

ORDINANCE NO. 2024-38

AN ORDINANCE OF THE CITY OF MIDLOTHIAN, TEXAS, AMENDING THE CITY OF MIDLOTHIAN ZONING ORDINANCE BY AMENDING SECTION 3.5700 “SECONDARY DWELLING UNITS” RELATING TO THE REGULATION OF SECONDARY DWELLING UNITS; AND AMENDING SECTION 100.100 “GENERAL DEFINITIONS” BY ADDING THE DEFINITION FOR “SECONDARY DWELLING UNITS”; PROVIDING FOR A CONFLICTS RESOLUTION CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A PENALTY OF FINE OF NOT MORE THAN \$2000 PER OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission and the governing body of the City of Midlothian, Texas, in compliance with the laws of the State of Texas and the ordinances of the City of Midlothian, Texas, have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all persons interested, and in the exercise of its legislative discretion, have concluded that the City of Midlothian Ordinance, as previously amended, should be further amended as follows.

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

SECTION 1. AMENDMENTS. The City of Midlothian Zoning Ordinance, as previously amended, is hereby further amended by as follows:

- A. Section 3 “Residential Districts and Regulations” Division 21 “Secondary Dwelling Units” Section 3.5700 “Secondary Dwelling Units” is amended to read in its entirety as follows:

§ 3.5700 SECONDARY DWELLING UNITS:

- a) Secondary Dwelling Units, where permitted, shall be constructed and located in accordance with the following development standards:
 - 1) No more than one (1) secondary dwelling unit shall be constructed on a tract or platted lot;
 - 2) The secondary dwelling unit must be located in a manner that complies with all required setbacks for the zoning district in which the tract or lot is located;
 - 3) The total floor area of the secondary dwelling shall not exceed:
 - i) Fifty percent (50%) of the air-conditioned floor area of the primary dwelling unit on a lot or tract which is less than one (1) acre;

- ii) Seventy-five percent (75%) of the air-conditioned floor area of the primary dwelling unit, or 1,800 square feet whichever is greater on lot or tract which is one (1) acre or larger;
- 4) The coverage area of the secondary dwelling unit shall be included in the calculation for determining compliance with the maximum impervious surface area of the lot or tract based on the requirements for the zoning district in which the lot or tract is located;
- 5) The architectural style of the secondary dwelling unit must match that of the principal dwelling unit;
- 6) The height of the secondary dwelling unit shall not exceed the height of the principal dwelling unit;
- 7) Electrical power for the secondary dwelling unit must be served by the same electric utility meter as the principal dwelling unit without submetering;
- 8) A lot or tract with an area of less than two (2) acres but not served by City's sanitary sewer system may only be developed with one (1) On-Site Sewer Facility (i.e., septic system) that receives wastewater from both the primary and secondary dwelling units;
- 9) At least one (1) additional off-street parking space constructed to the same standards as the off-street parking spaces required for the principal dwelling unit must be constructed for use by occupants of the secondary dwelling unit;
- 10) The occupant(s) of any secondary dwelling unit shall be:
 - i) Related by blood or marriage to the occupant(s) of the primary dwelling unit located on said lot or tract;
 - ii) An employee or contractor of (i) the owner of the lot or tract on which the secondary dwelling unit is located or (ii) the occupant of the primary dwelling unit on said lot or tract whose primary job duties are to provide personal services to the occupants of the primary dwelling unit or to provide care and/or maintenance of the primary dwelling unit, any other improvements, landscaping, or animals located on the lot or tract, and/or
 - iii) The spouse, child, or parent of the person described in paragraph ii), above;

- 11) Before issuing a Certificate of Occupancy (CO), the property owner shall record in the Real Property Records a restrictive covenant in a form approved by the City Attorney and enforceable by the City prohibiting the secondary dwelling unit from being leased to a different party than the lessee of the principal dwelling unit.
- b) A second dwelling unit may be constructed and/or located in a manner that deviates from the regulations set forth in subsection a), above, upon approval of a specific use permit setting forth such deviation(s).
- c) If a lot or tract developed with an existing dwelling unit is to be constructed with a second dwelling unit with a floor area of air-conditioned space that exceeds the floor area of air-conditioned space of the existing dwelling unit, then:
 - 1) upon issuance of a certificate of occupancy or approval of final inspection of the new dwelling unit, the new dwelling unit shall be deemed to be the primary dwelling unit and the existing dwelling unit shall be deemed to be the secondary dwelling unit; and
 - 2) all of the provisions of Section 3.5700(a) shall apply as if the new dwelling unit was the first of the dwelling units to be constructed on the lot or tract.

B. Section 100.100 “General Definitions is amended by adding the definition for “Secondary Dwelling Unit” as follows.

Secondary Dwelling Unit: An accessory use that is incidental to the primary use of the property; and includes a bathroom, kitchen/ kitchenette, and HVAC (Heating, Ventilation, and Air Conditioning).

SECTION 3. CONFLICTS.

To the extent of any irreconcilable conflict with the provisions of this Ordinance and other ordinances of the City of Midlothian governing the use and development of the Property and which are not expressly amended by this Ordinance, the provisions of this Ordinance shall be controlling.

SECTION 4. SAVINGS CLAUSE.

An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Subdivision Regulations, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

SECTION 5. SEVERABILITY CLAUSE.

Should any word, sentence, paragraph, subdivision, clause, phrase or section of this Ordinance, or of the City of Midlothian Subdivision Ordinance, as amended hereby, be adjudged or held to be

void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the City of Midlothian Subdivision Ordinance, as amended hereby, which shall remain in full force and effect.

SECTION 6. PENALTY.

Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense.

SECTION 7. EFFECTIVE DATE.

This Ordinance shall become effective from and after the date of its passage and final publication in accordance with the Charter of the City of Midlothian and/or applicable state law and it is accordingly so ordained.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MIDLOTHIAN, TEXAS ON THIS THE 13TH DAY OF AUGUST 2024.


Justin Coffman, Mayor

ATTEST:


Tammy Varner, City Secretary

APPROVED AS TO FORM:


Joseph J. Gorfida, Jr., City Attorney
(kbl: 7/22/2024:4866-2110-2542 v1)

