

ORDINANCE NO. 2019 - _____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA AMENDING ORDINANCE NO. 97-19, AS AMENDED, KNOWN AS THE NASSAU COUNTY LAND DEVELOPMENT CODE, SPECIFICALLY AMENDING SECTION 28.02 BY REMOVING MOTHER-IN-LAW DWELLING AND GUEST HOUSE AND ADDING ACCESSORY DWELLING; AMENDING SECTION 28.14 BY REMOVING MOTHER-IN-LAW DWELLING; AMENDING SECTION 28.15 BY REMOVING GUESTHOUSES AND ADDING ACCESSORY DWELLINGS; AND AMENDING ARTICLE 32, DEFINITIONS, BY REMOVING GUEST COTTAGE OR HOUSE AND SERVANTS QUARTERS AND ADDING ACCESSORY DWELLINGS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners appointed an Affordable Housing Advisory Committee (AHAC) consistent with Florida Statutes 420.9076; and

WHEREAS, the AHAC is working on a variety of strategies to ensure a diverse and affordable housing stock in Nassau County; and

WHEREAS, the AHAC identified the use of accessory dwellings as one such strategy, considered a best practice among housing strategies and employed by numerous jurisdictions across the United States; and

WHEREAS, Nassau County Comprehensive Plan Policy H.03.05 states that the County may pursue the use of accessory dwellings as an affordable rental option based on a finding by the County that there exists a shortage of affordable rental units within the County, consistent with Florida Statutes 163.31771; and

WHEREAS, in 2018 Nassau County partnered with the City of Fernandina Beach on a housing assessment conducted by the University of Florida's Shimberg Center for Housing Studies, which indicates a shortage of affordable rental units within the County; and

WHEREAS, the Nassau County Land Development Code did not allow accessory dwellings as a use; and

WHEREAS, the AHAC formed an Accessory Dwelling subcommittee to draft suggested language for an accessory dwelling ordinance based on best practices; and

WHEREAS, the Accessory Dwelling subcommittee forwarded their recommendations to the full AHAC for consideration; and

WHEREAS, after discussion and review, the AHAC recommended the language be forwarded for consideration to the Nassau County Planning and Zoning Board; and

WHEREAS, after a duly noticed public hearing on January 15, 2019, the Planning and Zoning Board recommended approval of the suggested changes subject to a sunset provision in one year in order to review the effectiveness of the regulations; and

WHEREAS, the Board of County Commissioners finds this amendment does not conflict with the goals, objectives and policies of the Nassau County Comprehensive Plan; and

WHEREAS, based on findings in the 2018 housing assessment by the Shimberg Center, the Board of County Commissioners finds that there exists a shortage of affordable rental units within the County; and

WHEREAS, the Board of County Commissioners has found it in the best interest of the citizens of Nassau County to amend the Land Development Code to allow for accessory dwelling units.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Nassau County, Florida that Ordinance No. 97-19, as Amended, known as the Nassau County Land Development Code, shall be further amended as follows:

SECTION 1. FINDINGS

This Ordinance is consistent with the goals, objectives and policies of the Nassau County Comprehensive Plan.

SECTION 2. AMENDMENTS

Section 28.02. - Erection of more than one residential dwelling unit on a lot or parcel.

More than one (1) residential dwelling unit shall not be erected on a single lot or parcel except as follows:

~~(A) In conjunction with a conditional use permit for a mother-in-law dwelling pursuant to section 28.14(7) of the land development code;~~

~~(A)(B)~~ In conjunction with a conditional use permit for a duplex/two-family dwelling pursuant to section 28.14(L) of the land development code.

~~(C) This provision does not prohibit the establishment of a guest house pursuant to section 28.15(B) of the land development code.~~

~~(B)(D)~~ Where more than one dwelling unit exists on a lot or parcel as of October 9, 2017, those dwelling units may be replaced provided all lot and yard requirements of the respective zoning district are met, and, if the replacement dwelling unit is a mobile home then the respective zoning district must allow for the establishment of a mobile home.

(C) In accordance with accessory dwelling regulations found in Section 28.15(K).

Section 28.14. - Supplementary regulations for certain conditional uses.

In addition to the permissible conditional uses listed in the schedule of district regulations, the following uses shall be permissible conditional uses in the district indicted. Unless specific provisions are made otherwise in the grant of the conditional use, such use shall conform to all supplementary regulations listed under such use.

