



Interoffice Memorandum

October 14, 2019

TO: Mayor Jerry L. Demings
-AND-
Board of County Commissioners

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Planning, Environmental and
Development Services Department

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SUBJECT: Accessory Structure & Accessory Dwelling Unit Standards
Update - Chapter 38, Orange County Code

On October 22, 2019, the Board will hold the second of two public hearings to consider an ordinance amending various sections of Orange County Code pertaining to accessory structures and accessory dwelling units (ADUs). The proposed ordinance reflects input received from Mayor Demings' **Housing for All** task force members, direction from Board members during a June 18, 2019 work session, and the recommendations received by the Planning & Zoning Commission during their public hearing on August 15, 2019.

ADUs were initially recognized during the Regional Affordable Housing Initiative (RAHI) Executive Summary Report as a means for providing affordable rental housing and mixed use communities. Since then, ADUs have been included in the **Housing for All** action plan tool kit by the Design & Infrastructure Subcommittee and identified as an expedited recommendation.

The general purpose of this update is to consolidate accessory structure and accessory dwelling unit (ADU) provisions and to refine associated performance standards in order to incentivize the production of ADUs in established and targeted mixed-income communities. More specifically, the ordinance would amend various sections of Orange County Code Chapter 38 that address "definitions", "use table", "conditions for permitted uses, special exceptions, etc.", and "accessory dwelling units", by modifying, deleting and relocating certain provisions pertaining to Accessory Structures and ADUs.

At their public hearing on August 15, 2019, the PZC determined that the ordinance was consistent with the Comprehensive Plan and recommended approval, subject to two changes. These included applying the same ADU review procedures and performance standards in Rural Settlements and Rural Enclaves as proposed for other areas in the county, and to further incentivize ADUs applications by eliminating all associated impact fees. Both of these recommended changes are reflected in the attached draft ordinance.

However, based on input received from the Board on September 24, 2019, staff will be presenting changes for the Board's consideration during the final adoption hearing on October 22, 2019. The changes will address the requirement of the subject parcel to qualify as homestead property; the prohibition on rental or leasing of an ADU for short term or transient rental purposes; and the requirement that ADU impact fees be assessed at the multi-family rate until and unless the rate is modified in Orange County Code Chapter 23.

ACTION REQUESTED: Make a finding of consistency with the Comprehensive Plan and approve the Ordinance to amend Orange County Code Chapter 38 pertaining to accessory structures and accessory dwelling units, as recommended by the Planning and Zoning Commission on August 15, 2019, as modified with changes on October 22, 2019. All Districts

Attachments: PZC Recommended Draft Ordinance

ORDINANCE NO. 2019-____

AN ORDINANCE AFFECTING THE USE OF LAND IN ORANGE COUNTY, FLORIDA, BY AMENDING ORANGE COUNTY CODE CHAPTER 38 ("ZONING"), INCLUDING SECTION 38-1 ("DEFINITIONS"); SECTION 38-77 ("USE TABLE"); SECTION 38-79 ("CONDITIONS FOR PERMITTED USES, SPECIAL EXCEPTIONS, ETC."); AND SECTION 38-1426 ("ACCESSORY DWELLING UNITS"); ALL TO MODIFY, DELETE, RELOCATE AND SUPPLEMENT CODE PROVISIONS RELATED TO ACCESSORY STRUCTURES AND ACCESSORY DWELLING UNITS; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY, FLORIDA:

Section 1. Amendments to Section 38-1. Section 38-1 of the Orange County Code

("Definitions"), codified at Article I of Chapter 38 of the Orange County Code, is hereby amended to read as follows, with additions shown by underlines and deletions indicated with

strike-throughs:

Sec. 38-1. - Definitions.

* * *

Accessory structure or use shall mean a subordinate building or structure, including an accessory dwelling unit, situated on the same lot or parcel as the principal building or structure, or a subordinate use of land, and which building, structure or use is customarily incidental to and typically found in association with such principal building or use. Factors to be considered in determining whether a building, structure or use is "subordinate" and "customarily incidental" include the size of the lot or parcel, the uses of adjacent lots or parcels, and the size, shape, height, and roof type (if any) of the building or structure.

