

ORDINANCE NO. 2024 - _____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 62, ARTICLE VI, DIVISION 1, SECTION 62-1102, BREVARD COUNTY CODE OF ORDINANCES, “DEFINITIONS AND RULES OF CONSTRUCTION,” TO INCLUDE A NEW TERM “ACCESSORY DWELLING UNIT”; AMENDING CHAPTER 62, ARTICLE VI, DIVISION 1, SECTION 62-1102, BREVARD COUNTY CODE OF ORDINANCES, “DEFINITIONS AND RULES OF CONSTRUCTION,” TO INCORPORATE ACCESSORY DWELLING UNIT TO THE EXISTING DEFINITION OF “ACCESSORY BUILDING OR USE”; AMENDING THE FOLLOWING SECTIONS OF CODE TO INCORPORATE “ACCESSORY DWELLING UNIT” AS A CONDITIONAL USE: SECTION 62-1332 (PRODUCTIVE AGRICULTURAL, PA), SECTION 62-1333 (AGRICULTURAL, AGR), SECTION 62-1334 (AGRICULTURAL RESIDENTIAL, AU AND AU(L)), SECTION 62-1334.5 (AGRICULTURAL RURAL RESIDENTIAL, ARR), SECTION 62-1335 (RURAL ESTATE USE, REU), SECTION 62-1336 (RURAL RESIDENTIAL, RR-1), SECTION 62-1337 (SUBURBAN ESTATE RESIDENTIAL USE, SEU), SECTION 62-1338 (SUBURBAN RESIDENTIAL, SR), SECTION 62-1339 (ESTATE USE RESIDENTIAL, EU, EU-1, AND EU-2), SECTION 62-1340 (SINGLE-FAMILY RESIDENTIAL, RU-1-13 AND RU-1-11), SECTION 62-1341 (SINGLE-FAMILY RESIDENTIAL, RU-1-9), SECTION 62-1342 (SINGLE-FAMILY RESIDENTIAL, RU-1-7), SECTION 62-1401 (RURAL RESIDENTIAL MOBILE HOME, RRMH-1, RRMH-2.5, AND RRMH-5); AMENDING CHAPTER 62, ARTICLE VI, DIVISION 5, SUBDIVISION III TO AMEND AND REPLACE SECTION 62-1903, “RESERVED,” WITH A SECTION ENTITLED “ACCESSORY DWELLING UNIT”; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN AREA ENCOMPASSED; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR INCLUSION IN THE BREVARD COUNTY CODE OF ORDINANCES.

WHEREAS, the Board of County Commissioners of Brevard County, Florida, hereinafter the “Board”, finds that there is a need to provide property owners flexibility with how they develop and utilize their property; and

WHEREAS, the Board desires to allow property owners to better utilize new and existing residential properties in ways that promote affordable housing opportunities; and

WHEREAS, the Board finds that one method of such utilization would be to allow for accessory dwelling units, as defined under the Brevard County Code of Ordinances, on certain residential properties where such units would be otherwise consistent with the Brevard County Comprehensive Plan and the Brevard County Code.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Underline indicates additions.

~~Strikethrough indicates deletions.~~

SECTION 1. Recitals. The foregoing recitals are deemed true and correct and are hereby adopted and incorporated herein by this reference.

SECTION 2. Chapter 62, Article VI, Division 1, Section 62-1102, Brevard County Code, entitled "Definitions", is hereby amended to include a new defined term "Accessory Dwelling Unit" as follows:

Section 62-1102. – Definitions and rules of construction.

For the purpose of this article, the following terms shall have the meaning set forth in this section. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular, and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

Accessory Dwelling Unit means a single accessory building or structure, detached from the primary structure, located on the same property as the primary building or structure that is used as an additional or secondary living unit and may contain a kitchen, bathroom, and sleeping area. Such structure or building must comply with the standards established by Section 62-1903.

SECTION 3. The definition of "Accessory Building or Use" found in Chapter 62, Article VI, Division 1, Section 62-1102, Brevard County Code, entitled "Definitions", is hereby amended as follows:

Section 62-1102. – Definitions and rules of construction.

