

ORDINANCE NO. CO49-04-08-26-8B

ORDINANCE AMENDING CHAPTER 12 ZONING ORDINANCE OF THE CITY OF CEDAR PARK, TEXAS, ARTICLE 12.200 TO AMEND SECTION 3 DEFINITIONS; AMEND SECTIONS 6B THROUGH 11C; AND ADD TO SECTION 16 HEIGHT AND AREA REGULATIONS, GENERAL TO FURTHER PROVIDE FOR ACCESSORY STRUCTURES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS:

SECTION 1: That Chapter 12 Zoning Ordinance, SECTION 3 DEFINITIONS, is hereby amended to delete the definitions as follows:

SECTION 3.2: Specifically

Accessory Buildings and Uses. A subordinate building or portion of the main building, the use of which is incidental to that of the dominant use of the main building or land, including bona fide servants quarters. An accessory use is one which is incidental to the main use of the premises.

Accessory Structure. A detached, subordinate structure, the use of which is clearly incidental and related to that of the principal structure or use of the land and which is located on the same lot as that of the principal structure or use.

Bed and Breakfast. The use of an owner occupied residential structure to provide rooms for temporary lodging for overnight guests on a paying basis. Food service is provided from 6 am to 11 am only. The number of bedrooms available for lodging is limited by the requirement of one parking space for each guest bedroom in addition to the requirements for the dwelling

Day nursery. An agency, organization or individual providing daytime care of six (6) or more children not related by blood or marriage to or not the legal wards or foster children of the attendant adult.

SECTION 2: That Chapter 12 Zoning Ordinance, SECTION 3 DEFINITIONS, is hereby amended to add the definitions as follows:

SECTION 3.2: Specifically

Accessory Building. An accessory structure used or intended for supporting or sheltering a use or, when permitted as an accessory dwelling unit, for occupancy.

Accessory Dwelling Unit. An accessory building permitted as a habitable space to serve those individuals residing in the principal structure. An accessory dwelling unit can be attached or detached inasmuch as it fully complies with the requirements that pertain to its design and use as further defined in Sec. 16.6.05 of this Article.

Accessory Structure. A structure or use that 1) is clearly incidental to and customarily found in connection with a principal building or use; 2) is subordinate to and serves a principal building or a principal use; 3) is subordinate in area, extent, or purpose to the principal building or principal use served; 4) contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal building or principal use served; and 5) is located on the same lot as the principal building or use served.

Accessory Use. A use that addresses the purposes defined for accessory structures.

Bed and Breakfast. An owner (or operator) occupied residence with up to five (5) bedrooms available for overnight guests. A Bed and Breakfast Inn may provide for guest stays up to fourteen (14) consecutive days; however, it shall not offer weekly rates. Kitchen facilities may be included to provide food service from 6am-11am for guests only; however, no food preparation shall be permitted in guest bedrooms. A Bed and Breakfast Inn shall not include restaurants, banquet facilities, or similar services.

Building. Any structure used or intended for supporting or sheltering any use or occupancy.

Day Care Center, Adult. A facility that provides services under an Adult Day Care Program on a daily or regular basis, but not overnight, to four (4) or more elderly or handicapped persons who are not related by blood or marriage, to the owner of the facility. Adult Day Care Centers must be licensed by the Department of Aging and Disability Services (name effective 9-1-2004).

Day Care Center, Child. A commercial institution or place designed for the care of four (4) or more children during the hours of 6:00am and 10:00pm. The term “day care center” shall not include overnight lodging, medical treatment, counseling, or rehabilitative services and does not apply to any school. Child day care not meeting all the requirements of in-home day care is a day care center. The use is subject to registration with the Texas Department of Family and Protective Services.

Day Care Center, Incidental. A place designed solely for the care of children belonging to employees of the primary use. The center shall be completely contained within the

primary use and shall not constitute more than fifteen percent (15%) of the main use. The operating hours of the center shall be the same as the primary use and shall not include overnight lodging, medical treatment, counseling, or rehabilitative services. The use is subject to registration with the Texas Department of Family and Protective Services.

Day care, In-home. A home occupation that provides care for less than 24 hours a day to no more than six (6) children under the age of fourteen (14), plus no more than six (6) additional elementary school-age children (age five to thirteen). The total number of children, including the caretaker's own children, is no more than twelve (12) at any time. This use is subject to the requirements of a customary home occupation and is subject to registration with the Texas Department of Family and Protective Services.