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~~Accessory dwelling unit shall mean living quarters (including kitchen and bathroom facilities) which are separate and distinct from and secondary and subordinate to the primary single-family dwelling unit. The living quarters may be attached to or detached from the primary dwelling unit. An accessory dwelling unit connected to a primary dwelling unit by a breezeway, roofed passage or similar structure shall be deemed a detached accessory dwelling unit a separate additional dwelling unit, including kitchen, sleeping, and full bathroom facilities, attached or detached from the primary residential unit, on a single-family lot, and subordinate in size, location, and appearance to the primary dwelling unit. A mobile home shall not be deemed an accessory dwelling unit unless otherwise expressly permitted in the zoning district.~~

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~~Guest house shall mean living quarters without kitchen facilities within a detached accessory building located on the same lot or parcel of land as the principal building, and used exclusively for housing members of the family occupying the principal building or their nonpaying guests.~~

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~~Kitchen shall mean the facilities and equipment used in the preparation and serving of food. This may include, but is not limited to, stoves, microwave ovens, hot plates, sinks, refrigerators, cabinets and/or pantry-like shelves, a 220 V outlet, a dishwasher, or other food preparation equipment, or any combination thereof; this may not include wet bars, outside grilling facilities, outside sinks or refrigerators, or other items determined by the zoning department division manager as not constituting a kitchen.~~

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~~Wet bar shall mean a hand sink and under-the-counter refrigerator with no overhead cabinets.~~

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76 **Section 2. Amendments to Section 38-77.** Section 38-77 of the Orange County
77 Code (“Use table”), codified at Article IV of Chapter 38 of the Orange County Code, is hereby
78 amended as shown in the attached Exhibit “A,” with additions shown by underlines and
79 deletions indicated with strike-throughs.

80 **Section 3. Amendments to Section 38-79.** Section 38-79 of the Orange County
81 Code (“Conditions for permitted uses, special exceptions, etc.”), codified at Article IV of
82 Chapter 38 of the Orange County Code, is hereby amended to read as follows, with additions
83 shown by underlines and deletions indicated with strike-throughs:

84 **Sec. 38-79. Conditions for permitted uses, special exceptions, etc.**

85 The following numbered conditions shall correlate with the
86 numbers listed in the use table set forth in section 38-77 and the
87 Horizon West Town Center Land Use Table set forth in section 38-
88 77.1:

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91 (19) ~~Reserved. A guest house may be permitted as a special~~
92 ~~exception, provided that it shall not exceed one thousand~~
93 ~~(1,000) square feet, and that it shall not be rented or~~
94 ~~otherwise uses as a separate permanent dwelling.~~
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97 (39) ~~Reserved. Residential and agriculturally zoned parcels with~~
98 ~~greater than 2 acres in size may exceed the size~~
99 ~~requirements outlined in section 38-79(114) regarding~~
100 ~~accessory buildings, subject to obtaining a special~~
101 ~~exception and complying with all of the following~~
102 ~~standards:~~

103 a. ~~The roofline height of the principal residence shall not~~
104 ~~exceed fifty (50) feet; roofline appurtenances shall not~~
105 ~~exceed ten (10) feet above the roofline;~~

106 ~~b. The principal residence and all detached accessory~~
107 ~~buildings shall have the same or similar architecture~~
108 ~~style or design;~~

109 ~~e. No detached accessory building shall exceed five~~
110 ~~thousand (5,000) square feet in gross floor area and~~
111 ~~thirty-five (35) feet in overall height;~~

112 ~~d. All detached accessory buildings shall be setback as~~
113 ~~follows:~~

- 114 ~~i. Front 50 feet;~~
- 115 ~~ii. Side 25 feet;~~
- 116 ~~iii. Rear 35 feet;~~
- 117 ~~iv. Normal high water elevation 50 feet; and~~

118 ~~e. A detached accessory building shall not exceed the size~~
119 ~~of the principal residence.~~

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121 (108) ~~Reserved. An accessory dwelling unit shall comply with~~
122 ~~section 38-14-26, as it may be amended.~~

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124 (114) ~~Reserved. Location and size requirements of accessory~~
125 ~~buildings and uses in residential and agricultural areas:~~

126 ~~a. When an accessory building is used solely as living~~
127 ~~space (i.e., dens, bedrooms, family rooms, studies) it~~
128 ~~may be attached to a principal structure by a~~
129 ~~passageway, provided the accessory building and the~~
130 ~~passageway comply with the following standards:~~

- 131 ~~1. A principal structure shall exist onsite;~~
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- 133 ~~2. The accessory building and the passageway shall~~
134 ~~have the same architectural design as the principal~~
135 ~~structure, including the roof, exterior finish and~~
136 ~~color;~~
- 137 ~~3. Access via doorways shall be provided at both ends~~
138 ~~of the passageway;~~