For the purpose of this article, the following terms shall have the meaning set forth in this section. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular, and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

Accessory building or use means a building, structure or use on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure, provided the building, structure or use shall be constructed after or concurrently with the principal structure.

(1) Accessory buildings or structures include but are not limited to private garages, storage sheds, carports, greenhouses, gazebos, cabanas, utility buildings/rooms, verandas, glass rooms, porches, screened porches or awnings, swimming pools and screened enclosures, and private residential boat docks with up to two slips for use of the occupants of the principal residential structure. Buildings or structures secondary and incidental to agricultural uses include, but are not limited to stables, barns, paddock areas and storage areas. Accessory buildings or structures may have a full or half bath; but may not have living quarters or a kitchen, unless such structure is a guesthouse, consistent with section 62-1932, or an accessory dwelling unit, consistent with section 62-1903.

a. A new or decommissioned cargo shipping container may be used as a residential storage building/shed only, subject to all the requirements for use as a residential storage building/shed, and no stacking of containers shall be allowed.

(2) Accessory uses include a child or adult day care center accessory to a church, a golf driving range accessory to a golf course, and the package sales of alcoholic beverages accessory to a convenience store. Pursuant to subsection 62-2100.5(1)(f), one single-family garage apartment is accessory to a single-family residence in multi-family zoning classifications. Pursuant to subsection 62-2100.5(2), horses and agricultural pursuits are accessory to a principal residence.

(3) Except where otherwise provided in this section, an addition which is attached to a principal structure shall not be considered an accessory building, but shall be considered part of the principal structure. "Attached" for the purpose of this regulation means that the addition is integrated visually, structurally and architecturally with the principal structure, contains a common roof with similar design to the principal structure, and permits access between the principal structure and the addition either internally or under the common roof. If there is a connection between the addition and the principal structure which is not enclosed but is comprised solely of the common roof, then the addition shall be considered part of the principal structure if the length of the connection does

not exceed the length of the addition by more than 50 percent (or 20 feet, whichever is less). Otherwise, the addition shall be considered a detached accessory structure. "Enclosed" for the purpose of this regulation means an area under a roof which has solid walls at least four feet in height around its entire circumference, or which is 100 percent screened from floor to ceiling, such that the enclosed inside space is clearly separated from the outside space.

SECTION 4. Chapter 62, Article VI, Division 1, Section 62-1332, Brevard County Code, entitled "Productive Agricultural, PA", is hereby amended as follows:

Section 62-1332. – Productive Agricultural, PA.

(3) Conditional uses. Conditional uses are as follows:

Accessory dwelling unit.

Captive wildlife (section 62-1958).

Change of nonconforming agricultural use.

Citrus packing houses and processing plants.

Development rights receipt and transfer.

Dude ranches.

Farmers' market.

Farmers supply stores.

Guesthouses or servants' quarters without kitchen facilities.

Land alteration (over five acres).

Private heliports (section 62-1943.5).

Roadside stands.

Substantial expansion of a preexisting use.

Temporary medical hardship mobile homes.

Veterinary hospital, clinic and related offices.

Wireless telecommunication facilities and broadcast towers.

Zoological parks.

SECTION 5. Chapter 62, Article VI, Division 1, Section 62-1333, Brevard County Code, entitled “Agricultural, AGR”, is hereby amended as follows:

Section 62-1333. – Agricultural, AGR.

(3) *Conditional uses. Conditional uses are as follows:*

Accessory dwelling unit.

Airplane runways.

Boarding of horses and horses for hire.

Captive wildlife (section 62-1958).

Change of nonconforming agricultural use.

Composting facility.

Development rights receipt and transfer.

Farmers' markets.

Guesthouses or servants' quarters, without kitchen facilities.

Hog farms.

Land alterations (over five acres).

Parking of recreational vehicles accessory to fish camps.

Private heliports (section 62-1943.5).

Roadside stands.

Security mobile homes.

Single-family residential second kitchen facility.

Skateboard ramps.

Substantial expansion of a preexisting use.

Temporary medical hardship mobile homes.

Towers and antennas (see division 5, subdivision III, of this article).

Veterinary hospital, office or clinic.

Zoological parks.

SECTION 6. Chapter 62, Article VI, Division 1, Section 62-1334, Brevard County Code, entitled “Agricultural residential, AU and AU(L)”, is hereby amended as follows:

Section 62-1334. – Agricultural residential, AU and AU(L).

(3) *Conditional uses. Conditional uses are as follows:*

Accessory dwelling unit.

Airplane runways (section 62-1905).

Bed and breakfast inns (section 62-1912).

Boarding of horses and horses for hire (section 62-1913).

Captive wildlife (section 62-1958).

Change of nonconforming agricultural use.

Composting facility.

Farmers' market (section 62-1929).

Guesthouses or servants' quarters, without kitchen facilities (section 62-1932).

Hog farms (section 62-1934).

Land alteration (over five acres) (section 62-1936).

Private heliports (section 62-1943.5).

Roadside stand (section 62-1945.5).

Security mobile homes.

Single-family residential second kitchen facility.

Skateboard ramps (section 62-1948).

Substantial expansion of a preexisting use (section 62-1949.7).

Veterinary hospital, office or clinic, pet kennels (section 62-1956).

Wireless telecommunication facilities and broadcast towers.

Zoological parks (section 62-1960).

SECTION 7. Chapter 62, Article VI, Division 1, Section 62-1334.5, Brevard County Code, entitled “Agricultural rural residential, ARR”, is hereby amended as follows:

Section 62-1334.5. – Agricultural rural residential, ARR.

(1) (3) *Conditional uses. Conditional uses are as follows:*

Accessory dwelling unit.

Boarding of horses and horses for hire, with a minimum of 2½ acres.

Guesthouses or servants' quarters, without kitchen facilities.

Land alteration (over five acres).

Roadside stands.

Security mobile homes.

Single-family residential second kitchen facility.

Substantial expansion of a preexisting use.

Temporary medical hardship mobile homes.

Wireless telecommunication facilities and broadcast towers.

SECTION 8. Chapter 62, Article VI, Division 1, Section 62-1335, Brevard County Code, entitled “Rural Estate Use, REU”, is hereby amended as follows:

Section 62-1335. – Rural Estate Use, REU.

(3) *Conditional uses. Conditional uses are as follows:*

Accessory dwelling unit.

Bed and breakfast inn.

Change of nonconforming agricultural use.

Farm animals and fowl.

Guesthouses or servants' quarters, without kitchen facilities.

Land alteration (over five acres and up to 30 acres).

Private heliports (section 62-1943.5).

Recreational facilities.

Residential/recreational marina.

Single-family residential second kitchen facility.

Skateboard ramp.

Substantial expansion of a preexisting use.

Wireless telecommunication facilities and broadcast towers.

SECTION 9. Chapter 62, Article VI, Division 1, Section 62-1336, Brevard County Code, entitled "Rural Residential, RR-1", is hereby amended as follows:

Section 62-1336. – Rural Residential. RR-1.

(3) *Conditional uses. Conditional uses are as follows:*

Accessory dwelling unit.

Bed and breakfast inn.

Change of nonconforming agricultural use.

Farm animals and fowl.

Guesthouses or servants' quarters, without kitchen facilities.

Land alteration (over five acres and up to ten acres).

Recreational facilities.

Residential/recreational marina.

Resort dwellings.

Single-family residential second kitchen facility.

Skateboard ramps.

Substantial expansion of a preexisting use.

Wireless telecommunication facilities and broadcast towers.

SECTION 10. Chapter 62, Article VI, Division 1, Section 62-1337, Brevard County Code, entitled “Suburban Estate Residential Use, SEU”, is hereby amended as follows:

Section 62-1337. – Suburban Estate Residential Use, SEU.

(3) *Conditional uses.* Conditional uses are as follows:

Accessory dwelling unit.

Bed and breakfast inn.

Change to nonconforming agricultural use.

Guesthouses or servants' quarters, without kitchen facilities.

Horses, mules, goats and barns.

Land alteration (over five acres and up to ten acres).

Recreational facilities.

Recreational/residential marina.

Resort dwellings.

Single-family residential second kitchen facility.

Skateboard ramps.

Substantial expansion of a preexisting use.

Wireless telecommunication facilities and broadcast towers.

SECTION 11. Chapter 62, Article VI, Division 1, Section 62-1338, Brevard County Code, entitled “Suburban Residential, SR”, is hereby amended as follows:

Section 62-1338. – Suburban Residential, SR.

(3) *Conditional uses.* Conditional uses are as follows:

Accessory dwelling unit.

Bed and breakfast inn.

Change of nonconforming agricultural use.

Guesthouses or servants' quarters, without kitchen facilities.

Land alteration (over five acres and up to ten acres).

Recreational facilities.

Recreational/residential marina.

Resort dwellings.

Single-family residential second kitchen facility.

Skateboard ramps.

Substantial expansion of a preexisting use.

Wireless telecommunication facilities and broadcast towers.

SECTION 12. Chapter 62, Article VI, Division 1, Section 62-1339, Brevard County Code, entitled "Estate Use Residential, EU, EU-1, and EU-2", is hereby amended as follows:

Section 62-1339. – Estate Use Residential, EU, EU-1, and EU-2.

(3) *Conditional uses.* Conditional uses are as follows:

Accessory dwelling unit.

Bed and breakfast inn.

Change of nonconforming agricultural use.

Guesthouses or servants' quarters, without kitchen facilities.

Land alteration (over five acres and up to ten acres).

Recreational facilities.

Recreational/residential marina.

Resort dwellings.

Single-family residential second kitchen facility.

Skateboard ramps.

Substantial expansion to a preexisting use.

Wireless telecommunication facilities and broadcast towers.

SECTION 13. Chapter 62, Article VI, Division 1, Section 62-1340, Brevard County Code, entitled “Single-family Residential, RU-1-13 and RU-1-11”, is hereby amended as follows:

Section 62-1340. – Single-family Residential, RU-1-13 and RU-1-11.

(3) *Conditional uses.* Conditional uses are as follows:

Accessory dwelling unit.

Bed and breakfast inn.

Change of nonconforming agricultural use.

Guesthouses or servants' quarters, without kitchen facilities.

Land alteration (over five acres and up to ten acres).

Recreational facilities.

Recreational/residential marina.

Resort dwellings.

Single-family residential second kitchen facility.

Skateboard ramps.

Substantial expansion to a preexisting use.

Wireless telecommunication facilities and broadcast towers.

Zero lot line subdivision.

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SECTION 14. Chapter 62, Article VI, Division 1, Section 62-1341, Brevard County Code, entitled “Single-family Residential, RU-1-9”, is hereby amended as follows:

Section 62-1341. – Single-family Residential, RU-1-9.

(3) *Conditional uses.* Conditional uses are as follows:

Accessory dwelling unit.

Bed and breakfast inn.

Change of nonconforming agricultural use.

Guesthouses or servants' quarters, without kitchen facilities.

Land alteration (over five acres and up to ten acres).

Recreational facilities.

Recreational/residential marina.

Resort dwellings.

Single-family residential second kitchen facility.

Skateboard ramps.

Substantial expansion to a preexisting use.

Wireless telecommunication facilities and broadcast towers.

Zero lot line subdivision.

SECTION 15. Chapter 62, Article VI, Division 1, Section 62-1342, Brevard County Code, entitled “Single-family Residential, RU-1-7”, is hereby amended as follows:

Section 62-1342. – Single-family Residential, RU-1-7.

(3) *Conditional uses.* Conditional uses are as follows:

Accessory dwelling unit.

Bed and breakfast inn.

Change of nonconforming agricultural use.

Guesthouses or servants' quarters, without kitchen facilities.