(A) Home occupations: Home occupations are a permissible conditional use in any residential district which does not include such occupation as a permitted use, subject to all the following conditions:

(1) No person other than members of the family residing on the premises shall be engaged in such occupation.

(2) The use of the premises shall be clearly incidental and subordinate to its use for residential purposes and shall under no circumstances change the residential character thereof.

(3) There shall be no change in outside appearance of building or premises, or other visible evidence of the conduct of such home occupation, except that one (1) sign shall be permitted not exceeding one (1) square foot in area, non-illuminated, mounted flat against the wall of the principal building at a position not more than two (2) feet from the main entrance to the residence.

(4) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood.

(5) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

(6) The giving of art, music or other instructions or lessons shall be limited to not more than four (4) persons at any one (1) time.

(7) Fabrication of articles such as are commonly classified under the terms of arts and handicrafts shall be deemed a home occupation and can be sold on the premises.

(8) All goods and services offered for sale in conjunction with a home occupation shall be produced on the premises, and all services shall be performed by a member of the immediate family on the premises.

(B) Day nurseries: Day nurseries, including kindergartens and child care centers, shall be permissible conditional uses in all residential districts subject to all the following conditions:

(1) Minimum lot area shall be not less than seven thousand five hundred (7,500) square feet and lot width in portion used for fenced play area shall be not less than seventy-five (75) feet.

(2) A fenced outdoor play area of not less than six hundred (600) square feet shall be provided in the rear yard.

(3) All facilities, operation and maintenance shall meet all applicable county or state regulations for such use.

(4) The conditional use application shall state the maximum number of children to be accommodated and in no case shall the number of children approved in the conditional use application be exceeded.

(5) Off-street parking, loading and unloading areas shall be maintained as provided in the site plan approved with the conditional use application for such use.

(C) Parking lots: Off-street parking lots shall be a permissible conditional use in all residential districts for churches only provided:

(1) A buffer consisting of a wall, fence or vegetation as determined by the planning and zoning board shall be erected along property lines adjacent to property zoned for residential uses.

(2) No source of illumination for such lots shall be directly visible from any window in any residence in the residential district.

(3) There shall be no movement of any vehicles on such lots between the hours of 11:00 p.m., and 7:00 a.m.

(4) There shall be no sales or service activity of any kind on such lots.

(5) Vehicles prohibited from being parked in residential districts by article 28, section 28.05, shall not be permitted to be parked on such lot.

(D) Cemeteries: Cemeteries and mausoleums (but not funeral homes and mortuaries) are permissible conditional uses in all residential districts. Such uses must be buffered from adjacent residential areas in accordance with article 28, section 28.08. A fence is required in all other districts.

(E) Schools: Private elementary and high schools with academic curriculum similar to those of public elementary and high schools are permissible conditional uses in all residential districts.

(F) Churches: Churches (but not temporary revival establishments) are permissible conditional uses in all residential districts.

(G) Golf courses: Golf courses are permissible conditional uses in any residential district provided it is located on a site containing a minimum of fifty (50) acres.

(H) Water and sewage treatment plants: Water and sewage treatment plants are permissible conditional uses in all districts. These uses must be buffered from adjacent areas in accordance with the provisions of article 28, section 28.08.

(I) Mobile homes: A mobile home on an individual lot shall be permitted as a conditional use in any residential district in which such use is not otherwise permitted. Such conditional use shall be granted to the applicant only, shall not be transferable and shall not run with the title to the property unless otherwise specified in the grant of the conditional use.

~~(J) Mother-in-law dwelling: A dwelling located on a lot or parcel of land, together with the principal use structure, for the care of aged, infirm or impecunious parent(s). In the case of a medical hardship, a medical certification shall be required with the application. All yard requirements, lot size requirements, height and lot coverage requirements shall apply for the appropriate district unless otherwise waived by the planning and zoning board.~~

~~(J)~~~~(K)~~ Horses and ponies: Horses and ponies may be kept in residential districts only for private riding use and only if a place of shelter therefor shall be provided which is not closer than one hundred (100) feet to any residence of different ownership. Such horses and ponies shall be kept in a fenced enclosure not closer than twenty-five (25) feet to any private property line.

