

NEW BUSINESS: CODE AMENDMENT INITIATION REVIEW SHEET

Amendment: **Accessory Dwelling Unit Clean-Up** – Initiate an amendment to Title 25 of the City Code to clarify that accessory dwellings allowed under “*Article 5. – Accessory Uses*” are different and distinct from Two-Family Residential and Secondary Apartment use (both commonly called accessory dwelling units).

Description: Current code uses the term “accessory dwellings” in 25-2-893 to refer to a dwelling for an on-site caretaker or employee. This description pre-dates the current use of the term “accessory dwelling,” which is colloquially used today to refer to Secondary Apartment and Two-Family Residential use. The use of the same term for different uses is causing confusion for both applicants and review staff, and staff would like to change the term “accessory dwellings” in 25-2-893 to another term (yet to be determined).

This amendment does not in any way amend or propose changes to the recently adopted changes to “accessory dwelling units” (Two-Family Residential and Secondary Apartment use).

Proposed Language: TBD

Background: Initiation recommended by the Codes and Ordinances Subcommittee on January 19, 2016.

Staff Recommendation:

Board and Commission Actions:

Council Action:

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CURRENT CODE

ARTICLE 5. - ACCESSORY USES.

§ 25-2-891 - ACCESSORY USES GENERALLY.

An accessory use is a use that:

- (1) is incidental to and customarily associated with a principal use;
- (2) unless otherwise provided, is located on the same site as the principal use; and
- (3) may include parking for the principal use.

Source: Section 13-2-1; Ord. 990225-70; Ord. 031211-11.

§ 25-2-892 - APPLICABLE REGULATIONS.

The regulations applicable to a principal use apply to an accessory use, except as otherwise provided in this division.

Source: Section 13-2-301; Ord. 990225-70; Ord. 031211-11.

§ 25-2-893 - ACCESSORY USES FOR A PRINCIPAL RESIDENTIAL USE.

(A) For a principal residential use, this section prescribes the requirements for an accessory use.

(B) This subsection provides for vehicle storage as an accessory use.

- (1) Not more than one motor vehicle for each licensed driver residing on the premises may be stored on the premises.
- (2) Notwithstanding the limitation of Subsection (B)(1), a private garage for the storage of not more than four motor vehicles is permitted.
- (3) Except for an antique vehicle or recreational vehicle, a motor vehicle with a capacity of one ton or greater is prohibited.
- (4) Not more than one commercial vehicle may be stored on the premises.
- (5) Except as provided in Subsection (B)(6), an inoperable motor vehicle may not be stored on an adjacent public right-of-way. A motor vehicle is inoperable if, for more than 72 hours, the vehicle:
 - (a) does not have license plates or has license plates that have been expired for more than 90 days;
 - (b) does not have a motor vehicle safety inspection sticker or has a motor vehicle inspection safety sticker that has been expired for more than 90 days; or
 - (c) cannot be started or legally operated in a public right-of-way.
- (6) The prohibition of Subsection (B)(5) does not apply to:
 - (a) an antique or recreational vehicle stored at an owner's residence; or
 - (b) a vehicle under repair for less than 60 days, if not more than one other vehicle is also under repair.

- (7) Up to two vehicles that are either antique or recreational vehicles may be stored on the premises, if the storage area is not a health hazard and is either in an enclosed building or screened from public view with a solid wood or masonry fence at least six feet high.
- (C) The following are permitted as accessory uses:
 - (1) recreational activities and recreational facilities for use by residents;
 - (2) religious study meetings;
 - (3) playhouses, patios, cabanas, porches, gazebos, and household storage buildings;
 - (4) radio and television receiving antenna and dish-type satellite receivers;
 - (5) solar collectors;
 - (6) home occupations that comply with Section 25-2-900 (Home Occupations);
 - (7) on-site sales as authorized by Section 25-2-901* (Residential Tours) or Section 25-2-902* (Garage Sales);

*Editor's note: Ord. 20121018-024 renumbered these sections, respectively as §§ 25-2-902 and 25-2-903 but failed to amend this section. Future legislation will correct the provision if needed.

