

ORDINANCE NUMBER 2015-_____

AN ORDINANCE OF ESCAMBIA COUNTY, FLORIDA, AMENDING PART III OF THE ESCAMBIA COUNTY CODE OF ORDINANCES, THE LAND DEVELOPMENT CODE OF ESCAMBIA COUNTY, FLORIDA, AS AMENDED; AMENDING CHAPTER 4, SECTION 4-7.3, "ACCESSORY USES AND STRUCTURES," TO CLARIFY GENERAL USE CONDITIONS AND DESIGN STANDARDS, ESTABLISH LOCATION CRITERIA FOR CERTAIN ACCESSORY USES AND STRUCTURES, AND PROVIDE FOR ACCESSORY DWELLING UNITS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, through its Land Development Code (LDC), the Escambia County Board of County Commissioners desires to preserve the County as a desirable community in which to live, vacation and do business; and

WHEREAS, the Board finds that clarifying general use conditions and design standards, establishing location criteria for accessory uses and structures, and providing for accessory dwelling units is in the best interest of the County and its citizens, and serves an important public purpose;

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ESCAMBIA COUNTY, FLORIDA:

Section 1. Part III of the Escambia County Code of Ordinances, the Land Development Code of Escambia County, Chapter 4, Section 4-7.3 "Accessory uses and structures" is hereby amended as follows (words underlined are additions and words ~~stricken~~ are deletions):

Sec. 4-7.3 Accessory uses and structures.

(a) General conditions. ~~A use or structure that is subordinate in extent and purpose and is customarily incidental to the principal use or structure on the same lot shall be allowed as an a~~Accessory uses or and structures shall be allowed in compliance with the provisions of the applicable zoning district and this section.

(1) Subordinate. An accessory use shall ~~demonstrate that it is a~~be subordinate in extent and purpose to the principal use and not simply a different, alternative, or additional use. Multiple uses on a parcel may each be classified as a principal use, so the determination of subordinate uses shall, at a minimum, consider the following:

a. Area. The area devoted to the use in relation to the principal use. However, the fact that a use occupies less area does not necessarily make the use accessory.

- b. **Time.** The time devoted to the use in relation to the principal use. For example, a seasonal activity may be accessory in relation to a year-round primary use, but a year-round use would not be subordinate to a seasonal primary use.
- c. **Intensity.** The relative intensity of the use and the resulting impacts on the land and neighboring properties.
- d. **Employees.** The number of employees assigned to a use. However, an accessory use need not always have fewer employees than the principal use.

(2) Customarily incidental. An accessory use shall be customarily incidental to the principal use, having demonstrate that it has commonly, habitually, and by long practice been established as reasonably associated with the primary that use. A rare association of uses does not qualify as customary, but the uses need not be joined in a majority of the instances of the principal use. ~~In addition to being subordinate~~ Additionally, an incidental use must have a reasonable relationship to the principal use; being clearly associated, attendant, or connected. A use is customarily incidental when it is so necessary or so commonly to be expected in connection with the principal use that it cannot be reasonably supposed that the LDC intended to prevent it.

(3) Establishment. Unless otherwise specifically allowed by the provisions of the LDC, accessory uses and structures may only be established concurrently with or following the lawful establishment of a validating principal use or structure.

~~**(4) Structures.** Accessory structures shall be detached from principal structures and may be limited in location or size.~~

~~**(a) Locations.** Accessory structures are limited to side and rear yards except as allowed by the following or other LDC provisions:~~

- ~~1. **On large lots.** Accessory buildings, including accessory dwelling units, on lots ten acres in size or larger may be located within front yards if not less than 60 feet from the front lot line.~~
- ~~2. **On waterfront lots.** Accessory buildings may be located in the front yards of waterfront lots if not less than 60 feet from the front lot line and granted conditional use approval by the Board of Adjustment (BOA).~~
- ~~3. **Encroachment by gas pumps.** Pumps and pump islands for retail fuel sales may be located within required front yards if they are not less than 20 feet from any street right of way.~~
- ~~4. **Encroachment by septic systems.** Whenever lots are to be served by on-site sewage treatment and disposal systems (e.g., septic tank and drain field), the systems may be located in any required yard as necessary to obtain sufficient open space, provided the system is no closer than five feet to any lot line.~~