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- ~~4. The passageway shall not exceed twenty (20) feet in length. However, the passageway may exceed twenty (20) feet in length if the addition complies with the size requirements for detached accessory buildings;~~
- ~~5. The accessory building and the passageway shall comply with the principal structure setbacks;~~
- ~~6. Neither the height of the accessory building nor the height of the passageway shall exceed the height of the principal structure;~~
- ~~7. No kitchen facilities shall be allowed in the accessory building; and~~
- ~~8. The accessory building shall be heated and ventilated pursuant to all applicable building codes.~~

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~~b. If an accessory building used as living space is not attached to the principal structure, then it shall be considered a detached accessory building, and it shall be subject to the size requirements listed in sections g and h below.~~

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~~c. An accessory building used for nonliving purposes (i.e., storage space, workshops, sheds, enclosed carports, etc.) may be attached to a principal structure by a fully enclosed or open-sided passageway, provided the accessory building and the passageway comply with the standards set forth in subsections a.1. through a.7. above and the accessory use structure does not exceed five hundred (500) square feet or twenty five (25) percent of the living area of the principal structure not to exceed one thousand (1,000) square feet.~~

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~~d. A detached accessory building shall be neither closer than five (5) feet to a lot line, nor closer than ten (10) feet to any other detached structure on the same lot.~~

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~~e. No detached accessory building shall be located in front of the principal building unless it is located in the rear one-half (1/2) of the lot.~~

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~~f. No accessory building may be constructed prior to construction of the principal building. However, an existing accessory building may remain on a lot/parcel~~

177 provided a principal use is erected on the lot/parcel
178 within twelve (12) months (one (1) year).

179 g. ~~The cumulative square footage of all detached~~
180 ~~accessory buildings shall be limited to a maximum of~~
181 ~~five hundred (500) gross square feet of floor area or to~~
182 ~~twenty-five (25) percent of the living area of the~~
183 ~~principal residence on the property, whichever is~~
184 ~~greater, but in no event larger than one thousand~~
185 ~~(1,000) square feet. On agricultural zoned parcels (A-1,~~
186 ~~A-2, and A-R), equal to or less than one (1) acre in size,~~
187 ~~the square footage of detached accessory buildings shall~~
188 ~~be limited to one thousand (1,000) square feet or~~
189 ~~twenty-five percent (25%) of the size of the principal~~
190 ~~residence, whichever is greater. Agricultural zoned~~
191 ~~parcels and the R-CE, R-CE-2, and R-CE-5 zoned~~
192 ~~parcels greater than one (1) acre but less than or equal~~
193 ~~to five (5) acres in size may have detached accessory~~
194 ~~buildings up to two thousand (2,000) square feet or~~
195 ~~twenty-five (25) percent of the size of the principal~~
196 ~~residence, whichever is greater. Agricultural zoned~~
197 ~~parcels and R-CE, R-CE-2, and R-CE-5 zoned parcels~~
198 ~~greater than five (5) acres in size may have detached~~
199 ~~accessory buildings up to three thousand (3,000) square~~
200 ~~feet or twenty-five (25) percent of the size of the~~
201 ~~principal residence, whichever is greater. Accessory~~
202 ~~buildings used for agricultural purposes may be located~~
203 ~~in the front yard provided the minimum tract size is ten~~
204 ~~(10) acres or greater and the accessory building~~
205 ~~complies with the principal building setbacks. If the~~
206 ~~predominant use of the accessory building is to support~~
207 ~~the agricultural use on the property, then there is no size~~
208 ~~limitation on the accessory building. If the predominant~~
209 ~~use of the accessory building is to support the residence~~
210 ~~on-site, then the size limitation set forth above shall~~
211 ~~apply. Documentation and evidence may be required to~~
212 ~~qualify the agricultural use of the accessory building.~~
213 ~~The square footages referenced herein shall be~~
214 ~~cumulative square footages.~~

215 h. ~~A detached accessory building or structure shall be~~
216 ~~limited to one (1) story with a maximum overall height~~
217 ~~of fifteen (15) feet above grade. However, an accessory~~
218 ~~building or structure with a roof slope greater than 2:12~~
219 ~~shall not exceed twenty (20) feet of overall height.~~

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~~i. In R 1, R 1A, R 1AA, R 1AAA, R 1AAAA, R CE, R CE 2, R CE 5, R 2, R 3, R T 1, and R T 2 zoned districts, an accessory building or structure greater than one hundred fifty (150) square feet or greater than ten (10 feet in height (as measured from the finished grade to the top of the structure), shall comply with the following architectural standards: the exterior and roof (if any) shall be comprised of materials commonly used throughout Orange County in single family residential construction, such as stucco, brick, vinyl, aluminum or wood for the siding or walls, and shingles, tiles or corrugated metal for the roof.~~

~~j. A detached structure used for unenclosed covered parking in a multifamily project shall be considered a residential accessory use and shall be located a minimum of five (5) feet from side and rear property lines.~~

~~k. Decorative water fountains and flag poles less than thirty five (35) feet in height shall be permitted in all zoning districts, provided they are located a minimum of five (5) feet from all property lines.~~

~~l. A detached structure used for unenclosed covered parking in an office, commercial, or industrial project shall be located a minimum of ten (10) feet from rear property lines and five (5) feet from side property lines. Also, setbacks shall be subject to landscape requirements.~~

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Section 4. Amendments to Section 38-1426. Section 38-1426 of the Orange County Code (“Accessory dwelling units”), codified at Article IX of Chapter 38 of the Orange County Code, is hereby amended to read as follows, with additions shown by underlines and deletions indicated with strike-throughs:

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**Sec. 38-1426. – Accessory Structures and Accessory Ddwelling
Units.**

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~~(a) The intent and purpose of this section is to allow accessory dwelling units (ADUs) to encourage infill development and to facilitate affordable housing, while maintaining the single-family character of the primary single-family dwelling unit and the neighborhood.~~

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~~(b) An accessory dwelling unit may be allowed on a lot or parcel as a special exception in any residential or agricultural zoning district (including a residential lot or parcel on an existing planned development). The accessory dwelling unit shall be an accessory use to the primary single-family dwelling unit and the primary single-family dwelling unit shall qualify as homestead property. Only one (1) accessory dwelling unit may be permitted per lot or parcel. The accessory dwelling unit shall not be constructed prior to the construction and occupation of the primary dwelling unit.~~

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~~(c) The BZA/BCC may impose conditions addressing compatibility, which may include prohibiting the accessory dwelling unit from being initially leased, rented or otherwise used or occupied by someone other than a relative. For purposes of this section, a "relative" is a lineal ascendant or lineal descendant of the owner of the lot or parcel where the primary single-family dwelling is located (or of the owner's spouse). In the event a condition is imposed requiring that the accessory dwelling unit be initially occupied by a relative, the accessory dwelling unit may be occupied by a nonrelative three (3) years after being initially occupied by a relative or after the relative has died, whichever occurs first.~~

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~~(d) In addition to what is normally required for an application for a special exception, an application for a special exception for an accessory dwelling unit shall contain or be accompanied by the following information and documentation:~~

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~~(1) A site plan prepared in compliance with section 106.1.2 of the Florida Building Code, as amended by section 9-33 of the Orange County Code;~~

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~~(2) An exterior elevation drawing of the proposed accessory dwelling unit, regardless of whether it is proposed to be attached or detached; and~~

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~~(3) A photograph or exterior elevation drawing of the primary single-family dwelling unit.~~

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~~(e) In order to approve a special exception for an accessory dwelling unit, the county shall determine that the proposed accessory dwelling unit is designed to be similar and compatible with the primary single family dwelling unit and that it will be compatible with the character of the neighborhood. A manufactured home constructed pursuant to United States Department of Housing and Urban Development standards or a mobile home may not be used as an accessory dwelling unit in any single family residential zoned district.~~

~~(f) After an application for a special exception for an accessory dwelling unit is approved, the accessory dwelling unit shall be subject to the following performance standards and requirements:~~

~~(1) *Ownership.* The primary single family dwelling unit and the accessory dwelling unit shall be under single ownership at all times. Also, the primary dwelling unit or the accessory dwelling unit shall be occupied by the owner at all times. Approval of an accessory dwelling unit shall not and does not constitute approval for separate ownership or the division of the lot or parcel. Any request to divide the lot or parcel shall comply with and be subject to applicable laws, ordinances and regulations, including zoning regulations and access requirements.~~

~~(2) *Living area.* The minimum living area of an accessory dwelling unit shall be five hundred (500) square feet. However, the maximum living area of an accessory dwelling unit shall not exceed forty five (45) percent of the living area of the primary dwelling unit or one thousand (1,000) square feet, whichever is less, and shall not contain more than two (2) bedrooms. For lots/parcels equal to or greater than two (2) acres, the maximum living area shall be one thousand five hundred (1,500) square feet.~~

~~(3) *Lot or parcel size.* The size of the lot or parcel shall be equal to or greater than the minimum lot area required for a single family dwelling unit in the zoning district. An attached accessory dwelling unit may only be constructed on a lot or parcel whose area is equal to or greater than the minimum lot area required in the zoning district. A detached accessory dwelling unit may only be constructed on a lot or parcel whose area is at~~

341 least one and one half (1½) times the minimum lot area
342 required in the zoning district.