- (8) the keeping of dogs, cats, and similar small animals as household pets; and
- (9) a single accessory apartment that complies with the requirements of Section 25-2-901 (Accessory Apartments).
- (D) A guest house is permitted if the principal use is a single-family residential use located on a lot with at least 10,000 square feet of area. A guest house may be occupied only by occasional nonpaying guests of the permanent residents.
- (E) A single accessory dwelling is permitted if the principal use is a single-family residential use located on a lot with at least 15,000 square feet of area. An accessory dwelling may be occupied only by a family that has at least one member employed on-site for security, maintenance, management, supervision, or personal service.
- (F) A residential convenience service is permitted if the principal use is a multifamily use or a mobile home park use. A residential convenience service is a commercial use that is operated as an integral part of the principal use, is not identifiable from outside the site, and is intended to be patronized solely by the residents of the principal use.
- (G) A dock is permitted as an accessory use if the requirements of this subsection are met.
 - (1) A dock may be located off-site.
 - (2) A dock may not include habitable space or living quarters or other elements not necessary to the function of a dock, such as space conditioning, sinks, toilets, or wastewater or potable water lines or connections.
 - (3) A dock may include only the following as appurtenances and means of access:
 - (a) a storage closet that meets the requirements of Subsection (A);
 - (b) a roof;
 - (c) a second floor;
 - (d) marine lockers;
 - (e) railings;
 - (f) a non-potable water pump and hose bib;
 - (g) electrical connections;

- (h) lighting and fans;
 - (i) non-mechanized access, including a staircase, pedestrian bridge, gangway, and gates;
 - (j) non-mechanized recreational equipment, such as slides or swings; and
 - (k) accessories or slips that may accommodate the mooring or storage of boats in compliance with the requirements of Section 25-2-1176 (Site Development Regulations for Docks, Marinas, and Other Lakefront Uses).
- (4) Only one dock is permitted for a principal residential use, even if the use is located on more than one lot.
- (H) A use other than one described in this section is permitted as an accessory use if the director determines that the use is necessary, customary, appropriate, incidental, and subordinate to a principal use.
- (I) An accessory use may generate not more than ten guest vehicles trips a day or 30 guest vehicles trips a week.

Source: Sections 13-2-1 and 13-2-302; Ord. 990225-70; Ord. 010329-18; Ord. 031211-11; Ord. 20110922-087; [Ord. No. 20140626-113, Pt. 3, 7-7-14](#).

§ 25-2-894 - ACCESSORY USES FOR A PRINCIPAL COMMERCIAL USE.

- (A) For a principal commercial use, this section prescribes the requirements for an accessory use.
- (B) A commercial or industrial use that is otherwise prohibited in the zoning district is permitted as an accessory use if the use:
- (1) is operated primarily for the convenience of employees, clients, or customers of the principal use;
 - (2) occupies less than 10 percent of the total floor area of the use;
 - (3) is an integral part of the principal use; and
 - (4) for an industrial use, is not located in an NO, LO or LR zoning district or within 100 feet of a residential zoning district.
- (C) A parking facility is permitted as an accessory use.
- (D) One dwelling unit is permitted as an accessory use if not more than 50 percent of the building is used for the dwelling unit. An occupant is not required to be engaged in the principal use.

Source: Section 13-2-303; Ord. 990225-70; Ord. 031211-11.

§ 25-2-895 - ACCESSORY USES FOR A COMMERCIAL RECREATION DISTRICT.

- (A) The provisions of this section supersede the requirements of Section 25-2-894 (Accessory Uses For A Principal Commercial Use) to the extent of conflict.
- (B) The following are permitted as accessory uses in a commercial recreation zoning district:
- (1) food sales;
 - (2) general retail sales (convenience);
 - (3) personal improvement services;
 - (4) restaurant (limited) without drive-in service;
 - (5) day care services (general);

- (6) day care services (limited); and
 - (7) safety services.
- (C) An accessory use described in Subsection (B) may occupy not more than 50 percent of the site area or of the gross floor area of the structures on the site.

Source: Section 13-2-304; Ord. 990225-70; Ord. 031211-11; Ord. 031211-41.

§ 25-2-896 - ACCESSORY USES FOR A PRINCIPAL INDUSTRIAL USE.

