; AMENDING SECTION 9.3 “DEFINITIONS” TO AMEND THE DEFINITION OF “ACCESSORY BUILDING OR ACCESSORY STRUCTURE”; PROVIDING FOR CONFLICT RESOLUTION, A SEVERABILITY CLAUSE, A SAVINGS CLAUSE, A PENALTY, AND AN EFFECTIVE DATE.

WHEREAS, after proper notice and public hearing the Planning and Zoning Commission considered the ordinance amendment and recommended Approval on April 3, 2023; and

WHEREAS, after notice and public hearing, and upon consideration of the recommendation of the Planning and Zoning Commission and of all testimony and information submitted during the public hearing, the City Council has determined amending Unified Development Code Section 3.1 “Accessory Structures” is in accordance with the comprehensive plan, is in the best interest of the public, and is for the purpose of promoting the health, safety, morals, and general welfare of the citizens and protecting and preserving places and areas of historical, cultural, or architectural importance and significance.

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

SECTION 1. That Section 3.1 “Accessory Buildings” of Chapter 3 “Performance Standards for Selected Uses” of the City of Irving Unified Development Code is hereby amended to read as follows:

3.1 - Accessory Buildings and Structures on Residential Lots

3.1.1 General provisions.

- (a) *Lot coverage.* The total area covered by roofed areas shall not exceed the maximum lot coverage (percentage) for the applicable residential zoning district.
- (b) *Attachment to primary structure.* An accessory building attached to the primary structure shall be made structurally a part of and have a common wall with the primary structure and shall comply in all respects with the requirements of this ordinance applicable to the primary structure. Accessory structures attached to a primary structure by a breezeway, covered walkway or other structure that (does not share a structural wall with the primary structure) is not part of the primary structure shall not be considered to be an extension of the primary structure.
- (c) *Location.* An accessory building in an "R" district shall be located on or behind the required front building wall.
- (d) *Distance from other structures.* The distance between structures, including swimming pools, shall be determined by the City’s currently adopted building codes.
- (e) *Maximum area exclusions.* In-ground swimming pools, hot tubs, spas, swimming pool equipment enclosures, retaining walls, decks, and flatwork associated with a

swimming pool, hot tub, or spa shall not be counted toward the maximum area allowed.

3.1.2 *Accessory buildings on an adjacent lot with same owner.* A residential accessory building on a lot separate from the lot on which the principal use structure stands shall only be allowed when a common owner(s) has two (2) or more platted lots which side yards abut each other and front yards front upon the same street. The owner(s) shall apply for a building permit prior to construction. For purposes of the building permit, the two (2) lots shall be considered as one (1) building site as if it were a single lot. All of the requirements for residential accessory buildings shall apply to the entire building site as if it were a single lot, except that:

1. The accessory building may not be placed farther from the rear property line than the rear yard setback line established for a principal use structure;
2. No more than one (1) accessory building (defined as either a building not exceeding two hundred fifty (250) sq. ft. or a garage not exceeding eight hundred (800) sq. ft.) may be built on the lot that does not include the principal use structure;
3. The exemption to the number of accessory buildings and area of accessory buildings for lots one-half (½) acre or greater shall not apply to the combined area of the two (2) lots; and
4. The prohibition of Separate Utilities (3.1.10 herein) shall not apply to structures permitted under this subsection.

3.1.3 *Detached garage in an "R" district.* A detached garage shall have a minimum of two (2) or more partially or fully enclosed side walls. A detached garage may not be constructed with a metal exterior.

(a) *Driveway access.* A detached garage must be located on the lot in a way that provides adequate driveway access to the entry of the garage. Driveways must be approved through the City's permitting process.

(b) *Maximum square footage.* A detached garage shall not exceed a maximum of eight hundred (800) square feet or 10% of lot area, whichever is greater, up to 1,200 square feet. A detached garage shall not be counted toward the square footage of other detached accessory structures. The total square footage of all detached garages shall not exceed the square footage provided in this section.

(c) *Minimum setbacks.* A detached garage shall be set back a minimum of five (5) feet from an interior side or rear property line. A detached garage on a corner lot shall comply with the side setbacks of the primary structure adjacent to a street.

(d) *Maximum height.* A detached garage in a single family "R" district shall not be greater than one (1) story, not to exceed eighteen (18) feet, as measured to the highest point of the garage roof. In no instance shall a detached garage exceed the height of the main structure at the highest point of the main structure's roof. A garage may include an attic or loft, provided the attic or loft does not contain heated or air-conditioned floor space.

3.1.4 *Detached accessory buildings other than a detached garage or carport in a single family "R" district.* These include structures which are floored, roofed, may be surrounded by outside columns or walls, and which contains no door that is larger than six (6) feet in width.

