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NANCY EASTHAM

FAULKNER COUNTY CIRCUIT CLERK

BY: SHAWN MIX, D.C.

ORDINANCE

**City of Conway, Arkansas
Ordinance No. O-23-09**

**AN ORDINANCE AMENDING THE CONWAY ZONING CODE O-94-54, AS AMENDED FOR THE
PURPOSES OF REGULATING ACCESSORY DWELLING UNITS; AND FOR OTHER PURPOSES:**

Whereas, the City Council of the City of Conway wishes to regulate accessory dwelling units, which are currently allowed as caretaker quarters, in order to better protect the public welfare;

Whereas, in accordance Arkansas Code Annotated § 14-56-416 has the City Council of City of Conway adopted a Zoning Code and Arkansas Code Annotated § 14-56-423 provides for the amendment of such regulations; and

Whereas, the Conway Planning Commission has prepared amendments to the Conway Zoning Code, gave proper notice in accordance with Arkansas Code Annotated § 14-56-422, held a duly authorized public hearing on December 19th, 2022, and adopted the prepared amendments.


**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CONWAY,
ARKANSAS THAT:**

Section 1: That these amendments to the Conway Zoning Code are hereby adopted by reference, and included as exhibit "A" to this ordinance, as Section 503, additions for Section 1202, and changes to Appendix A. of O-94-54, as amended and also known as the Conway Zoning Code.

Section 2: That any ordinances in conflict herewith are hereby repealed to the extent of the conflict. The Planning and Development Director shall be empowered to recodify the Zoning Code as necessary to update the code with the amendments.


PASSED this 10th day of January, 2023.

Approved:



Mayor Bart Castleberry

Attest:



Michael O. Garrett
City Clerk/Treasurer



EXHIBIT "A"

SECTION 503 – ACCESSORY DWELLING UNITS

503.1 – GENERAL AND APPROVAL

- A. Allowance: Accessory dwellings units shall only be allowed on conforming platted lots where there is an existing single-family residence locating in a zoning district where it is conditionally permitted or permitted by-right. An existing single-family dwelling may be converted to an accessory dwelling unit.
- B. Approval: Approval shall require zoning review by the Administrative Official in addition to building permitting requirements.
- C. Existing Nonconforming Structures: Existing accessory dwelling units permitted or constructed prior to January 31, 2023, made non-conforming by these regulations shall be considered legal and conforming and may be reconstructed, but not expanded if demolished or destroyed for any reason.

503.2 – STANDARDS

- D. Owner Occupancy: The property owner must maintain permanent residence in either the principal structure or the accessory dwelling unit and shall provide proof of property tax records demonstrating the redemption of an Arkansas Homestead Tax Credit for the property prior to approval of permits for the accessory dwelling unit.
- E. Maximum Occupancy: Occupancy of the accessory dwelling unit shall be limited to one (1) family with no more than one (1) bedroom.
- F. Number Allowed: One (1) accessory dwelling unit per principal structure.
- G. Size Limits: The accessory dwelling unit must be less than forty (40) percent of the size of the principal structure or one thousand (1,000) square feet in gross floor area, whichever is less. It must also be at least three hundred sixty (360) square feet in gross floor area. The area requirements for accessory structures shall additionally apply.
- H. Location: The unit must be placed within the rear yard of the lot, behind the principal structure.
- I. Design: The façade materials of the unit must match or complement the façade materials of the principal structure or meet the requirements of the district, if more stringent. The applicant shall provide a materials list at the time of approval for the structure.
- J. Living Quarters: The accessory dwelling unit shall include its own independent living facilities with provisions for sleeping, cooking, and sanitation which is designed for residential occupancy independent of the primary dwelling unit.
- K. Parking: One (1) paved parking space shall be provided adjacent and abutting the existing required parking area for the principal structure, unless the unit is placed within a

structure that includes a garage. Existing parking or on-street parking directly adjacent to the property may be counted to meet this requirement. If the unit is placed along an alley, the required parking may be placed adjacent to the alley.

- L. Utilities: Separately metered utilities shall be required for the accessory dwelling unit.
- M. Accessory Structure Conversion: An existing accessory structure may be converted in whole or in part to an accessory dwelling unit provided the accessory structure is conforming and the structure or portion of the structure deemed an accessory dwelling unit meets the requirements of this section and all applicable building codes.

Section 1202 - Definition

Accessory Dwelling Unit: A smaller, secondary site-built detached dwelling unit on the same lot as an existing single-family dwelling.

Appendix A - Permitted Uses:

Permitted Uses	R-1	R-2A	R-2	SR	MF-1	MF-2	MF-3	RMH	HR	C-1	
Manager / caretaker residence		C	C		X	X	X	X			
Permitted Uses	C-2	C-3	O-1	O-2	O-3	I-1	RU-1	I-3	A-1	S-1	TJ
Manager / caretaker residence	X	X				X	X	X		X	



City of Conway, Arkansas
Ordinance No. O-23-11

AN ORDINANCE AMENDING THE CONWAY ZONING CODE O-94-54, AS AMENDED FOR THE PURPOSES OF ALLOWING ADMINISTRATIVE WAIVERS AND REESTABLISHING THE BOARD OF ZONING ADJUSTMENT; AND FOR OTHER PURPOSES:

Whereas, the City Council of the City of Conway wishes to allow authorization for the granting of certain administrative waivers;

Whereas, in accordance Arkansas Code Annotated § 14-56-416 has the City Council of City of Conway adopted a Zoning Code and Arkansas Code Annotated § 14-56-423 provides for the amendment of such regulations; and

Whereas, the Conway Planning Commission has prepared amendments to the Conway Zoning Code, gave proper notice in accordance with Arkansas Code Annotated § 14-56-422, held a duly authorized public hearing on December 19th, 2022, and adopted the prepared amendments;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CONWAY, ARKANSAS THAT:

Section 1: That these amendments to the Conway Zoning Code are hereby adopted by reference and included as exhibit "A" to this ordinance, as Article VII of O-94-54, as amended and also known as the Conway Zoning Code.

Section 2: That any ordinances in conflict herewith are hereby repealed to the extent of the conflict. The Planning and Development Director shall be empowered to recodify the Zoning Code as necessary to update the code with the amendments.

PASSED this 10th day of January, 2023.

Approved:

Mayor Bart Castleberry

Attest:

Michael O. Garrett
City Clerk/Treasurer

EXHIBIT "A"

ARTICLE VII. BOARD OF ZONING ADJUSTMENT

SECTION 701 – CREATION, APPOINTMENT, AND MEETINGS

701.1 – CREATION AND APPOINTMENT

The Board of Zoning Adjustment (Board) is established and shall consist of the membership of the Planning Commission. The officers of the Planning Commission shall hold the same offices on the Board.

701.2 – RULES AND MEETINGS

The Board shall hold all meetings in conjunction with regular or special called meeting dates of the Planning Commission. All rules for the conduct of its business, establishment of a quorum, and procedures shall follow such rules established for the Planning Commission unless separate bylaws are formed. Each session of the Board is a public meeting and public notice of the meeting and agenda must be published in a newspaper of general circulation in the City of Conway, at least one (1) time fifteen (15) days prior to the meeting.

SECTION 702 – POWERS AND DUTIES

The Board shall have all the powers and duties prescribed by law and by this ordinance, which are more particularly described as follows:

702.1 – ADMINISTRATIVE REVIEW APPEALS

Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Administrative Official in the enforcement of the Zoning Code. The Board may affirm or reverse, in whole or in part, said decision of the Administrative Official.

702.2 – VARIANCES

Hear and decide variance requests from the literal provisions of the Zoning Code in instances where strict enforcement of the Zoning Code would cause undue hardship because of circumstances unique to the individual property under consideration, and grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the Zoning Code.

702.3 – SPECIAL EXCEPTIONS

Hear and decide requests on interpreting zoning district boundaries where uncertainty exists as to the boundaries of the zoning districts or when the street or property lines existing on the ground are at variance with those shown on the Zoning District Map.

SECTION 703 – ADMINISTRATIVE REVIEW APPEALS

Appeals of any decision or determination of the Administrative Official may be made by any person aggrieved by the decision or determination within thirty (30) days of the decision or determination. Appeals shall be made in writing by means provided by the City of Conway. No appeal shall be accepted and processed without all required materials and payment of fees.

703.1 – APPLICATION

The appeal shall include the following information and documents:

- A. Applicant Information. The name and address of the person making the appeal.
- B. Decision. Information detailing the decision or determination made by the Administrative Official which is being appealed. Such information shall include the specific code provision.
- C. Justification. Applicant's justification for why the decision or determination by the Administrative Official was made in error.
- D. Additional Information. The applicant may include additional information supporting the appeal, as may be desired.
- E. Fee. Payment of the prescribed nonrefundable fee as indicated in the Schedule of Fees adopted by the City Council. The fee shall be at least three hundred twenty-five (\$325) dollars.

703.2 – HEARING AND REVIEW

- A. Application Acceptance. Upon receipt of the application, the appeal shall be placed on the agenda for the next regular meeting of the Board following the Planning Commission calendar.
- B. Administrative Official Report. The Administrative Official shall prepare a written report detailing why the decision or determination was made and the relevant code provisions related to the decision. The written report shall be provided to the appeal applicant at least seven (7) days prior to the hearing at which the appeal shall be heard.
- C. Hearing. At the hearing the applicant shall demonstrate why he/she believes the Administrative Official was incorrect in his/her decision or determination based upon the facts of the case and provisions of the Zoning Code. The Board may question the appeal applicant or Administrative Official to determine additional facts in the case.
- D. Decision. Following the hearing, the Board shall render a decision on the appeal within thirty (30) days of the commencement of the hearing. The Board may uphold, partially uphold, or reverse the decision of the Administrative Official. The Board shall consider all the facts presented in determining whether the Administrative Official was correct in carrying out the provisions of the Zoning Code.
- E. Final Action. The appeal applicant or a member of the City Council may appeal the decision of the Board to the City Council within thirty (30) days of the decision of the Board. If no appeal is made, the action of the Board shall be considered final.

SECTION 704 – VARIANCES AND SPECIAL EXCEPTIONS

704.1 – APPLICATION

An application for a variance or special exception shall be made by the property owner/authorized agent. The application may accompany a rezoning request and shall be made by means provided by the City of Conway in accordance with the Planning Commission calendar. No application shall be accepted and processed without all required materials and payment of fees.

The application shall include the following information and documents:

- A. Applicant Information. The name and address of the applicant.
- B. Property Owner/Authorized Agent Form. Form indicating that the applicant is the owner(s) of the property or the applicant is authorized to apply and act on behalf of the owner(s).
- C. Location Information. Address and accurate legal description of the property.
- D. Variance Request. Information detailing the variance being requested citing the specific code provisions from which variance relief is sought.
- E. Scaled Site Plan. A scaled site plan showing property boundaries, building locations, building outlines, driveways, parking, screening, abutting streets, north arrow, and other pertinent information as may be required by the Administrative Official. The Administrative Official shall have the authority to require plans prepared and stamped by a licensed design professional.
- F. Fee. Payment of the prescribed nonrefundable fee as indicated in the Schedule of Fees adopted by the City Council. The fee shall be at least three hundred twenty-five (\$325) dollars.

704.2 – PUBLIC NOTICE

Public notice for variance and special exception applications shall consist of public notice signs on the property and mailed notice to property owners within two hundred (200) feet. No application may be heard for a public hearing by the Board until all forms of public notice have been made. The following requirements shall satisfy public notice requirements:

A. Public Notice Signs

The applicant shall be responsible for posting a sign or signs of public notice on the property at least fifteen (15) days prior to the public hearing. Sign posting shall meet the following requirements:

- 1. One (1) sign for each five hundred (500) feet of street frontage with at least one (1) sign per street frontage.
- 2. Signs shall be placed at the property line nearest the street, and be clearly visible to passing vehicle and pedestrian traffic.

Signs shall be supplied by the City of Conway and the Administrative Official shall determine the number of required signs. The applicant shall pay a nonrefundable fee established by the Schedule of Fees adopted by the City Council. The fee shall be at least ten (\$10) dollars per sign.

Photographic proof of posting of the required public notice signs shall be provided to the Administrative Official at least ten (10) days prior to the public hearing.

B. Letters of Public Notice

The applicant shall mail, by USPS First Class mail with Certificates of Mailing, a notice of the public hearing to all property owners within two hundred (200) feet of the property as well as all school board members and the school superintendent of the school district in which the property is located. Notice must be mailed at least fifteen (15) days prior to the public hearing. The City of Conway shall supply the required mailing list.

Notice shall be made using a completed form provided by the City of Conway which shall at least include a description of the variance being sought, location, and date/time/location of the public hearing. The applicant may include additional information regarding the application.

Proof of mailing, including Certificates of Mailing and a copy of notice letter, shall be provided to the Administrative Official at least ten (10) days prior to the public hearing.

704.3 – REVIEW PROCEDURE

A. Staff Review

The Administrative Official shall review the application and may provide a recommendation for action on the item.

B. Board of Zoning Adjustment Review

The Board shall hold a public hearing on the application and render a decision within at least forty-five (45) days following the closing of the public hearing.

1. Approval: If the Board approves the application, this action shall be considered final, and the Administrative Official shall issue the variance or special exception permit.
2. Denial: If a variance or special exception application is denied by the Board, written notice of denial shall be provided to the applicant within fifteen (15) days of the decision being rendered. Such written notice shall include the reasons for denial of the application. The applicant may appeal the denial to the City Council in writing, stating why they consider the Board's findings and decision to be in error. The appeal must be filed with the Administrative Official within thirty (30) days of receiving the written notice of denial and shall be subject to a public hearing before the City Council. The applicant must complete the public notice requirements indicated in § 704.2 and pay a nonrefundable fee prescribed in a Schedule of Fees adopted by the City Council. The fee shall be at least three hundred twenty-five (\$325) dollars.

If no appeal is filed, the decision of the Board shall be final and no further action on the application shall take place.

704.4 – STANDARDS OF APPROVAL

The Board shall not approve a variance unless making a finding of fact that affirms the following:

- A. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, the strict application of this Zoning Code would result in an undue hardship to the owner, as distinguished from a mere inconvenience.
- B. The conditions causing the need for a variance are unique to the property and are not applicable, generally, to other property within the same zoning classification.
- C. The literal interpretation of the provisions of this code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Zoning Code.
- D. The granting of the variance will not harm the public welfare, other property, or improvements in the area in which the property is located.

- E. The proposed variance complies with the spirit and intent of restrictions imposed by this code and is the minimum variance necessary to make reasonable use of the property.

No variance may be approved that would allow a use that is not permitted or that is implicitly or expressly prohibited. The Board may provide conditions on the approval of a variance. Violation of these conditions shall be considered a violation of this Zoning Code.

704.5 – CONDITIONS OF APPROVAL

The Board may require such conditions or restrictions upon the construction, location, and operation of a variance, as deemed necessary to secure the general objectives of this code.

704.6 – LAPSE OF VARIANCE

A variance shall become lapse and void under the following:

- A. The use for which the variance is tied is not commenced within eighteen (18) months.

- B. The building or structure that caused the need for the variance has not begun construction within eighteen (18) months.

SECTION 705 – ADMINISTRATIVE WAIVERS

The Administrative Official shall have the authority to grant administrative waivers with any application administered through this code for the following circumstances:

705.1 – AREA REQUIREMENTS

Administrative waivers may be granted for any area requirements such as setbacks, height, lot size, or lot coverage established within Article III of this code, where such action will not be harmful to the public welfare. No administrative waiver may be granted for more than ten percent (10%) of the numerical standards, and no administrative waiver for a requirement that does not have a numerical standard.

705.2 – EXISTING STRUCTURES

Administrative waivers may be granted where approval of a variance for any area requirements established within Article III of this code, excluding lot size, would be necessary to allow the approval of a minor subdivision. In such cases the waiver shall only apply to the existing structure any not any reconstructed or future structures. No waiver may be approved that would result in a condition which could not meet setbacks required by the Arkansas Fire Prevention Code.

705.3 – REPORTING

Granting of all administrative waivers shall be reported to the Planning Commission within thirty (30) days of being approved.

SECTION 706 – BOARD OF ZONING ADJUSTMENT APPEALS

Decisions of the Board may be appealed to the City Council in accordance with the Arkansas Code Annotated § 14-56-416. Such appeals shall follow the procedures established in this article.

CERTIFICATE

**STATE OF ARKANSAS
COUNTY OF FAULKNER
CITY OF CONWAY**

I, Michael Garrett, the duly elected, qualified, and acting: Clerk-Treasurer of the City of Conway, Arkansas, do hereby certify that the attached and foregoing is a true and correct copy of an ordinance presented to the City Council of the City of Conway, Arkansas, at a meeting of that body held on the 10th day of January, 2023 same is duly recorded in the minutes of meeting of said Council.

Witness, my hand, and seal of the City of Conway, Arkansas this 17th day of January, 2023.


CITY CLERK-TREASURER