343 ~~(4) *Open space.* An accessory dwelling unit shall be treated~~
344 ~~as part of the impervious surface area of a lot or parcel.~~
345 ~~The open space requirements for a single-family lot or~~
346 ~~parcel shall be met notwithstanding the construction of~~
347 ~~an accessory dwelling unit.~~

348 ~~(5) *Setbacks.* The setbacks for an attached accessory~~
349 ~~dwelling unit shall be the same as those required for the~~
350 ~~primary dwelling unit. In addition, a detached accessory~~
351 ~~dwelling unit shall be located only to the side or rear of~~
352 ~~the primary dwelling unit and shall be separated from~~
353 ~~the primary dwelling unit by at least ten (10) feet, and~~
354 ~~the distance separation shall not be less than the~~
355 ~~distance required under Section 610 ("Buildings~~
356 ~~Located on the Same Lot") and Table 600 of the 1991~~
357 ~~edition of the Standard Building Code, as it may be~~
358 ~~amended from time to time. Moreover, a one-story~~
359 ~~detached accessory dwelling unit shall be setback a~~
360 ~~minimum of ten (10) feet from the rear property line~~
361 ~~and shall meet the minimum side setbacks for a primary~~
362 ~~structure in the zoning district. A two-story detached~~
363 ~~accessory dwelling unit located above a detached~~
364 ~~garage shall have ten (10) foot side and ten (10) foot~~
365 ~~rear setbacks.~~

366 ~~(6) *Entrance.* An attached accessory dwelling unit may~~
367 ~~either share a common entrance with the primary~~
368 ~~dwelling unit or use a separate entrance. However, a~~
369 ~~separate entrance shall be located only on the side or~~
370 ~~rear of the structure.~~

371 ~~(7) *Parking.* One (1) additional off-street parking space~~
372 ~~shall be required for an accessory dwelling unit. The~~
373 ~~additional space requirement may be met by using the~~
374 ~~garage, carport or driveway of the primary dwelling~~
375 ~~unit.~~

376 ~~(8) *Water and sewer.* Adequate water and wastewater~~
377 ~~capacity shall exist for an accessory dwelling unit.~~
378 ~~Approval of a special exception for an accessory~~
379 ~~dwelling unit shall not constitute approval for use of a~~
380 ~~septic system and/or a well. If a septic system and/or a~~
381 ~~well must be utilized, applicable laws, ordinances and~~
382 ~~regulations shall control. An attached accessory~~

383 ~~dwelling unit shall not apply for and obtain a separate~~
384 ~~water meter.~~

385 ~~(9) *Electrical.* A detached accessory dwelling unit may~~
386 ~~apply for and obtain a separate power meter, subject to~~
387 ~~the approval of the utility company and complying with~~
388 ~~all applicable laws, ordinances and regulations. An~~
389 ~~attached accessory dwelling unit shall not have or~~
390 ~~obtain a separate power meter.~~

391 ~~(10) *Impact fees and capital fees.* The impact fees for an~~
392 ~~accessory dwelling unit shall be assessed at the multi-~~
393 ~~family rate. Water and wastewater capital fees for the~~
394 ~~accessory dwelling unit shall be assessed at the multi-~~
395 ~~family rate.~~

396 ~~(11) *Other laws, ordinances, and regulations.* All other~~
397 ~~applicable laws, ordinances and regulations shall apply~~
398 ~~to the primary dwelling unit and the accessory dwelling~~
399 ~~unit.~~

400 ~~(g) After September 23, 2016, accessory dwelling units may be~~
401 ~~permitted in a planned development without the need for a~~
402 ~~special exception, subject to the following requirements:~~

403 ~~(1) Unless the PD land use plan (LUP) and/or PSP~~
404 ~~identifies ADUs as a permitted use, a change~~
405 ~~determination or an amendment to the PD/PSP shall be~~
406 ~~required, or if the property is platted as separate lot or~~
407 ~~parcel, a special exception shall be required;~~

408 ~~(2) The ADUs shall meet the performance standards in~~
409 ~~section 38-1426(f)(1) through (11), except for the need~~
410 ~~for a special exception (unless it is platted as a separate~~
411 ~~lot or parcel); and~~

412 ~~(3) The property shall be platted with covenants and~~
413 ~~restrictions for all the lots in the plat identifying that~~
414 ~~ADUs are a permitted use.~~

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416 All accessory structures and accessory dwelling units shall meet
417 the standards below.

