

ORDINANCE NO. 2024-02

AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR THE CITY OF ST. GEORGE

WHEREAS, on the 21st day of March, 2024, the Planning Commission of the City of St. George, after giving proper statutory notice, met to consider a proposed amendment for Article 5 of the Zoning Ordinance of the City of St. George, holding a public hearing thereon; and

WHEREAS, at its March 21st meeting, the Planning Commission voted to recommend to the City Council for approval, the proposed ordinance and zoning map; and

WHEREAS, at the City Council’s April 11th, 2024 meeting, the City Council reviewed the Resolution of the Planning Commission and the Amendment to the Zoning Ordinance, and took public comment thereon; and

WHEREAS, the City Council voted, pursuant to the provisions of K.S.A. 12-756-7, to adopt such recommended amended Zoning Ordinance as set forth below, the roll call vote being 4 in favor and 0 against, with 0 persons abstaining.

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ST. GEORGE, KANSAS:

Section 1. The relevant stated provisions of the Zoning Ordinance for the City of St. George are amended as follows:

Section 5- Accessory Uses

In order to regulate and control the extent and kind of accessory use of structures, the following regulations shall govern such uses or structures.

1. Regulations Governing Accessory Uses

a. Authorization

Accessory uses are permitted in any zoning district in connection with any principal use which is permitted.

b. Definition

Any accessory use is a structure or use which is:

- i. Subordinate to and serves a principal building and principal use.
- ii. Subordinate in area, extent, or purpose to the principal building or use.
- iii. Contributes to the comfort, convenience, or necessity of the occupants, business, or industry in the principal building or use being served.
- iv. Located on the same lot as the said principal building or use.

c. Residential Use

An accessory use is considered a “residential use” when it is constructed for the purposes of, or is actually used in, housing one or more persons as provided by this Section.

d. Non-Residential Use

Any use not for the purposes of housing one or more persons shall be a non-residential use.

2. Permitted Non-Residential Accessory Uses

The following, as customary non-residential accessory uses, are limited to the following. In no circumstances is a use under this subsection to be permitted if it involves a separate residential use of any kind. Other unlisted non-residential accessory uses may be allowed by the filing of a permit and approval by City Planning and Zoning in the manner of a conditional use.

- a. A structure for the storage incidental to a permitted use, provided no such structure that is accessory to a residential building shall exceed 550 square feet in gross floor area, and shall be in keeping with the principal structure (mobile homes and trailers excluded).
- b. An attached or detached garage limited in height to twenty (20) feet (but not greater than the height of the principal structure) and not greater than 840 square feet in area. The garage shall incorporate substantially the same roof design and appearance as the principal structure.
 - i. The garage structure may not be used for purposes of commercial storage or as a motor pool for mechanical repair or services of licensed commercial vehicles.
 - ii. If the garage structure is to be used as part of a home occupation, no more than twenty-five (25) percent of the gross floor area may be used for this purpose.
- c. A child’s playhouse.
- d. Trellises, barbecue stoves, flag poles.
- e. Private swimming pool and bathhouse.
- f. Fences, walls, and hedges.
- g. Off street parking and loading spaces, including carports (flat roof design). Any application for construction of a carport in excess of ten (10) feet in height shall be subject to review and approval of the Planning Commission. A carport shall not be greater than 840 square feet in area.
- h. Storage of boats, boat trailers, camping trailers, and small house trailers provided no part of such storage is located in the front yard setback.
- i. Restaurants, gift shops, newsstands, or lounges when located in permitted hotels, motels, or office buildings.
- j. Employee restaurant and cafeterias, when located in a permitted business, manufacturing, or industrial building.
- k. None of the following shall be permitted as an accessory use:

- i. Outdoor storage or overnight parking of trucks, trailers, vans, or buses in a residential district, except those trucks having a manufacturer rating of two tons or less, is prohibited.
 - ii. Outdoor storage, except as specifically permitted in the district regulations.
 1. Use of an empty lot or lot adjoining a residential property to store materials or vehicles as an accessory use to the adjoining property is not allowed absent an approved conditional use.