(b) Structures on Santa Rosa Island

- ~~(1) In cases which involve the Coastal Construction Control Line (CCCL), a permit must first be obtained from the Florida Department of Environmental Protection, Bureau of Beaches and Coastal Systems, prior to issuance of SRIA development approval.~~
- ~~(2) No swimming pools or gazebo type structures may extend seawards of the state's 1975 CCCL or 50 feet landward of the crest of the primary dune line; whichever is the most restrictive.~~
- ~~(3) No temporary structures are allowed without approval of the SRIA board. Requests for approval to construct additional storage space may be submitted providing the construction is attached to the dwelling, and meets building code requirements. Detached structures are allowed only in conformance with the following guidelines for detached/accessory structures. Detached/accessory structures are discouraged; however, requests may be considered by the SRIA board if the following standards are met:
 - ~~a. The design of the detached/accessory structure must be compatible with the design of the residence.~~
 - ~~b. The structure must comply with current FEMA construction guidelines.~~
 - ~~c. All applicable building code and development code requirements must be followed.~~
 - ~~d. The detached/accessory structure shall be constructed within established building setback lines.~~
 - ~~e. The maximum area for detached elevated decks shall be 200 square feet. The maximum height shall be 35 feet. In no case may these structures exceed the height of the residence.~~
 - ~~f. Detached/accessory structures on waterfront lots shall be considered on an individual basis.* In no case may these structures extend further seaward than the adjoining residences.~~
 - ~~g. The wall of a detached/accessory structure shall be no closer than six feet to the wall of the main structure. No part of a detached/accessory structure shall be closer than four feet to any part of the main structure.~~
 - ~~h. An open covered walkway no more than six feet wide may connect the main structure to the detached/accessory structure.~~

~~*Examples of detached/accessory structures: . (Subsequent to November 1984 provisions of SRIA.) Private garages, storage buildings, children's playhouses, private swimming pools, bathhouses or cabanas, tennis courts, noncommercial greenhouses, uncovered decks, screened enclosures.~~~~
- ~~(4) When submitting plans for proposed shoreline or near shoreline projects, such as, retainer walls, seawalls, piers, bulkheads, groins, jetties, etc., a recent survey must be included to show relation of proposed project to property lines, structure,~~

approximate mean high water line, vegetation line if any, and such structures on adjacent properties.

~~(5) Subsequent to August 9, 1990 provisions of the SRIA. Prior approval by SRIA staff is required for installation of a satellite dish. Satellite dishes may not be installed on the street side of the dwelling.~~

(4) Location. An accessory use or structure shall be located on the same lot as the principal use or structure. Accessory structures are limited to locations within side and rear yards, except as specifically allowed by LDC provisions, including the following:

a. Large residential lots. Accessory structures, including an accessory dwelling unit, on a lot ten acres in size or larger may be located within the front yard of the principal dwelling if the structures are at least 60 feet from the front lot line.

b. Waterfront lots. Accessory structures may be located in the front yard of a waterfront lot if the structures are at least 60 feet from the front lot line and granted conditional use approval by the Board of Adjustment (BOA).

c. Signs and fences. Signs and fences as accessory structures may be located within a front yard if in compliance with the sign and fence standards prescribed in Chapter 5.

d. Fuel pumps. Pumps and pump islands for retail fuel sales may be located within the front yard of a conforming non-residential use if the pumps and islands are at least 20 feet from any street right-of-way.

e. Sewage systems. The underground components of an on-site sewage treatment and disposal system (e.g., septic tank and drain field) may be located within a front yard as necessary to obtain sufficient open space if the components are at least five feet from any lot line.

f. Deposit boxes. Deposit boxes for the donation of used items to charitable organizations may be located within the front yard of a conforming non-residential use if the total area coverage by the boxes is limited to 100 square feet and they are placed in compliance with the sight visibility and sign standards prescribed in Chapter 5.

g. Automated vending. Automated vending structures may be located within the front yard of a conforming non-residential use if the vending structures are at least 20 feet from any street right-of-way and in compliance with the sight visibility and sign standards prescribed in Chapter 5. Such structures shall also be freestanding, self-contained, and unattended; have separately metered utilities; and be limited to on-demand self-service commercial activities such as the retail sale of ice or the provision of banking services.

~~(e)(5) **Size in relation to single-family dwellings.** In addition to limits imposed by the site and building requirements of the applicable zoning district, accessory dwelling units and other sStructures accessory to a principal single-family dwellings, including accessory dwelling units, are subject to the following size~~

limits, excluding accessory structures on farms or within agricultural zoning, ~~or docks and piers:~~

- (1)a. Less than two acres.** On lots smaller than two acres, no individual accessory structure may exceed 50 percent of the gross floor area of the principal dwelling.
- (2)b. Two to five acres.** On lots two acres to five acres, no individual accessory structure may exceed 75 percent ~~of the size~~ of the gross floor area of the principal dwelling.
- c. Greater than five acres.** On lots larger than five acres, no individual accessory structure may exceed the size of the principal dwelling.