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419 (a) Accessory Structures (Excluding Accessory Dwelling Units).

420 (1) The following standards shall generally apply to all
421 accessory structures regardless of the underlying zoning
422 district:

- 423 (A) A principal structure shall exist onsite.
- 424 (B) An accessory structure shall not be constructed
425 prior to construction of the principal structure.
426 However, an existing accessory structure may
427 remain on a lot/parcel provided a principal use is
428 erected on the lot/parcel within twelve (12)
429 months.
- 430 (C) Kitchen facilities shall be prohibited in the
431 accessory structure, unless part of an approved
432 accessory dwelling unit per Sec. 38-1426(b).
- 433 (D) Decorative water fountains and flag poles less
434 than thirty-five (35) feet in height shall be
435 permitted in all zoning districts, provided they are
436 located a minimum of five (5) feet from all
437 property lines.
- 438 (E) Nonresidential farm buildings under Section
439 604.50, Florida Statutes (2018) shall not be
440 subject to any of the accessory structure
441 regulations herein.
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- 443 (2) Within commercial, office, mixed-use, or industrial
444 districts, accessory structures shall comply with the
445 principal building setbacks of the applicable zoning
446 district.
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- 448 (3) The following standards shall apply to all accessory
449 structures within residential and agricultural zoning
450 districts only:
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- 452 (A) *Attached Accessory Structures.* Attached
453 accessory structures include those that are
454 physically connected to a principal structure by a
455 fully enclosed or open-sided passageway that does
456 not exceed 20 feet in length. The following
457 standards apply to attached accessory structures:
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- 459 (i) The attached accessory structure and any
460 connecting passageway shall have the same
461 architectural design as the principal

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- structure, including the roof, exterior finish and color;
- (ii) Doorways shall be provided at both ends of any connecting passageway;
- (iii) The attached accessory structure and any connecting passageway shall comply with all principal structure setbacks;
- (iv) Neither the height of the attached accessory structure or any connecting passageway shall exceed the height of the principal structure;
- (v) An accessory structure used for nonliving purposes (i.e., storage space, workshops, sheds, enclosed carports, etc.) may be attached to a principal structure by a fully-enclosed or open-sided passageway, provided the accessory building and the passageway comply with the standards set forth in this Section and the accessory use structure does not exceed five hundred (500) square feet or twenty-five (25) percent of the living area of the principal structure not to exceed one thousand (1,000) square feet. If used for living space, such as but not limited to a den, bedroom, family room, or study, the attached accessory structure shall be heated and ventilated pursuant to all applicable building codes;
- (vi) The cumulative square footage of all attached accessory structures shall not exceed that of the principle structure; and
- (vii) In R-1, R-1A, R-1AA, R-1AAA, R-1AAAA, R-CE, R-CE-2, R-CE-5, R-L-D, R-2, R-3, R-T-1, and R-T-2 zoning districts, the exterior and roof of any accessory structure greater than one hundred fifty (150) square feet, or greater than ten (10) feet in height (as measured from the finished grade to the top of the structure) shall be comprised of materials commonly used throughout Orange County for single-family residential construction, such as stucco,

504 brick, vinyl, aluminum or wood for the
505 siding or walls; and shingles, tiles or
506 corrugated metal for the roof.

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508 (B) *Detached Accessory Structures.* Detached
509 accessory structures include those that are not
510 physically connected to the principle structure, or
511 are connected to the principle structure via a fully
512 enclosed or open-sided passageway that exceeds
513 20 feet in length. The following standards apply
514 to detached accessory structures:

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516 (i) A detached accessory structure shall be
517 limited to a maximum height of fifteen (15)
518 feet above grade and one-story, or a
519 maximum height of twenty-five (25) feet
520 above grade and one-story when a roof slope
521 greater than 2:12 is provided;

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523 (ii) A detached accessory structure with a height
524 of fifteen (15) feet or less shall be set back a
525 minimum of five (5) feet from any side or
526 rear lot line, and fifteen (15) feet from any
527 side street lot line. A detached accessory
528 structure with a height greater than fifteen
529 (15) feet shall be set back a minimum of ten
530 (10) feet from the rear property line and
531 shall meet the side and side street setbacks
532 of the primary structure;

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534 (iii) A detached accessory structure shall not be
535 located in front of the principal structure
536 unless the principal structure is located in
537 the rear half (½) of the lot/parcel, or when
538 located on an agriculturally zoned lot/parcel
539 with ten (10) or more developable acres. In
540 these situations, the detached accessory
541 structure shall comply with all principal
542 structure setbacks.