Family. One or more persons related by blood, marriage, or adoption, or a group not to exceed four (4) persons not all related by blood or marriage, adoption or guardianship, occupying a dwelling unit and living as a single housekeeping unit.

Garage, private. An enclosed accessory building (detached), or a part of a main building (attached), used for storage of automobiles and used solely by the occupants and their guests. A private garage may be located in the side yard provided all required setbacks are met.

Masonry Construction. Unless otherwise provided for in this Ordinance, exterior construction materials are fired brick, natural and manufactured stone, granite, marble, architectural concrete block, and stucco for all structures, with the product set in grout. Other exterior construction materials for non-residential structures are tilt wall concrete panels, sealed and painted concrete block. Exterior insulation and finish systems (EIFS), and cementitious fiberboard (i.e. Hardi-plank) are not accepted as masonry construction for purposes of this Ordinance.

Principal building. A building or complex of buildings in a development, containing the principal use(s) for the lot on which it is located. Any single family dwelling is considered a principal building unless it is an accessory dwelling in compliance with Section 16.6.

Swimming pool. A water-filled enclosure, permanently constructed or portable, having a depth over twenty four (24) inches deep. This includes, but is not limited to, in-ground, above ground, and on-ground swimming pools, hot tubs and spas.

SECTION 3: That Chapter 12 Zoning Ordinance, SECTION 16 HEIGHT AND AREA PROVISIONS, GENERAL, is hereby amended to add Section 16.6 Accessory Structures as follows:

Sec. 16.6 Accessory Structure Requirements

The definition of Accessory Structures in Section 3.2 in this Article, includes accessory uses, accessory buildings, and other accessory structures considered as subordinate and

incidental to that of the principal use. Residential accessory uses include customary home occupations.

16.6.01 General Provisions for Accessory Structures

- The sum of all accessory uses (including home occupations) in a principal building shall not exceed twenty five (25) percent of the total floor area.
- An accessory structure or use is not allowed without a main building or primary use being in existence.
- An accessory structure may not be sold separately from the sale of the entire property, rented, or sublet.
- A maximum of two (2) accessory buildings are allowed per lot, not including other accessory structures (i.e. pool, playscape, etc.)
- The total of accessory buildings cannot exceed twenty (20) percent coverage of the back yard of a single family or duplex residence, not to exceed two thousand (2000) square feet, and not to exceed the size of the principal structure.
- For any lot of five (5) acres or greater, the total square footage of accessory buildings shall not exceed four thousand (4,000) square feet, with exception of a private airplane hanger as provided in this section. For property located within one thousand (1000) feet of an airport landing strip, a private airplane hanger for the sole purpose of airplane storage is permitted, however, only for the owner or leasee of the principal building.

16.6.02 Accessory structures serving single-family or duplex residential uses that are included as follows, shall not require a building permit:

- One-story detached accessory buildings used as tool and storage sheds, playhouses, and/or similar uses, provided the floor area is equal to or less than eighty (80) square feet.
- Ponds, fountains, and landscape features, provided any electrical work is permitted and is done by a master electrician registered with the City of Cedar Park.
- Prefabricated swimming pools that are less than twenty-four (24) inches deep, do not exceed 5,000 gallons, and are installed entirely above ground.
- Swings and other playground equipment accessory to one and two family dwellings.

These accessory structures shall comply with the following requirements:

- A minimum setback of five (5) feet from the side lot line and/or the rear lot line. Accessory buildings shall have a minimum fifteen (15) foot setback from the side lot line when the lot line is located adjacent to a public or private street, and a minimum ten (10) foot setback from the rear lot line when the lot line is located adjacent to a public or private street.
- A minimum setback of ten (10) feet from the principal building.
- Shall only be located in the existing rear yard of the principal building.

- Building height is a maximum of twelve (12) feet.
- Locating such structures within a public utility easement shall be at the owner's risk and shall be required to be removed by the owner at any time to provide for full access to the utility easement.
- No masonry is required for accessory buildings within this section.
- An accessory dwelling unit is not included in this section.

16.6.03 The following accessory structures shall require a building permit.

- Accessory buildings for a non-residential district, up to a maximum size of one hundred eighty (180) square feet.
- Accessory buildings serving single family and/or duplex residential uses that exceed eighty (80) square feet, up to a maximum of one hundred eighty (180) square feet, and also including pole barns (canopies), livestock shelters as permitted in the R/A, R-1, R-1A districts, private airplane hangars as defined in Sec. 16.6.01 as permitted in the R/A, R-1, and R-1B districts.
- Swimming pools, decks, and other similar structures.

These accessory structures shall comply with the following requirements:

- A minimum setback of five (5) feet from the side lot line and/or the rear lot line. Accessory buildings shall have a minimum fifteen (15) foot setback from the side lot line when the lot line is located adjacent to a public or private street, and a minimum ten (10) foot setback from the rear lot line when the lot line is located adjacent to a public or private street.
- Shall only be located in the rear yard of the principal building.
- Building height is a maximum of fifteen (15) feet.
- Minimum ten (10) foot setback from principal structure(s).
- Shall not be located within a public utility easement.
- No masonry is required for accessory buildings within this section.
- An accessory dwelling unit is not included in this section.

16.6.04 All other accessory structures not included in Sections 16.6.02 and 16.6.03 shall require a building permit and also be subject to the following requirements:

- Minimum building setbacks shall be the same as principal structure.
- Shall not be located in front of the principal building.
- Height restrictions shall be in accordance with that of the principal structure.
- Minimum of ten (10) setback from principle building(s).
- Fifty (50) percent masonry construction is required when the principal structure(s) contains twenty five (25) percent or more masonry. Cementitious fiberboard (i.e. Hardi-Plank), wood, or vinyl siding may be used for structures accessory to an existing principal structure constructed of cementitious fiberboard, wood, metal, or vinyl siding that does not have at least twenty five (25) percent masonry.

- An accessory structure shall not be used as a dwelling unit unless it is specifically permitted for such purpose.

16.6.05 Accessory dwelling units, attached or detached (R/A, R-1, R-1A Districts only)

Accessory dwelling units may be allowed as an incidental residential use of a structure on the same lot as the main dwelling unit and used by the same person or persons of the immediate family, or servants employed on the premises, and meet the following standards:

General:

- All accessory dwelling units shall comply with the requirements of Section 16.6.04.
- The accessory dwelling shall be owned by the same person who owns the principal dwelling unit. The accessory dwelling unit may not be sold separately from sale of the entire property, including the main dwelling unit, and shall not be rented or leased.
- Accessory dwelling units must be designed and constructed so that they are in keeping with the general architecture and building material of the main structure.
- An accessory dwelling unit may only be used by the same person or persons of the immediate family residing in the principal dwelling.
- The accessory dwelling unit and principal dwelling unit shall have the same address. Multiple mailboxes are prohibited.
- No more than one accessory dwelling unit (attached or detached) is permitted on the same lot with a principal dwelling unit.
- No accessory dwelling unit shall be permitted on the same lot with a two-family or multifamily dwelling or family care home.
- Water, sanitary sewer, and electrical utilities shall not be separately provided to the accessory dwelling unit.
- A minimum of one additional parking space shall be provided for an accessory dwelling unit located on the premises. This addition of parking shall be located in only the side or rear yard.

Attached Accessory Dwelling Unit (within a principal single-family building):

- The principal building shall not be altered in any way so as to appear from a public or private street to be multifamily housing.
- Prohibited alterations include, but are not limited to, multiple entranceways.
- Access to the accessory dwelling unit shall be by means of an existing side or rear door, except where a new entrance is required by building code. No new doorways or stairways to upper floors are permitted if they are attached to the side of a building facing a public or private street.
- An accessory dwelling unit shall occupy no more than twenty five (25) of the heated floor area of the principal building.

- The minimum size shall be two hundred (250) square feet the maximum size shall be four hundred (400) square feet.

Detached Accessory Dwelling Unit (not within a principal single-family building):

- The accessory dwelling shall be housed in a building not exceeding six hundred (650) square feet of first floor area (maximum footprint; the structure may be dwelling only or may combine the dwelling with garage, workshop, studio, or similar use.
- The accessory dwelling shall be located in the rear yard of the principal dwelling.
- The lot shall not be altered in any way so as to appear from a public or private street to be multifamily housing. No access to the detached accessory dwelling unit shall be directly visible to any street.
- Metal, pre-fabricated, manufactured, or mobile buildings are not permitted as accessory dwellings.
- The square footage of the accessory dwelling unit cannot exceed six hundred fifty (650) square feet, nor be less than four hundred (400) square feet.

SECTION 4: That the following sections be hereby amended to refer to a new section 16.6 as follows:

Change Sec. 6B.110, 7.113, 7A.113, 7B.113, 7C.113, 8.116, 8A.117, 8B.113, 8C.115, 13.7 to replace “Accessory buildings and uses” to read “Accessory structures” and replace “a. Residential” to read (1) Accessory Structures as provided in Section 16.6 Accessory Structures, and includes Customary Home Occupations as provided in Section 16.6.06. Section 7D.109 to replace “Accessory buildings and uses” to read “Accessory Structures” and add f) to read “f) Accessory Structures as provided in Section 16.6 Accessory Structures.