Structures larger than the limits established here shall require variance approval from the BOA.

(6) Structures on Pensacola Beach. Residential accessory structures on Pensacola Beach, except for signs and fences, require the approval of the SRIA Board. Such private structures include garages, storage buildings, playhouses, swimming pools, cabanas, uncovered decks, and screened enclosures. Approval of these accessory structures is entirely at the discretion of the SRIA and shall require compliance with the following:

- a. The design of the structure is compatible with the design of the residence.
- b. If on a waterfront lot, the structure does not extend further seaward than residences on adjoining lots.
- c. If the structure is a detached elevated deck, it is no greater than 200 square feet in area and does not exceed 35 feet in height or the height of the residence, whichever height is less.
- d. No variance to established structure setback lines is necessary.
- e. No wall of the structure is closer than six feet to any wall of the residence, and no part of the structure is closer than four feet to any part of the residence.
- f. If the structure includes a walkway cover between the residence and the structure, the cover is no more than six feet wide.
- g. If the structure is a swimming pool or gazebo type structure, it does not extend seaward of the state's 1975 Coastal Construction Control Line or a line 50 feet landward of the crest of the primary dune line, whichever setback from the shoreline is more restrictive.
- h. The structure complies with all other LDC and Florida Building Code requirements.

(b) Specific uses and structures.

(1) Accessory dwelling units. Accessory dwelling units are allowed on the lots of single-family dwellings, but a second dwelling unit on a lot is not subject to the limitations of accessory structures if the lot area and applicable zoning district

would otherwise allow the additional dwelling. Accessory dwelling units shall comply with the following conditions:

- a. The applicable zoning is a mainland district, but is not Industrial (Ind), Recreation (Rec), Conservation (Con), or Public (Pub).
- b. The principal dwelling and accessory dwelling unit are the only dwellings on the lot and the lot provides the minimum area required by the applicable zoning.
- c. The resulting residential density on the lot may exceed the gross density limit of the applicable zoning, but complies with all other applicable density limits (e.g., airfield environs).
- d. The form of accessory dwelling (e.g., manufactured home) is an allowed use of the applicable zoning.
- e. The accessory dwelling complies with the setbacks applicable to the principal dwelling unless otherwise allowed by the LDC.

~~(d)~~**(2) Carports.** All carports, attached or detached, are allowed as accessory structures regardless of their construction material, but shall comply with the following conditions:

~~(1)~~**(1)a.** The structure setbacks of the applicable zoning district are not exceeded, except that a carport may encroach into the required front yard provided it is not less than ten feet from the front property line.

~~(2)~~**(2)b.** The carport is not prohibited by private deed restrictions.

~~(3)~~**(3)c.** Minor site development approval is obtained for the structure and it complies with applicable building codes.

~~(4)~~**(4)d.** A building permit is obtained for the structure unless it is a portable carport covering less than 400 square feet.

~~(5)~~**(5)e.** The structure is not attached to a mobile home.

~~(e)~~**(3) Chickens and single-family dwellings** The ownership, possession, and raising of live chickens (*Gallus gallus domesticus*) is an allowed accessory use for any single-family dwelling principal use, except on Perdido Key and Santa Rosa Island, regardless of any prohibition of farm animals or minimum lot area for farm animals established by the applicable zoning district. However, such keeping of chickens shall comply with the following standards:

~~(1)~~**(1)a. Limit by lot area.** No more than eight chickens shall be kept on any lot that is one quarter acre or less in size.

~~(2)~~**(2)b. Roosters.** No rooster shall be kept less than 100 yards from any inhabited residence other than the dwelling of the person keeping the rooster.

~~(3)~~**(3)c. Security.** Chickens may roam freely in the fenced rear yard of the principal dwelling from sunrise to sunset. During all other times the chickens shall be kept in secure coops, pens or enclosures that prevent access by predators.

(4)d. Enclosure setbacks. All chicken pens, coops, or enclosures shall be a minimum of 10 feet from rear and side property lines, and a minimum of 20 feet from any residence located on an adjacent lot.

(4) Columbaria. Columbaria are allowed as accessory uses to places of worship.

(f)(5) Docks and piers. As an exception to the establishment of a principal use or structure for any accessory use or structure, docks and piers may be permitted as accessory structures on lots exclusively for single-family dwellings regardless of the establishment of any dwellings on the lots.

(g)(6) Family day care or foster homes. A family day care home or family foster home is allowed as an accessory use wherever the host dwelling unit is allowed unless prohibited by the applicable zoning district.