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544 (iv) A detached accessory structure used for
545 enclosed or unenclosed covered parking in a

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multi-family residential district shall be considered a residential accessory use and shall be located a minimum of five (5) feet from side and rear property lines. In no case shall the covered parking be located between the primary structure and the right-of-way. All other accessory structures shall comply with the principal structure setbacks of the applicable zoning district;

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(v) In R-1, R-1A, R-1AA, R-1AAA, R-1AAAA, R-CE, R-CE-2, R-CE-5, R-L-D, R-2, R-3, R-T-1, and R-T-2 zoning districts, the exterior and roof of any accessory structure greater than one hundred fifty (150) square feet, or greater than ten (10) feet in height (as measured from the finished grade to the top of the structure) shall be comprised of materials commonly used throughout Orange County for single-family residential construction, such as stucco, brick, vinyl, aluminum or wood for the siding or walls; and shingles, tiles or corrugated metal for the roof; and

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(vi) The cumulative square feet of all detached accessory structures shall be limited to ten (10) percent of the net land area, or 500 square feet, whichever is greater, and in no case shall the cumulative total exceed 3,000 square feet; however, detached accessory structures located within residential and agriculturally zoned parcels with greater than 2 developable acres may exceed 3,000 cumulative square feet, subject to obtaining a special exception and complying with all of the following standards:

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1. No detached accessory structure shall exceed five thousand (5,000) square feet in gross floor area and thirty-five (35) feet in overall height; and

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2. These detached accessory structures shall be set back as follows:

- I. Front – 50 feet.
- II. Side/ Side Street – 25 feet.
- III. Rear – 35 feet.
- IV. Normal high water elevation – 50 feet.

(b) Accessory Dwelling Units.

The intent and purpose of this subsection is to allow for the development of accessory dwelling units (ADUs), as defined in Section 38-1, that support greater infill development and affordable housing opportunities while maintaining the character of existing neighborhoods.

(1) A maximum of one (1) accessory dwelling unit may be permitted by right in any residential or agricultural zoning district, including a Planned Development (PD), NC, or NAC zoning district, in conjunction with a single family dwelling unit. In all cases, the accessory dwelling unit shall be subordinate to the primary dwelling unit, and shall not be constructed prior to the construction and occupation of the primary dwelling unit.

(2) A mobile home shall only be permitted as an accessory dwelling unit in agricultural zoning districts, and when the subject lot/parcel contains a minimum of two (2) developable acres.

(3) All accessory dwelling units shall be subject to the following performance standards and requirements:

(A) *Attached vs. Detached.* An accessory dwelling unit that is physically connected to the primary dwelling unit via a fully enclosed or open-sided passageway that does not exceed 20 feet in length, shall be considered an ‘attached’ accessory dwelling unit. An accessory dwelling

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unit that is not physically connected to the principle structure, or that connects to the principle structure via a fully enclosed or open-sided passageway that exceeds 20 feet in length, shall be considered a 'detached' accessory dwelling unit.

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(B) Ownership. The primary single-family dwelling unit and the accessory dwelling unit shall remain under single ownership at all times. Approval of an accessory dwelling unit shall not and does not constitute approval for separate ownership or the division of the lot or parcel. Any request to divide the lot or parcel shall comply with and be subject to all applicable laws, ordinances and regulations, including zoning regulations and access requirements.

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(C) Lot Size. The minimum size of any lot or parcel where an accessory dwelling unit is proposed shall be equal to the minimum lot area required by the applicable zoning district.

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(D) Living Area. The maximum living area of an accessory dwelling unit shall not exceed fifty percent (50%) of the primary dwelling unit living area or one thousand (1,000) square feet, whichever is less, and shall not contain more than two bedrooms. For lots/parcels equal to or greater than two (2) developable acres, the maximum living area of an accessory dwelling unit shall not exceed fifty percent (50%) of the primary dwelling unit living area or one thousand five-hundred (1,500) square feet, whichever is less.