- (A) For a principal industrial use, this section prescribes the requirements for an accessory use.
- (B) A commercial use that is otherwise prohibited in the zoning district is permitted as an accessory use if the use:
 - (1) is operated primarily for the convenience of employees, clients, or customers of the principal use;
 - (2) occupies less than 25 percent of the total floor area of the use;
 - (3) is an integral part of the principal use.
- (C) A parking facility is permitted as an accessory use.
- (D) A major utility facility is permitted as an accessory use if the facility is operated as an integral part of the principal use, and the facility is not a public utility under the Texas Public Utility Regulatory Act.
- (E) For a warehouse use, a dwelling unit is permitted as an accessory use if the dwelling unit is occupied by a person engaged in security, leasing, or management for the principal use, and not more than 25 percent of the building is used for the dwelling unit.

Source: Section 13-2-305; Ord. 990225-70; Ord. 031211-11.

§ 25-2-897 - ACCESSORY USES FOR A PRINCIPAL CIVIC USE.

For a principal civic use, the following are accessory uses:

- (1) a dwelling unit that is occupied only by a family that has at least one member employed on-site for security, maintenance, management, supervision, or personal service;
- (2) refreshment stands and convenience food or beverage sales that serve a public assembly use;
- (3) cafeterias, dining halls, and similar food services that are primarily for the convenience of employees, residents, clients, patients, or visitors;
- (4) gift shops, news stands, and similar commercial activities primarily for the convenience of employees, residents, clients, patients, or visitors;
- (5) parking facilities, except a facility located in an SF-6 or more restrictive zoning district may not exceed the minimum parking requirements; and
- (6) a columbarium that:
 - (a) is affiliated with a religious assembly use;
 - (b) occupies not more than 10 percent of the site area or 10,000 square feet, whichever is less;
 - (c) is oriented to the interior to the site; and
 - (d) is not visible from public rights-of-way.

Source: Section 13-2-306; Ord. 990225-70; Ord. 031211-11.

§ 25-2-898 - ACCESSORY USE FOR A PRINCIPAL AGRICULTURAL USE.

For a principal agricultural use, accessory uses that are necessarily and customarily associated with the purpose and function of the agricultural use are permitted.

Source: Section 13-2-307; Ord. 990225-70; Ord. 031211-11.

§ 25-2-899 - FENCES AS ACCESSORY USES.

- (A) Except as otherwise provided in this chapter, a fence:
- (1) is permitted as an accessory use in any zoning district; and
 - (2) must comply with the requirements of this section.
- (B) In this section:
- (1) an ornamental fence is a fence with an open design that has a ratio of solid material to open space of not more than one to four; and
 - (2) a solid fence is a fence other than an ornamental fence.
- (C) The height restrictions of this section do not apply to an ornamental fence.
- (D) Except as otherwise provided in this section, a solid fence constructed along a property line may not exceed an average height of six feet or a maximum height of seven feet.
- (E) A solid fence along a property line may be constructed to a maximum height of eight feet if each owner of property that adjoins a section of the fence that exceeds a height of six feet files a written consent to the construction of the fence with the building official, and:
- (1) there is a change in grade of at least two feet within 50 feet of the boundary between adjoining properties; or
 - (2) a structure, including a telephone junction box, exists that is reasonably likely to enable a child to climb over a six foot fence and gain access to a hazardous situation, including a swimming pool.
- (F) A solid fence may be constructed to a maximum of eight feet in height if the fence is located on or within the building setback lines.
- (G) a solid fence may be constructed to a height of eight feet if the fence is located between a residential use and:
- (1) property zoned as a commercial or industrial base district;
 - (2) property used for a commercial or industrial use; or
 - (3) an alley that separates a residential use and:
 - (a) property zoned as a commercial or industrial base district; or
 - (b) property used for a commercial or industrial use.

Source: Section 13-2-308; Ord. 990225-70; Ord. 031211-11; Ord. 050127-64; [Ord. No. 20141120-181, Pt. 1, 12-1-14](#).

§ 25-2-900 - HOME OCCUPATIONS.