- (a) *Maximum square footage.* The total square footage of detached accessory buildings (other than detached garages or carports) on lots less than ½ acre shall not exceed a maximum of 10% of the lot area or a maximum of 2,500 square feet. There is no maximum square footage for detached accessory buildings (other than detached garages or carports) on lots one-half (½) acre or greater.
  - (b) *Minimum setbacks.* A detached accessory building shall be set back a minimum of five (5) feet from any side or rear property line for any structure up to ten (10) feet in height. In the case of a corner lot, no accessory building shall be located within any side yard required on the street side.
  - (c) *Maximum height.* A detached accessory building shall not exceed a maximum of ten (10) feet measured to the highest point of the roof. The maximum height may be increased by one (1) additional foot for each one (1) additional foot of side and rear setback to a maximum of twenty (20) feet in height with a minimum side and rear setback of fifteen (15) feet.
- 3.1.5 *Building materials.* Any detached accessory building of one hundred fifty (150) square feet or larger in an "R" district shall be constructed with commonly-used residential building materials that constitute a finished, weather-proof exterior in accordance with the building code including, but not limited to, masonry, veneer, stucco, durable all-weather stone, and wood, vinyl or cementitious siding, but specifically excluding any type or metal exterior. A greenhouse in an "R" district may be constructed of glass or other transparent or translucent glazing material in accordance with the building code.
- 3.1.6 *No separate utilities.* Any detached accessory building in an "R" district shall not have a utility meter of any type separate from the primary structure.
- 3.1.7 *Dwelling accommodation use.* Any detached accessory building in an "R" district shall not be used for dwelling accommodations or business use except as permitted in Chapter 2.4, Residential Districts.
- 3.1.8 *Carports.* Carports on properties zoned R-40, R-15, R-10, R-7.5, R-6, R-ZLa, R-3.5, R-SFA, R-2.5, R-XF, or any site plan zoning or development plan for R-40, R-15, R-10, R-7.5, R-6, R-ZLa, R-3.5, R-SFA, R-2.5, or R-XF uses shall meet the following requirements. For purposes of this section, carport shall mean a structure used to offer limited protection to vehicles, primarily cars, from the elements. The structure can either be free standing or attached to another building, and typically, but not necessarily, does not permit a vehicle to pass through it. A carport most commonly has no walls, but may be attached to the wall of an adjacent dwelling and shall be open on three sides.
- a) Carports that do not encroach into required front, rear, and side yard setbacks shall meet the following requirements:
    - 1) The carport design shall be consistent with the design of the existing dwelling, including the use of matching trim and roof materials and colors. Carports attached to the front or side of the existing dwelling shall be incorporated into the architecture of the dwelling with compatible roof pitches, surrounds for the support posts, and enclosed gables. Building permit applications for carports shall include detailed elevation drawings and other illustrations showing how the carport is consistent with the design of the existing dwelling.
    - 2) The carport, including carport roof overhang, shall be no nearer than three (3) feet from the side or rear property line;

- 3) The carport shall not exceed 400 square feet in area and shall not be used for any purpose other than the storage of vehicles, recreational vehicles, travel trailers, or the like and shall be open on three (3) sides;
  - 5) The entire area beneath the roof of the carport shall be paved with concrete or asphalt within at least two (2) feet of the edge of the roof;
  - 6) The driveway leading to the carport shall be paved with concrete or asphalt;
  - 7) The carport may not overhang or intrude into any type of public utility or drainage easement;
  - 8) The height of the carport shall not exceed a maximum of ten (10) feet measured to the highest point of the roof of the carport. The maximum height may be increased by one (1) additional foot for each one (1) additional foot of side and rear setback to a maximum of eighteen (18) feet with a minimum side and rear setback of eleven (11) feet.
  - 9) Carports shall have a gutter system or drainage design that drains toward the street or the nearest drainage facility. Rainwater shall not drain onto adjacent property.
- b) Carports that are proposed to be constructed to encroach into any required front, side or rear building setback, or that would require an exception to the design requirements set forth in subsection (a), may be permitted upon such carport being approved as an S-P-2 (generalized) site plan district under section 2.7.4 of this ordinance. In addition to the requirements of section 2.7.4, the site plan shall include detailed elevation drawings of the proposed carport including building materials, roofing materials, support materials, and illustrations showing how the carport will be consistent with the design of the existing dwelling.
  - c) Carports that are constructed after October 16, 2008, without a building permit or zoning approval, if applicable, shall be required to be demolished prior to applying for a zoning change to authorize the carport. If a property owner does not wish to demolish a carport constructed without zoning authorization, the property owner may request a waiver of the demolition requirement and approval to retain the carport through the generalized site plan (S-P-2) zoning process along with an additional fee of one hundred dollars (\$100.00) in addition to the required zoning application fee.

3.1.9 *Accessory in manufactured home community.* In a manufactured home community, an accessory building shall be located at least five (5) feet from any mobile home or HUD-code manufactured home, provided, however, that an accessory building may be located within eight (8) inches of the mobile home or HUD-code manufactured home which it serves. It shall be an affirmative defense to prosecution under this subsection that both the accessory structure and the mobile home or HUD-code manufactured home were in place on October 26, 2000, and have not been moved since that date.

3.1.10 *Building permit validity.* A building permit issued for an accessory building allowed pursuant to this section shall be valid for a period of three (3) months from the date of issuance. The building official shall be authorized to extend this initial three-month period for one (1) additional three-month period after a determination that the property complies with all city ordinances.

SECTION 2. That Section 9.3 “Definitions” of the City of Irving Unified Development Code is amended to amend the definition for “Accessory building or accessory structure” as provided below. All definitions in Section 9.3 shall be renumbered to retain their alphabetical order.

*Accessory building or accessory structure* shall mean a subordinate building or structure, detached from the primary structure, and customarily incidental to the use within the primary structure.

- SECTION 3. That this ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Irving, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.
- SECTION 4. Should any paragraph, sentence, clause, phrase, or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal, or unconstitutional, and shall not affect the validity of the comprehensive zoning ordinance as a whole.
- SECTION 5. 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 6. That any person intentionally or knowingly violating or failing to comply with any provisions of this ordinance shall be fined, upon conviction, not less than one dollar (\$1.00) nor more than two thousand dollars (\$2,000.00), and each day any violation or noncompliance continues shall constitute a separate offense.
- SECTION 7. That this ordinance shall take effect upon approval and shall be published in accordance with the provisions of the Texas Local Government Code and the Irving City Charter.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS,  
on April 20, 2023.

---

RICHARD H. STOPFER  
MAYOR

ATTEST:

---

Shanae Jennings  
City Secretary/Chief Compliance Officer

APPROVED AS TO FORM:

---

Kuruvilla Oommen  
City Attorney