(h)(7) Home occupations and home-based businesses. Home occupations and home-based businesses are limited to the residents of a dwelling unit other than a manufactured (mobile) home, and allowed only as an accessory use to the residential use. A home occupation, or employment at home, is allowed wherever the host dwelling unit is allowed, but shall generally be unnoticeable to adjoining land uses. A home-based business, which is at a greater scale or intensity than a home occupation, is limited to the rural zoning districts (Agr, RR, RMU) and only allowed if impacts to adjoining land uses are minimal. Home occupations and home-based businesses shall comply with each of the following requirements:

(1)a. Licenses. All required business, professional, or occupational licenses are obtained prior to commencement of the occupation or business and are maintained for the duration of the activity.

(2)b. Exterior evidence. For home occupations, there is no evidence visible from outside of the dwelling or accessory building that any part of a building is utilized for an occupation. For home-based businesses, any evidence visible from outside of the dwelling or accessory building that any part of a building is utilized for a business is minimal. Such exterior evidence includes any storage, display, or signage associated with the occupation or business. Signage is limited for both uses according to the signage provisions of Chapter 5.

(3)c. Off-site impacts. Occupations or business activities shall not create nuisances or adverse off-site impacts, including but not limited to noise, vibration, smoke, dust or other particulates, odors, heat, light or glare, or electromagnetic interference. In a residential neighborhood, no activities are allowed to alter the character of the neighborhood.

(4)d. Structural alterations. No structural alterations are made that would be inconsistent with the use of the dwelling exclusively as a residence or that would not customarily be associated with dwellings or their accessory buildings.

(5)e. Employees. Employment in a home occupation is limited to residents of the dwelling unit unless the applicable zoning district allows BOA conditional

use approval of non-resident employees. Employment in a home-based business may include no more than two non-resident employees.

~~(6)~~**f. Customers.** No customers shall visit the house ~~nor and there~~ shall ~~there~~not be any ~~other~~ additional traffic or an increase in demand for parking due to trucks or other service vehicles coming to the house.

~~(7)~~**g. Motor vehicles.** The manufacture or repair of motor vehicles or other transportation equipment is prohibited.

~~(i)~~**(8) Small wind energy systems.** For the purposes of this section, a small wind energy system is an accessory use consisting of a wind turbine, structural support, and associated control or conversion electronics design to supply some of the on-site electrical power demands of a home, farm, or small business. A small wind energy system is allowed only if constructed and operated in compliance with each of the following requirements:

~~(1)~~**a. System Height.** The height of the system is the minimum necessary to reliably provide the required power.

~~(2)~~**b. Prohibited use.** To protect the unique scenic view, the system is not installed within the Scenic Highway Overlay District.

~~(3)~~**c. Airport and military review.** If the installation of the system or additional turbines is within the Pensacola International Airport Planning District (PNSPD) or any military Airfield Influence Planning District (AIPD), the applicant has notified and obtained a response from the respective airport/airfield authority. If the authority has objections to the installation, the Planning Official shall consider them in any final determination and may impose approval conditions on the installation to address the objections.

~~(4)~~**d. Setback.** The center of the system tower base is no closer to any part of a dwelling outside of the system installation parcel than the total height of the system. Additionally, no part of the system structure, including any guy wires or anchors, is closer than five feet to the property boundary of the installation parcel.

~~(5)~~**e. Appearance.**

~~a.~~**1. Design and Location.** Towers are designed and located to minimize visual impacts. Colors and surface treatment of system components minimize visual distraction.

~~b.~~**2. Signs.** Signs on system components are limited to the manufacturer's or installer's identification and appropriate warnings.

~~c.~~**3. Lighting.** System structures are not lighted except to the extent required by the Federal Aviation Administration or other applicable authority.

~~(j)~~**(9) Swimming pools and pool enclosures.** Screened enclosures for swimming pools may be erected no closer than five feet from the rear or side

property line. No pool enclosure shall be allowed on any easement unless authorized by the grantee of the easement through an encroachment agreement.

Section 2. Severability.

If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any Court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 3. Inclusion in Code.

It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall be codified as required by F.S. § 125.68 (2011); and that the sections, subsections and other provisions of this Ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "section," "chapter," or such other appropriate word or phrase in order to accomplish such intentions.

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Section 4. Effective Date.

This Ordinance shall become effective upon filing with the Department of State.

DONE AND ENACTED this _____ day of _____, 2015.

**BOARD OF COUNTY COMMISSIONERS
OF ESCAMBIA COUNTY, FLORIDA**

By: _____
Steven Barry, Chairman

**ATTEST: PAM CHILDERS
Clerk of the Circuit Court**

By: _____
Deputy Clerk

(SEAL)

ENACTED:

FILED WITH THE DEPARTMENT OF STATE:

EFFECTIVE DATE: