



Legislation Details (With Text)

**File #:** 22-4885      **Version:** 3      **Name:** Ordinance - Public Hearing and First and Final Reading of an Ordinance to Amend Chapter 155, "Zoning" to revise the definition of an accessory dwelling in Section 155.012; to repeal Section 155.082(E)(7) in its entirety; and to revise regulations related

**Type:** Ordinance      **Status:** Passed

**File created:** 9/2/2022      **In control:** City Council

**On agenda:** 10/9/2023      **Final action:** 10/9/2023

**Title:** Ordinance - Discussion and Possible Action Regarding Changes to the Accessory Dwelling Unit Ordinance Amending Chapter 155, "Zoning" to revise the definition of an accessory dwelling in Section 155.012; to repeal Section 155.082(E)(7) in its entirety; and to revise regulations related to accessory dwellings in Section 155.099(B)(35); (OA#22-007)

**Sponsors:** Jason Alexander

**Indexes:**

**Code sections:**

**Attachments:** 1. Ordinance, 2. Ordinance (Redlined)

Date	Ver.	Action By	Action	Result
10/9/2023	3	City Council	Approved on First and Final Reading	Pass
5/8/2023	2	City Council	Postponed	Pass
12/12/2022	2	City Council	Postponed	Pass
9/12/2022	1	City Council	Postponed	Pass

Ordinance - Discussion and Possible Action Regarding Changes to the Accessory Dwelling Unit Ordinance Amending Chapter 155, "Zoning" to revise the definition of an accessory dwelling in Section 155.012; to repeal Section 155.082(E)(7) in its entirety; and to revise regulations related to accessory dwellings in Section 155.099(B)(35); (OA#22-007)

To consider the proposed ordinance amendment

On December 5, 2022, the Commission continued the public hearing and approved a motion to recommend approval of the amendment by the following vote:

**Ayes:** 3 - Goodwin, Gilmore, and Thompson  
**Nays:** 2 - Axen and Mainer  
**Absent:** 2 - Groll and Shaw

Staff recommends approval.

**Reading and Actions**

The City Council met on December 12, 2022, and voted 6 to 0 to table the proposed amendments.

The City Council met on May 8, 2023, and voted 6 to 0 to table the proposed amendments to allow

for the Housing Market Growth Strategy Sub-committee on behalf of the City Council to prepare recommendations to take to the Texas Legislature regarding legislative priorities.

The Housing Market Growth Strategy Sub-Committee met on August 28, 2023 and provided additional direction to the Department of Planning and Development Services on the proposed text amendments related to accessory dwelling units.

The applicable regulations as found in Section 155.012 (Definitions), in Section 155.082 (Special Exception), and Section 155.099 (Special Conditions) of the Zoning Ordinance for accessory dwellings limits opportunities for their construction and use throughout the community. As designed, the proposed amendments intend to enable and to encourage the construction of accessory dwellings in order to vastly increase land use efficiency; to nurture and sustain complete and lifelong neighborhoods; and to expand the supply and the options for housing without diminishing aesthetics and quality of life considerations.

The Planning and Zoning Commission held a public hearing on September 6, 2022, and recommended denial of the amendments as originally designed.

Those voting in favor of recommending denial were:

**Ayes:** 7 - Knight, Mainer, Gilmore, Goodwin, Weydeck, Groll, and Axen

**Nays:** 0

After receiving the recommendation from the Planning and Zoning Commission, the City Council remanded the proposed amendments to the regulations for accessory dwellings back to the Planning and Zoning Commission on September 12, 2022.

On October 3, 2022, the Planning and Zoning Commission received a presentation from the Director of Planning on accessory dwellings. The Planning and Zoning Commission, at the request of the Director of Planning, provided guidance and direction on proposed amendments to the regulations for accessory dwellings.

The proposed amendments to the regulations for accessory dwellings intend to capture, and articulate the community's vision for increasing the supply and the options available for attainable housing. The proposed amendments reflect the guidance and direction as requested on October 3, 2022 from the Planning and Zoning Commission.

### **Proposed Amendments**

As proposed, the following amendments to the provisions found in Chapter 155, Zoning, will provide heightened clarity and improved flexibility with respect to the construction of accessory dwelling units throughout the community's various zoning districts.

#### Section 155.012, Definitions.

Currently, *Dwelling, Accessory* is defined as "a dwelling unit accessory to and located on the same lot with the main residential building and used as living quarters by domestic servants or caretakers employed on the premises, temporary guests, or family members of the owner of the premises." This definition limits accessory dwellings from functioning as intended and increasing the supply and the

options for attainable housing.

As proposed, the existing definition for *dwelling, accessory* would be deleted; and, in its place, a new definition for *Accessory Dwelling Unit (ADU)* would be provided.

The new definition for *Accessory Dwelling Unit (ADU)* would read as follows:

- **“ACCESSORY DWELLING UNIT (ADU).** *A dwelling unit that is subservient to a principal dwelling unit in size, location, and design, often located above garages or in independent buildings towards the rear of a lot.”*

#### Section 155.082(E)(7), Special Exception.

The provisions of Section 155.082(E)(7) allow the Zoning Board of Adjustment to review and to consider special exceptions for accessory dwellings. However, the provisions set forth in Section 155.082(E)(7) appear to limit the authority of the Board to only reviewing and considering special exceptions for accessory dwellings in the A, Agricultural District, the PR, Pre-Development District, and the SF, Single-Family Residential Zoning District that does not comply with the provisions in Section 155.099, Special Conditions. Given the frequency of new zoning districts --- and planned developments --- it is important for the community to have adjustments and other exceptions that can be applied equitably across the numerous zoning districts concerning accessory dwelling units. Towards that end, the proposed amendments include deleting the provisions in Section 155.082(E)(7) in their entirety will ensure this and a more predictable environment for interpreting and administering all accessory dwelling unit regulations.

#### Section 155.099(B)(35), Special Conditions.

The special conditions proposed for accessory dwelling units --- are intended to replace those currently existing in Section 155.099(B)(35). The proposed special conditions are also intended to provide heightened, but more flexible standards for both the design and construction of accessory dwelling units in diverse environments and settings.

A summary of some of the principal revisions to Section 155.099(B)(35) --- as proposed, are as follows:

- Accessory dwelling units are permitted by-right as an accessory residential use in all zoning districts as specified in Section 155.054, Permitted Uses (e.g., the A, Agricultural District, PR, Pre-Development District, SF, Single-Family Residential Zoning District, and PD, Planned Development District) and in the D, Downtown District, and the S, South Mansfield Form-based Development District.
- Accessory dwelling units may only be constructed in the following locations: (i) within the principal dwelling unit; (ii) above a free-standing garage; OR (iii) as an independent, free-standing accessory building or outbuilding.
- The habitable area of accessory dwelling units are limited to a maximum of 1,000 square feet or a maximum of 75 percent of the habitable area of the principal dwelling unit (the habitable area of an accessory dwelling unit is only calculated in terms of enclosed space, excluding garages and

other roofed structures such as patios and porches), whichever is greater.

- The total habitable area for an accessory dwelling unit is not permitted to exceed the habitable area of the principal dwelling unit on the same lot.
- Accessory dwelling units may not be permitted to be platted or sold separately from the principal dwelling unit.
- Accessory dwelling units are limited to a maximum of one (1) unit per lot in all zoning districts.
- The maximum height of an accessory dwelling unit is two (2) stories.
- The aggregate habitable area of a principal dwelling unit and accessory dwelling unit(s) may not exceed the maximum lot coverage of the zoning district in which the property is located.
- The Director of Planning is authorized to make minor adjustments so that minor deviations may be resolved administratively. Minor adjustments are solely limited to dimensional adjustments that do not constitute a decrease of more than 20 percent for setbacks; locating an accessory dwelling unit in the front yard; and architectural design of the accessory dwelling unit.
- Any property owner denied a permit for constructing an accessory dwelling unit under the provisions for accessory dwelling units may appeal to the City Council.

Jason Alexander, AICP, CEcD  
Executive Director of Planning and Development Services