~~(K)~~~~(L)~~ Two-family dwelling (duplex): A duplex, being a single structure designed for or occupied exclusively by two (2) families living independently of each other, as defined herein, is a permissible use by exception in any residential district where not otherwise permitted, and in the Open Rural District; provided the structure shall conform to all supplementary regulations listed under the district classification as though it were a single-family dwelling (i.e., minimum lot requirement, maximum coverage by all buildings, minimum setbacks, maximum height of structure, etc.).

Section 28.15 – Accessory Uses and Structures

(A) Accessory uses and structures are permitted in all districts provided such uses and structures are of a nature customarily incidental to a permitted principal use or structure and is located on the same lot (or contiguous lot in the same ownership) with such use. Any structure or portion thereof, attached to the principal structure on a lot by a roof, shall be considered part of the principal structure and not an accessory building. Accessory uses shall not involve operations or structures not in keeping with the character of the district where located. The square footage of an individual accessory structure shall not exceed the square footage of the principal (main) structure's footprint however, the foregoing square footage limitation shall not be applicable to any lot containing one acre or more of upland area.

(B) Accessory uses and structures shall not be located in required front or side yards in any zoning district except as follows:

~~(1) Accessory structures for the housing of persons such as guest houses shall not be located in any required yard.~~

~~(1)~~~~(2)~~ In residential and open rural districts where a residence is the primary and principal use, detached accessory structures ~~(other than as in [subsection] (1) above)~~ which are separated from the principal structure by at least ten (10) feet and are single story construction less than twenty (20) feet in height, may be

located in a required side or rear yard, but not less than six (6) feet from any lot line, nor within any easement of record. Design standards for accessory dwellings are located in 28.15(K).

(C) Dog houses, pens and similar structures for the keeping of commonly accepted household pets allowed in all districts. In residential districts, the number of such pets over ten (10) weeks of age shall not exceed four (4) unless a conditional use permit has been granted allowing a greater number.

(D) The following accessory uses and structures shall be permitted in any residential or Open Rural district:

(1) Non-commercial greenhouses and/or plant nurseries.

~~(2) Guesthouses subject to:~~

~~a. Metered off principle structure (no separate electric meter). If a separate meter is deemed unavoidable by the franchised electric provider, the additional electric meter shall be in the same name of primary meter.~~

~~b. Guest house square footage cannot exceed square footage of the primary use.~~

~~c. For gratuitous guests not extending longer than six (6) months in any one year period.~~

~~(2)(3)~~ Private garages and carports, provided no detached garage or carport be designed to accommodate more than three (3) vehicles, unless a conditional use permit has been granted for such and all other requirements of this ordinance have been met.

~~(3)(4)~~ Private boat houses or RV shelters, provided such structures do not exceed one thousand (1,000) square feet in area (OR districts only) and are not live in or "condo" type shelters.

~~(4)(5)~~ Tool and/or garden sheds, pump houses, barbecue pits.

~~(5)(6)~~ Swimming pools and related bathhouses, subject to conditions in Section 28.15(E) below.

~~(6)(7)~~ Solar energy systems. When affixed to a residential structure shall be roof mounted, not to exceed two (2) feet above existing roof line. Ground mounted systems are subject to applicable setbacks for accessory structures.

~~(7)(8)~~ Multifamily districts (RG-1 and RG-2): Temporary or permanent sales or rental offices provided such sales or rentals are for the dwelling units or lots located on the same premises.

~~(8)(9)~~ Temporary sales offices: The temporary use of a residential structure as a sales office shall be in accordance with the Florida Building Code, Chapter 104.1.2, temporary structures and shall be limited to a duration of one (1) year unless an extension is requested and approved by the building official, in accordance with Section 104.5.1, permit intent.

(E) Swimming pools and bathhouses are permitted as accessory uses in any district. Private swimming pools, as regulated herein, shall be any pool, pond, lake, open tank

located either above or below the existing finished grade of the site, not located within a completely enclosed building, and exceeding one hundred fifty (150) square feet in surface area and two (2) feet in depth, designed to be used for swimming or bathing purposes. A private swimming pool shall be allowed in any residential district as an accessory use only if it fully complies with the following conditions:

- (1) The pool is to be used solely for the enjoyment of the occupants or bona fide guests
 - (2) The pool is not located closer than seven and one-half (7.5) feet to any side or rear property line. No swimming pool shall be located in the required side or front yard. If the pool is enclosed by a screened enclosure (i.e., screening walls and roof), the screened enclosure shall not be closer than seven and one-half (7.5) feet to any side or rear property line.
 - (3) The pool shall be enclosed as required by Section 424.2.17.1.1 through 424.2.18 of the Florida Building Code.
 - (4) For purposes of measuring pool setbacks, the yard shall be measured from the outside of the bulkhead (water line) of the pool structure. The above setbacks shall be observed unless the setbacks for the respective district are less than seven and one-half (7.5) feet.
 - (5) Notwithstanding any of the above setbacks, no portion of any swimming pool deck or screen enclosure shall be located within a utility, drainage or access easement.
- (F) In the case of double frontage lots, accessory building shall observe front yard requirements on both street frontages wherever there are any principal buildings fronting on said streets in the same block or adjacent blocks.
- (G) On corner lots, a detached accessory building shall not be located closer to the side property line along a public street than the permitted distance for the main building on the lot.
- (H) No accessory building shall be located on a residential lot unless a principal building is also located on the same lot.
- (I) Temporary Personal Storage Unit; provided, however, that temporary personal storage units maybe parked or located on private property in any district subject to the following limitations:
- (1) The size of the unit or units may not exceed 150 square feet in area each (length multiplied by widths in a residential district; and
 - (2) The duration of placement of the unit or units is limited to thirty days, the duration of an active building permit for the property the unit or units are located on, or a reasonable amount of time for emergency cleanup after a natural disaster as determined by local, state, or federal government emergency preparedness agencies; and
 - (3) The unit or units may be located in driveways, front yards, side yards, or back yards and may be located in a required setback; and
 - (4) The unit may not be located within a right-of-way, access easement, or fire lane.
- (J) Shipping Containers.

- (1) Prohibited in all residential districts and PUDs, unless used as a structural element, see definitions.
- (2) Permitted in Commercial districts, however, units must be shielded from view of adjacent roadways and adjacent properties in a manner consistent with the minimum standards of Sections 37.05 and 37.06, respectively. Under no circumstances may a container be placed in a required parking area. Stacking of containers is not permitted.
- (3) Permitted in all industrial districts, provided setbacks are met. *This section is not intended to place limitations on approved bonafide industrial warehousing, high cube storage, shipping terminals, shipping ports, rail yards, distribution centers, or other similar industrial uses operating legally within Nassau County.*
- (4) Permitted in the Open Rural district in support of bonafide agricultural activities protected by the right to farm act as defined in F.S. 823.14, provided setbacks are met.
- (5) Permitted in non-farm Open Rural zoned property, provided setbacks are met, and provided that containers may not be placed between the primary structure and the immediately adjacent road or access easement (front of property).
- (6) The following shall apply to all districts where permitted:
 - (a) Shipping Containers must meet principle-use setbacks for the respective zoning district in which the container is placed.
 - (b) Under no circumstances shall a Shipping Container be used for human or animal habitation, unless adaptively re-used in a construction project signed and sealed by an engineer or architect licensed in the State of Florida.
 - (c) Under no circumstances may a Shipping Container be leased, rented, or utilized by a third party not associated with the business or residence on which the container is located.
 - (d) Shipping Containers shall not be located in any easements, jurisdictional wetlands, upland buffers, landscape buffers, buffers between adjacent uses, access lanes, or fire lanes.
 - (e) This section shall be construed to permit standard or high-cube Shipping containers but not tanks, platform, flat tracks, or reefer (refrigerated) containers.
 - (f) This section shall not be construed to permit truck bodies, semi-trailers or permanent placement of Temporary Personal Storage Units.
 - (g) Placement shall not require a building permit from the County.

(K) Accessory Dwellings

- (1) Accessory dwellings are permitted by right in all residentially zoned districts that permit single-family homes, and may be developed with new or existing single-family homes.
- (2) Only one (1) accessory dwelling is permitted per single family home parcel.