- (A) A home occupation is a commercial use that is accessory to a residential use. A home occupation must comply with the requirements of this section.
- (B) A home occupation must be conducted entirely within the dwelling unit or one accessory garage.
- (C) Participation in a home occupation is limited to occupants of the dwelling unit, except that one person who is not an occupant may participate in a medical, professional, administrative, or business office if off-street parking is provided for that person.
- (D) The residential character of the lot and dwelling must be maintained. A home occupation that requires a structural alteration of the dwelling to comply with a nonresidential construction code is prohibited. This prohibition does not apply to modifications to comply with accessibility requirements.
- (E) A home occupation may not generate more than three vehicle trips each day of customer-related vehicular traffic.
- (F) The sale of merchandise directly to a customer on the premises is prohibited.
- (G) Equipment or materials associated with the home occupation must not be visible from locations off the premises.
- (H) A home occupation may not produce noise, vibration, smoke, dust, odor, heat, glare, fumes, electrical interference, or waste run-off outside the dwelling unit or garage.
- (I) Parking a commercial vehicle on the premises or on a street adjacent to residentially zoned property is prohibited.
- (J) Advertising a home occupation by a sign on the premises is prohibited, except as provided under Section 25-10-156 (Home Occupation Signs). Advertising the street address of a home occupation through signs, billboards, television, radio, or newspapers is prohibited.
- (K) The following are prohibited as home occupations:
 - (1) animal hospitals, animal breeding;
 - (2) clinics, hospitals;
 - (3) hospital services;
 - (4) contractors yards;
 - (5) dance studios;
 - (6) scrap and salvage services;
 - (7) massage parlors other than those employing massage therapists licensed by the state;
 - (8) restaurants;
 - (9) cocktail lounges;
 - (10) rental outlets;
 - (11) equipment sales;
 - (12) adult oriented businesses;
 - (13) recycling centers;
 - (14) drop-off recycling collection facilities;
 - (15) an activity requiring an H-occupancy under Chapter 25-12, Article 1 (Uniform Building Code);
 - (16) automotive repair services; and
 - (17) businesses involving the repair of any type of internal combustion engine, including equipment repair services.

Source: Section 13-2-260; Ord. 990225-70; Ord. 990520-38; Ord. 031211-11; Ord. 20090827-032.

§ 25-2-901 - ACCESSORY APARTMENTS.

- (A) An accessory apartment is a separate dwelling unit that is contained within the principal structure of a single-family residence, and that is occupied by at least one person who is 60 years of age or older or physically disabled.
- (B) If space within a principal structure is converted to an accessory apartment, the accessory apartment may not include:
 - (1) converted garage space; or
 - (2) a new entrance visible from a street.
- (C) The building official may not issue a building permit for construction or remodeling of an accessory apartment unless the applicant delivers to the building official an affidavit verifying that one of the proposed occupants of the accessory apartment is 60 years of age or older or physically disabled.

Source: Sections 13-2-1 and 13-2-251; Ord. 990225-70; Ord. 031120-44; Ord. 031211-11.

§ 25-2-902 - RESIDENTIAL TOURS.

- (A) Participation on an annual or semi-annual tour is allowed as an accessory residential use subject to the requirements of this section and all other applicable regulations.
- (B) As authorized by this section, a tour is an organized event in which multiple residential properties are opened to members of the public for any lawful purpose, including:
 - (1) the appreciation and study of architecture; and
 - (2) the production and incidental sale of artwork by an individual responsible for making or producing the artwork.
- (C) To qualify as an accessory use under this section, a residential tour that includes the production or sale of art must comply with the requirements of this subsection.
 - (1) A tour organizer must provide the dates of the tour and the address of all participating properties to the City of Austin Cultural Arts Division.
 - (2) A tour may not take place on more than six days per calendar year.
 - (3) A residential property may not:
 - (a) participate on a tour more than 12 days per calendar year;
 - (b) participate in more than three tours per calendar year;
 - (c) participate in a tour more than three days per week;
 - (d) include more than six guest artists, in addition to the primary artist; or
 - (e) include a garage sale.

Source: Ord. 20110922-087; Ord. 20121018-024.

§ 25-2-903 - GARAGE SALES.

- (A) A garage sale is allowed as an accessory residential use subject to the requirements of this section.

- (B) A garage sale includes yard sales, carport sales, or similar types of sales involving:
 - (1) the sale of used or secondhand tangible property customarily found at a residence; and
 - (2) the production and incidental sale of artwork by an individual responsible for making or producing the artwork.
- (C) A garage sale must be conducted entirely on a property used as the seller's principal residence.
- (D) A garage sale may not be held at the same property more than four days per calendar year or at a property participating in a residential tour under Section 25-2-902 (Residential Tours).

Source: Ord. 20110922-087; Ord. 20121018-024.