3. Permitted Residential Accessory Uses

- a. Purpose: The purpose of this section is to create uniform rules governing the construction and use of accessory uses for the purposes of housing individuals separate and apart from the main residential use of the property, where the resident of the accessory structure is a family member or tenant of the owner and the use enhances the value of the property and improves quality of life for all residents in the community.
- b. Permit: Any person desiring to build and use a residential accessory structure shall complete a Residential Accessory Permit Application in a form provided by the City. The applicant will pay \$2.50 per \$1000 of the build cost of the accessory structure as a non-refundable permit fee with the Application. Prior to construction of the structure, or improvement of an existing structure, the property and construction plans will be subject to inspection by officers of the City to determine compliance with this Section and the other requirements of the City Code. The applicant shall be required to disclose if the property is to be leased to any third party, and no owner may lease a residential accessory use unless allowed by the issued permit. After inspection, the application and any inspection report shall be provided to City Planning and Zoning for approval at a meeting of that body. The same may be approved, denied or approved with conditions. Any appeal of this determination shall be as provided in this Code. Upon approval of an Application the applicant shall have Six (6) months to complete the construction or improvement of the structure and provide access to the property for inspection, with any extension of this time to be allowed only upon submission to City Planning and Zoning. Upon approval of the final inspection, the accessory use shall be deemed to be a valid and approved property use.
- c. Restrictions and Limitations: The following requirements shall be applied to any Residential Accessory Use:
 - i. Only one residential accessory use is allowed per lot, tract or parcel of property. The property owner shall reside in the principal structure and not the accessory dwelling. No accessory use shall be approved for a property owned by a corporation, partnership or similar business entity. An accessory use may be allowed for property owned by a family trust when the settlor, trustee or a co-

trustee of the trust resides at the primary residence. The property owner may not rent the principal residence and continue the residential accessory use.

- ii. The interior square footage of the accessory use may not exceed 50% of the interior square footage of the principal residence. If this does not allow for construction to meet the minimum requirements of this section, the application will be denied.
- iii. The accessory use cannot be structurally attached in any manner to the principal residence, including, but not limited to, shared roofs or breezeways.
- iv. The exterior of the accessory use must be constructed of materials like the principal residence, and the exterior design elements should match those of the principal residence.
- v. Occupancy limits shall be, for a single occupant, 220 square feet minimum of living space. Each additional occupant shall require an additional 100 square feet of living space. Occupancy shall be limited in accordance with the square footage limitations in subsection (c)(ii).
- vi. The accessory use structure shall comply with all building and construction codes of the City, shall have a poured foundation that secures the structure in place.
- vii. The accessory use structure shall comply with all applicable setbacks, and must be more than ten (10) feet apart from the principal residence. This setback distance shall be measured by the distance between the farthest outer edge of each structure, including roofs or eaves. In no situation may the buildings be in any way physically connected.
- viii. Accessory uses may be leased, rented or licensed to individuals however the use may not be separately metered for any City-owned utilities and the Owner shall remain the account holder for any such utilities. The City is not required to contract with any accessory dwelling occupant for utility service. If, for any reason, utilities to the accessory dwelling are shut off or discontinued by action of the owner, the Owner shall be deemed to be in violation of the City Code and the use shall be discontinued after notice and hearing as provided herein.
- ix. The owner may apply for a separate address for the accessory structure, and if so obtained, it shall be clearly marked on the accessory structure itself.
- x. The owner shall maintain off-street parking for any residents of the accessory use. It shall be presumed that any residential accessory use will require the addition of a minimum of one (1) parking

space to the minimum requirements for the residential zone the property is in.

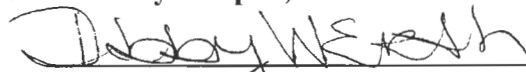
- xi. The owner must comply with all other applicable City codes regarding rental property, building requirements and nuisance conditions.
- d. Review and Cancellation of Residential Accessory Use. A permit allowing a residential accessory structure can be revoked or cancelled by the City at any time, after notice and a hearing before City Planning and Zoning, if the following violations occur:
 - i. The use is for rental purposes, and it has been determined that the owner has breached any duty under the Kansas Residential Landlord Tenant Act.
 - ii. The accessory dwelling has been cut off from water, heat, or other utility service making the location unfit for human habitation.
 - iii. The accessory dwelling is in violation of any City Code regarding its construction, maintenance or that the same presents nuisance conditions under the City Code.
 - iv. The property owner has otherwise failed to comply with this Section, the Restrictions and Limitations established above, or has violated any conditions placed on the permit granted.

Upon cancellation the City may deem any continued use as a violation of the Zoning Code and engage any remedy allowed therein.

Section 2. All Code sections and Ordinances in conflict with this Ordinance are hereby repealed. This Ordinance shall become effective upon its publication in the official City newspaper.

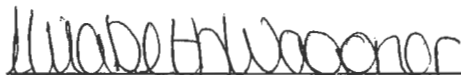
PASSED BY THE COUNCIL this 11th day of April, 2024.

APPROVED BY THE MAYOR this 11th day of April, 2024.



DEBBY WERTH, Mayor

ATTEST:



ELIZABETH WAGONER, City Clerk