Add Section 9.9, 9A.10, 10.10, 10A.10, 10B.10, 10D.11, 10D.10, 11.10, 11A.9, 11B.10, 11C.10, to read “Accessory Structures” “Accessory Structures are considered a permitted use as provided in Section 16.6 Accessory Structures.”

SECTION 5: That the following sections be hereby amended to read as follows:

Change Sec. 7B.103, 7C.113 to replace “day care centers” to read “Child Day Care Centers, provided playgrounds and recreation areas shall not be located within any required landscape buffer”. Change Sec. 8.106, 8A.106 to replace “day nurseries” to read “Child Day Care Centers, provided playgrounds and recreation areas shall not be located within any required landscape buffer”. Add Sec. 8C.110 to read “Child Day Care Centers, Incidental Day Care Centers, provided playgrounds and recreation areas shall not be located within any required landscape buffer.” Change Sec. 9.203 to replace “day nurseries and day care facilities, provided as an accessory to the principle use only to serve

the children of employees. (playgrounds and recreation areas shall not be located within any required landscape buffer)” to read “Incidental Day Care Center, provided playgrounds and recreation areas shall not be located within any required landscape buffer”. Change Sec. 9A.206, 10.204 to replace “day—nurseries and day care facilities” provided playgrounds and recreation areas shall not be located within any required landscape buffer”. to read “Child Day Care Centers, Incidental Day Care Centers, provided playgrounds and recreation areas shall not be located within any required landscape buffer.” Add 10D.211 to read “Incidental Day Care Center, provided playgrounds and recreation areas shall not be located within any required landscape buffer”. Amend Section 11.209 (b), 11A.211(b) 11B.218(b), 11C.212(b), to replace “day-care” to read “Incidental Day Care Center, provided playgrounds and recreation areas shall not be located within any required landscape buffer.”

Amend Sec. 8.108, 8A.109, 8B.104, and 8C.106 to add “Adult Day Care Center”.

SECTION 6: That Sec. 16.6.06 Customary Home Occupations be added to Section 16.6 Accessory Structures, as follows and that the definition of Customary Home Occupations in Section 3.2 be moved to Sec. 16.6.06 as follows:

Sec. 16.6.06 Customary Home Occupations.

(definition of Home Occupations, Customary Home Occupations moved from Sec. 3.2))

SECTION 7: That Sec. 6B.6, Sec.7.8, Sec.7A.8, Sec.7B.10, Sec. 7C.9, Sec. 7D.13, Sec. 8B.10, Sec. 13.7 Buffer Requirements be added to provide for transitional buffering of non-residential uses otherwise permitted in residential districts from single family and/or duplex residences, to read as follows:

Sec. ____ (listed respectively above) Buffer Requirements. All non-residential buildings and uses shall comply with Chapter 13 (Landscape and Tree Ordinance) Section 13.108 (d)(3)(B) regarding Type II (20') landscape buffer requirements when adjacent to permanent single family or duplex zoning or uses.

SECTION 8: That the City Secretary is hereby authorized and directed to officially amend Chapter 12 Article 12.200 Sec. 14A of the Code of Ordinances of the City of Cedar Park by proper endorsement indicate the authority for said notation.

SECTION 9: If any provision, section, subsection, sentence, clause or phrase of this ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid (or for any reason unenforceable), the validity of the remaining portions of this ordinance or the application to such other persons or sets of circumstances shall not be affected hereby, it being the intent of the City Council of the City of Cedar Park, in adopting this ordinance, that no portion hereof

or provision contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any portion or provision.


SECTION 10: That all ordinances and parts of ordinances in conflict with this ordinance are hereby repealed to the extent of the conflict.

SECTION 11: This ordinance shall be published according to law and shall be and remain in full force and effect from and after the date of publication.

READ, CONSIDERED, PASSED and APPROVED ON FIRST READING by the City Council of Cedar Park at a regular meeting on the 12TH day of August, 2004, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED and APPROVED ON SECOND AND FINAL READING by the City Council of Cedar Park at a regular meeting on the 26th day of August, 2004, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

APPROVED this 26th day of August, 2004.



Bob Antle, Mayor

ATTEST:



LeAnn M. Quinn, TRMC
City Secretary

