

BCC Mtg. Date: February 21, 2023

Effective Date: February 23, 2023

## **ORDINANCE NO. 2023-08**

### **AN ORDINANCE AFFECTING THE USE OF LAND IN ORANGE COUNTY, FLORIDA, BY AMENDING CHAPTER 38 (“ZONING”) OF THE ORANGE COUNTY CODE; AND PROVIDING AN EFFECTIVE DATE**

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

***Section 1. Amendments; In General.*** Chapter 38 of the Orange County Code is amended as set forth in Section 2. New language shall be indicated by underlines, and deleted language shall be shown by strike-throughs.

***Section 2. Amendments to Section 38-1426 (“Accessory structures and accessory dwelling units”).*** Section 38-1426 is amended to read as follows:

**Sec. 38-1426. Accessory structures and accessory dwelling units.**

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

(a) *Accessory structures (excluding accessory dwelling units).*

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

a. A principal structure shall exist onsite.

b. An accessory structure ~~shall~~may not be constructed prior to construction of the principal structure. However, an existing accessory structure may remain on a lot/parcel provided a principal use is erected on the lot/parcel within twelve (12) months.

c. Kitchen facilities shall be prohibited in the accessory structure, unless part of an approved accessory dwelling unit per section 38-1426(b).

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

e. Nonresidential farm buildings under F.S. (2018) § 604.50 shall not be subject to any of the accessory structure regulations herein.

(2) Within commercial, office, mixed-use, or industrial districts, accessory structures shall comply with the principal building setbacks of the applicable zoning district.

(3) The following standards shall apply to all accessory structures within those residential and agricultural zoning districts where accessory structures are permitted pursuant to section 38-77, Orange County Code:

a. *Attached accessory structures.* Attached accessory structures include those that are physically connected to a principal structure by a fully enclosed or open-sided passageway that does not exceed twenty (20) feet in length. The following standards apply to attached accessory structures:

1. The attached accessory structure and any connecting passageway shall have the same architectural design as the principal structure, including the roof, exterior finish and color;

2. Doorways shall be provided at both ends of any connecting passageway;

3. The attached accessory structure and any connecting passageway shall comply with all principal structure setbacks;

4. Neither the height of the attached accessory structure or any connecting passageway shall exceed the height of the principal structure;

~~5. 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;~~

65. The cumulative square footage of all attached accessory structures ~~shall~~may not exceed that of the principal structure; and

76. 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, but not limited to, stucco, brick, vinyl, aluminum or wood for the siding or walls; and shingles, tiles or corrugated metal for the roof.

b. *Detached accessory structures.*  
Detached accessory structures include those that are not physically connected to the principal structure or are connected to the principal structure via a fully enclosed or open-sided passageway that exceeds twenty (20) feet in length. The following standards apply to detached accessory structures:

1. A detached accessory structure shall be limited to a maximum height of two (2) stories, not to exceed twenty-five (25) feet above grade;

2. A detached accessory structure with a height of fifteen (15) feet or less shall be set back a minimum of five (5) feet from any side or rear lot line, and fifteen (15) feet from any side street lot line. A detached accessory structure with a height greater than fifteen (15) feet shall be set back a minimum of ten (10) feet from the rear property line and shall meet the side and side street setbacks of the primary structure;

3. A detached accessory structure ~~shall~~may not be located in front of the principal structure unless the entire principal structure is located in the rear half (½)

of the lot/parcel, or when located on an ~~agriculturally zoned~~ lot/parcel with ~~ten (10)~~ five (5) or more developable acres. In these situations, the detached accessory structure shall comply with all principal structure setbacks.

4. A detached accessory structure used for enclosed or unenclosed covered parking in a 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~~ C-covered parking may not 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;

5. 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, but not limited to, stucco, brick, vinyl, aluminum or wood for the siding or walls; and shingles, tiles or corrugated metal for the roof; and

6. The cumulative square feet of all detached accessory structures shall be as follows:

i. For parcels less than one (1) acre, -limited to ten (10) percent of the net land area, or five hundred (500) square feet, whichever is greater, and ~~in no case shall the cumulative total~~ may not exceed three thousand (3,000) square feet;

ii. For parcels between one (1) acre and ten (10) acres of net land area, the cumulative total may not exceed five thousand (5,000) square feet;

iii. For parcels greater than ten (10) acres of net land area, the cumulative total may not exceed fifteen thousand (15,000) square feet;

however, detached accessory structures located within ~~agriculturally zoned~~ parcels with greater than ~~two (2)~~ one (1) developable acres may exceed ~~three thousand (3,000)~~ the maximum cumulative square feet established above,

subject to obtaining a special exception and complying with all of the following standards:

i. 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~~

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

I. Front — Fifty (50) feet.

II. Side/side street — Twenty-five (25) feet.

III. Rear — Thirty-five (35) feet.

IV. Normal high water elevation — Fifty (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 on a lot or parcel in the zoning districts indicated in section 38-77, Orange County Code, including a planned development (PD) 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 twenty (20) feet in length, shall be considered an ‘*attached*’ accessory dwelling unit. An accessory dwelling unit that is not physically connected to the principal structure, or that connects to the principal structure via a fully enclosed or open-sided passageway that exceeds twenty (20) feet in length, shall be considered a ‘*detached*’ accessory dwelling unit.

b. *Ownership.* The primary single-family dwelling unit and the accessory dwelling unit shall remain under single ownership at all times, the subject lot or parcel shall qualify as homestead property, and the primary dwelling unit or the accessory dwelling unit shall be occupied by the owner of the lot or parcel 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.

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.

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 (2) 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.

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.

f. *Setbacks.*

1. *Attached accessory dwelling unit.* An attached accessory dwelling unit shall comply with all principal structure setbacks.

2. *Detached accessory dwelling unit.* A detached accessory dwelling unit ~~shall~~may not be located in front of the primary dwelling unit unless the primary dwelling unit is located entirely in the rear half of the lot. In this situation, the detached accessory dwelling unit shall comply with the minimum front yard setback for the principal structure. A one-story detached accessory dwelling unit shall be set back a minimum of five (5) feet from the rear property line and shall meet the minimum side and side street setbacks for a principal structure in the zoning district. A two-story detached accessory dwelling unit (or an accessory dwelling unit located above a garage or other use) shall be set back a minimum of fifteen (15) feet from the rear property line, and shall comply with all other principal structure setbacks.

g. *Height.* An attached or detached accessory dwelling unit shall not exceed the maximum height permitted for the primary dwelling unit.

h. *Building entrance.* An attached accessory dwelling unit may either share a common entrance with the primary dwelling unit or use a separate entrance. However, a separate entrance shall be located only on the side or rear of the primary structure.

i. *Parking.* One (1) additional off-street parking space shall be required for an accessory dwelling unit. The additional space requirement may be met by the garage, carport or driveway of the primary dwelling unit.

j. *Appearance.* The accessory dwelling unit shall be designed to be similar and compatible with the primary dwelling unit, with the same exterior finish material and similar architectural details. Examples of similar architectural details include, but are not limited to, windows, doors, roof style, cornice detailing, vents, and dormers. This design and appearance requirement does not apply to mobile homes used as accessory dwelling units, where permitted.

k. *Impact fees and capital fees.* The impact fees for an accessory dwelling unit shall be assessed at the ~~multi-family rates, until and unless the rate is modified in set forth~~ in Orange County Code, Cchapter 23. Water and wastewater capital fees for the accessory dwelling unit shall be subject to all other applicable laws, ordinances and regulations.

1. *Doors.* For accessory dwelling units attached to a principal structure by a passageway, doors shall be provided at both ends of the connecting passageway.

m. *Limitation on cumulative square footage.* Detached accessory dwelling units shall be subject to all cumulative square footage criteria described in section 38-1426(a)(3)(B)(vi).

n. *Transient rental.* Transient rental or leasing (a period of thirty (30) days or less) of an accessory dwelling unit shall be prohibited, except as provided in section 38-77 related to the R-3 zoning district.

o. *Electrical.* A detached accessory dwelling unit may apply for and obtain a separate power meter, subject to the approval of the utility company and complying with all applicable laws, ordinances and regulations. An attached accessory dwelling unit shall not have or obtain a separate power meter.

**Section 3. *Effective date.*** This ordinance shall become effective pursuant to general law.

ADOPTED THIS 21<sup>st</sup> DAY OF February, 2023.



ORANGE COUNTY, FLORIDA  
By: Board of County Commissioners

By: *Bruno. B. B. B.*  
for Jerry L. Demings  
Orange County Mayor

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

By: *Jennifer A. Kline*  
Deputy Clerk