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(E) Open Space. The open space requirements for a single-family lot or parcel shall be met notwithstanding the construction of an accessory dwelling unit.

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(F) Setbacks.

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(i) Attached Accessory Dwelling Unit. An attached accessory dwelling unit shall comply with all principal structure setbacks.

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669 (ii) Detached Accessory Dwelling Unit. A
670 detached accessory dwelling unit shall not
671 be located in front of the primary dwelling
672 unit unless the primary dwelling unit is
673 located in the rear half of the lot. A one-
674 story detached accessory dwelling unit shall
675 be set back a minimum of five (5) feet from
676 the rear property line and shall meet the
677 minimum side and side street setbacks for a
678 principal structure in the zoning district. A
679 two-story detached accessory dwelling unit
680 (or an accessory dwelling unit located
681 above a garage or other use) shall be set
682 back a minimum of fifteen (15) feet from
683 the rear property line, and shall comply
684 with all other principal structure setbacks.

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686 (G) Height. An attached or detached accessory
687 dwelling unit shall not exceed the maximum
688 height permitted for the primary dwelling unit.

689 (H) Building Entrance. An attached accessory
690 dwelling unit may either share a common
691 entrance with the primary dwelling unit or use a
692 separate entrance. However, a separate entrance
693 shall be located only on the side or rear of the
694 primary structure.

695 (I) Parking. One additional off-street parking space
696 shall be required for an accessory dwelling unit.
697 The additional space requirement may be met by
698 the garage, carport or driveway of the primary
699 dwelling unit.

700 (J) Appearance. The accessory dwelling unit shall
701 be designed to be similar and compatible with
702 the primary dwelling unit, with the same exterior
703 finish material and similar architectural details.
704 Examples of similar architectural details include,
705 but are not limited to, windows, doors, roof style,
706 cornice detailing, vents, and dormers. This
707 design and appearance requirement does not
708 apply to mobile homes used as accessory
709 dwelling units, where permitted.

710 (K) Capital Fees. The accessory dwelling unit shall
711 be subject to all other applicable laws,
712 ordinances and regulations regarding water and
713 wastewater capital fees.

714 (L) Doors. For accessory dwelling units attached to a
715 principal structure by a passageway, doors shall
716 be provided at both ends of the connecting
717 passageway.

718 (M) Limitation on Cumulative Square Footage.
719 Detached accessory dwelling units shall be
720 subject to all cumulative square footage criteria
721 described in Section 38-1426(a)(3)(B)(vi).

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723 **Section 5. Effective date.** This Ordinance shall become effective as provided by
724 general law.

725 ADOPTED THIS ___ DAY OF _____, 2019.

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728 **ORANGE COUNTY, FLORIDA**
729 By: Board of County Commissioners

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733 By: _____
734 Jerry L. Demings
735 Orange County Mayor

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737 **ATTEST:** Phil Diamond, CPA, County Comptroller
738 As Clerk of the Board of County Commissioners

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742 By: _____
743 Deputy Clerk

Exhibit "A"
Section 38-77, Orange County Code – Use Table

Uses Per Zoning Code	SIC Group	Land Use																				Conditions														
			A-1	A-2	A-R	RCB-5	RCB-2	RCB	R-1A/AAA	R-1AAA	R-1AA	R-1A	R-1	R-2	R-3	RCB/Cluster	RT	RT-1	RT-2	P-O	C-1		C-2	C-3	I-1, I-5	I-2, I-3	I-4	U-V (see 27)	R-1/D	UR-3	NC	NAC	NIR			
Principle residence and accessory buildings in excess of size requirements outlined in Condition #114		Principle residence and accessory buildings in excess of size requirements outlined in Condition #114	80	80	80	80	80	80	80	80	80	80	80																							
Accessory buildings, uses and structures (Excluding Accessory Dwelling Units) (See Sec. 38-1426)		Accessory buildings, uses and structures (Excluding Accessory Dwelling Units) (See Sec. 38-1426)	114	114	114	114	114	114	114	114	114	114	114	114	114	114	114	114	P	P	P	P	P	P	P	P	P	114	114	114	114	114				
Accessory dwelling units (See Sec. 38-1426)		Accessory dwelling units (See Sec. 38-1426)	10S	10S	10S	10S	10S	10S	10S	10S	10S	10S	10S	10S	10S	10S	10S	10S																10S	10S	10S
Guest House		Guest House	10	10	10	10	10	10	10	10	10	10	10														10									