- (3) An accessory dwelling may not be larger than 50% of the square footage of the single family home with garage space not included in the calculation. In no case shall the total footprint of the accessory dwelling exceed more than 800 square feet.
- (4) Design Standards:
- (a) Attached accessory dwellings must comply with the setback requirements for the underlying zoning district.
 - (b) The minimum setback for a detached accessory dwelling is six (6) feet. Detached accessory dwellings shall not be located in a required front yard. For properties with a gross area of three (3) acres or less, accessory dwellings shall not be located between the primary structure and a street. Properties over three (3) acres may place an accessory structure between the principal structure and a street but not within a required front yard.
 - (c) The maximum building height for an accessory dwelling is twenty-five (25') feet. Building height is defined in Article 32, Nassau County Land Development Code.
 - (d) Exterior entrances shall be located no closer than six (6) feet to an adjoining property line.
 - (e) Exterior staircases shall be placed on the rear or side of the accessory dwelling structure and no closer than six (6) feet to an adjoining property line.
 - (f) Accessory dwelling units shall be constructed utilizing similar architectural standards as utilized for the design and construction of the principal structure.
 - (g) When an attached garage space is converted to an accessory dwelling, the garage door shall be replaced with materials that match the single family home. If a detached garage is converted to an accessory dwelling, the applicant must demonstrate the site will not fall beneath the minimum parking standards defined in (5) below.
- (5) Parking.
- (a) Parking required for the existing single family home must meet all requirements of the underlying zoning district.
 - (b) One additional off-street parking space, beyond requirements for a single family home, must be provided on-site for an accessory dwelling.
 - (c) New parking shall make use of existing curb cuts and not require additional curb cuts or driveway permits.
- (6) Accessory dwellings are subject to building permit requirements as established by the Florida Building Code and administered by the Nassau County Building Department.
- (7) In no instance shall a Recreational Vehicle (RV), mobile or manufactured home, or storage shed be used as an accessory dwelling unit.
- (8) When public water and sewer connections are available, accessory dwellings shall connect to the public water and sewer system. Where connection to a public water and sewer system is not available, well and septic systems must

be in compliance with Department of Health regulations. For this section, "available" means available as determined by the Department of Health.

- (9) An accessory dwelling shall not be sold as a separate piece of property or as a condominium unit. Construction of an accessory dwelling does not constitute a parcel split and the County shall not approve parcel splits that separate an accessory dwelling from the associated single family home.
- (10) In instances in which the accessory dwelling is used for a rental property, the existing single family home on the parcel must be the primary residence for the property owner and hold an active Homestead Exemption through the Nassau County Property Appraiser's Office.
- (11) This Section does not supersede any regulations imposed by subdivision homeowner's associations that regulate or control accessory structures or dwellings.
- (12) Existing structures approved and constructed under a conditional use as mother-in-law dwellings prior to the adoption of this ordinance are legal non-conforming uses until such time of their removal as required during approval of the use, and not subject to the requirements of this section.
- (13) Existing structures approved and constructed as a guest house or cottage prior to the adoption of this ordinance are legal non-conforming uses and not subject to the requirements of this section, except with respect to rental provisions in Section 28.15(K)(10).

Article 32 - Definitions

Accessory dwellings: Self-contained residential unit that is accessory to a single-family home and on the same parcel. An accessory dwelling unit has its own bathroom, kitchen facilities, living and sleeping areas, though it can share other features with the single-family home including the yard, parking, storage or laundry facilities. An accessory dwelling can be attached to the single family home or detached. Accessory dwellings may be utilized as guest houses for family members and friends, living space for caretakers, or as rentals pursuant to requirements found in Section 28.15(K).

~~Guest cottage or house: Living quarters within a detached accessory building located on the same lot or parcel of land as the main building, used exclusively for housing members of the family occupying the main building and their nonpaying guests. Such quarters shall not be rented or otherwise used as a separate dwelling.~~

~~Servants quarters: See Guest cottage or house.~~

SECTION 3. CODIFICATION

It is the intent of the Board of County Commissioners that the provisions of this Ordinance shall be included and incorporated into the Code of Laws and Ordinances of Nassau County, Florida. The codifier may re-letter or renumber sections to conform to the uniform numbering and style of the section.

SECTION 4. SEVERABILITY

It is the intent of the Board of County Commissioners of Nassau County, Florida, and is hereby provided, that if any section, subsection, sentence, clause, phrase, or provision of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

SECTION 5. EFFECTIVE DATE

This Ordinance shall take effect upon filing with the Secretary of State as provided in Florida Statutes, Section 125.66.

Adopted this _____ day of _____, 2019 by the Board of County Commissioners of Nassau County, Florida.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA

JUSTIN M. TAYLOR
Its: Chair

ATTEST as to Chairman's Signature:

John A. Crawford
Its: Ex-Officio Clerk

Approved as to form by the

Nassau County Attorney

Michael S. Mullin
County Attorney