Land alteration (over five acres and up to ten acres).

Recreational facilities.

Recreational/residential marina.

Resort dwellings.

Single-family residential second kitchen facility.

Skateboard ramps.

Substantial expansion of a preexisting use.

Wireless telecommunication facilities and broadcast towers.

Zero lot line subdivision.

SECTION 16. Chapter 62, Article VI, Division 1, Section 62-1401, Brevard County Code, entitled "Rural Residential Mobile Home, RRMH-1, RRMH-2.5, and RRMH-5", is hereby amended as follows:

Section 62-1401. – Rural Residential Mobile Home, RRMH-1, RRMH-2.5, and RRMH-5.

(3) *Conditional uses.* Conditional uses are as follows:

Accessory dwelling unit.

Change of nonconforming agricultural use.

Farm animals and fowl.

Guesthouses or servants' quarters, without kitchen facilities.

Land alteration (over five acres and up to ten acres).

Residential/recreational marina.

Single-family residential second kitchen facility.

Substantial expansion of a preexisting use.

Temporary medical hardship mobile homes.

Wireless telecommunication facilities and broadcast towers.

SECTION 17. Chapter 62, Article VI, Division 5, Subdivision III, entitled “Conditional Uses”, is hereby amended to replace existing Section 62-1903, entitled “Reserved.”, with a new section, Section 62-1903, entitled “Accessory Dwelling Unit”, as follows:

Section 62-1903 – ~~Reserved.~~ Accessory Dwelling Unit.

- (a) An accessory dwelling unit may only be established on lots where the resulting density of the lot, including the accessory dwelling unit, is consistent with the zoning classification minimum standards and complies with the density designation established by the Comprehensive Plan.
- (b) No more than one accessory dwelling unit or guesthouse is permitted on a lot.
- (c) The primary structure on the lot shall not have more than one indoor kitchen.
- (d) The structure shall not exceed the maximum size permitted for accessory structures in the applicable zoning classification and, in cases where no maximum size is provided for a particular zoning classification, the structure shall not exceed 50 percent of the size of the principal structure.
- (e) If the accessory structure is 2 or more stories, the visibility from the 2nd story and higher must be shielded to prevent direct sight from the structure into adjacent properties with a residential use. Such shielding may include, but is not limited to, the use of opaque windows, buffering, and configuring open decks to ensure they do not face adjacent properties.
- (f) If the accessory structure is 2 or more stories, the setback requirements otherwise required under this Chapter shall be multiplied by 2.
- (g) The structure shall be required to comply with all applicable standards established by the Code, including, but not limited to, Section 62-2100.5, Brevard County Code, as may be amended.
- (h) The structure shall not be located in a coastal high-hazard area, as defined in Section 62-4001, Brevard County Code, as amended.
- (i) The structure shall not be located within an area designated as an area of critical state concern pursuant to Section 380.05, Florida Statutes, as amended.

- (j) An applicant for a conditional use permit pursuant to this Section must provide a depiction showing the location of the structure on the property, a floor plan, and a description of the primary building materials to be used to construct the structure.

SECTION 18. Conflicting Provisions. In the case of a direct conflict between any provision of this Ordinance and a portion or provision of any other appropriate federal, state or county law, rule, code or regulation, the more restrictive shall apply.

SECTION 19. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

SECTION 20. Area Encompassed. This Ordinance shall take effect only in the unincorporated area of Brevard County, Florida.

SECTION 21. Effective Date. A certified copy of this Ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten (10) days of enactment. This Ordinance shall become effective upon filing as provided by law.

SECTION 22. Inclusion in Code. It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of Brevard County, Florida; and that the sections of this Ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

DONE, ORDERED, AND ADOPTED, in regular session, this 7th day of November, 2024.

ATTEST:

**BOARD OF COUNTY COMMISSIONERS OF
BREVARD COUNTY, FLORIDA**

Rachel M. Sadoff, Clerk of Court

By: _____
Jason Steele, Chair

As approved by the Board on: November 7, 2024