

Town of Windermere

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Mayor
GARY BRUHN



Town Manager
ROBERT SMITH

Clerk
DOROTHY BURKHALTER

To: Robert Smith, Town Manager

From: Brad Cornelius, AICP, Wade Trim, Inc., Town Planner

Date: March 2, 2016

Re: Revisions to the Land Development Code Accessory Structures and Uses

At the November 2015 Development Review Board (DRB) meeting, the DRB discussed making amendments to the Town's Land Development Code related to accessory structures and uses. At the DRB meetings in January 2016 and February 2016, the DRB reviewed the proposed amendments. At the February 2016 meeting, the DRB unanimously approved moving the proposed amendments forward to the Town Council for consideration. The proposed ordinance provides the DRB recommended amendments to the Land Development Code for accessory structures and uses. Additions are shown in blue underline, and deletions are in ~~red-strikeout~~.

The following is a brief summary of the proposed amendments:

- Changed formatting of definitions
- Changed definition of "Accessory Use" to "Accessory Buildings or Structures"
- Revised definition of "Building, accessory"
- Added definition of "Building Envelope"
- Revised definition of "Building, principal"
- Added definition of "Structure, accessory:
- Added definition of "Courtyard"
- Added definition of "Structure, accessory"

- Deleted definition of “Kennel” and moved to Chapter 4 of the Town’s Code of Ordinances (Animals)
- Removed references to accessory structures, buildings, and uses on Article III of the Land Development Code – all regulations related to accessory structures, buildings, and uses are now in Article VII of the Land Development Code
- Added requirement that all accessory buildings and structures shall only be located within the area of the building envelope (i.e. meet all required setbacks for principal building), unless otherwise allowed
- Replaced satellite dish antenna regulations to streamline and assure compliance with the FCC Telecommunications Act (Palm Beach was model for proposed regulations)
- Revised swimming pool setback to require placement within the building envelope and may be placed in front of the principal structure if enclosed within a courtyard
- Clarified screen enclosures for pools must be located within the building envelope
- Expanded language for nonconforming pools (due to new requirement of placement within the building envelope)
- Clarified the measurement of fence height to be height as measured from the lowest grade within 3 feet of both sides of fence, and if built on top of a berm or retaining wall then the combined height shall not exceed the allowed height
- Revised fence post separation from at least 8 feet to 6 feet
- Revised the approval of additional height for fencing for protection of a hazard by a public agency from Town Council approval to Town Manager approval
- Expanded language for nonconforming fences
- Explicitly state that docks and boathouses are not required to be setback from the Normal High Water Elevation
- Explicitly state that copies of the approved permits for docks and boathouses from Orange County Environmental Protection Division and the Florida Department of Environmental Protection shall be submitted with the Town building permit application for the dock or boathouse
- Consolidated regulations for accessory apartments and guesthouses in one new section (Section 7.02.07 – Accessory Dwelling Units)

- Prohibit the sale separate from the principal building or the renting or leasing of an accessory apartment or guesthouse (removed limitation of elderly family use only)
- Eliminated the minimum parcel size for the location of a guesthouse but require guesthouse to be located within the building envelope and subject to all impervious and floor area limitations, be no larger than 45 percent of the principal building, and be designed to be similar in appearance to the principal building
- Reduced the building separation requirement for guesthouse to 10 feet consistent with the Florida Building Code/Fire Safety building separation standards and eliminated minimum lot size
- Require all mechanical equipment (i.e. air conditioner units, generators, pool equipment, etc.) to be placed within the building envelope
- Allow potable water and irrigation wells anywhere on a property and the related equipment must be located no closer than 5 feet to a property line and be screened from view
- Well coverings must be at least 5 feet to a property line and be screened if placed in the front or side yard
- Expanded language for nonconforming mechanical equipment (due to new requirement for placement within the building envelope)
- Added new section for playsets, recreation equipment, and sport courts (Section 7.02.09 – Playsets, recreation equipment, sport courts, and other similar equipment or structures) to require location behind the front of the principal building and meet required side setbacks and no closer than 10 feet to rear property line, unless on a waterfront lot and requires a building permit (i.e. electric, plumbing, foundation) then must be no closer than 50 feet from the normal high water elevation Also, prohibits lighting impacts to adjacent properties
- Expanded language for nonconforming playsets, recreation equipment, and sport courts
- Revised home occupation requirements to focus on operational impacts and not specific use types
- Clarified parking for home occupations is prohibited in the street and in any yard
- Deleted household pets and exotic animals and moved to Chapter 4 of the Town's Code of Ordinances (Animals)

- In Chapter 4 – Animals of the Code of Ordinances eliminated reference to specific types of exotic animals and replaced with reference to animals that require a permit for possession from the Florida Fish and Wildlife Conservation Commission. Also, explicitly states that exotic or invasive species of any kind as defined and regulated by the Florida Fish and Wildlife Conservation Commission are prohibited in the Town.
- Other minor adjustments to other sections of the Town's Code of Ordinances and Land Development Code to maintain consistency with primary amendments related to accessory buildings, structures, and uses

ORDINANCE NO. 2016-01

AN ORDINANCE OF THE TOWN OF WINDERMERE, FLORIDA, PERTAINING TO RULES AND REGULATIONS CONCERNING ACCESSORY BUILDINGS, STRUCTURES, USES, AND ANIMALS; REVISING CHAPTERS 4 AND 6 OF THE TOWN'S CODE OF ORDINANCES REGARDING ACCESSORY BUILDINGS, STRUCTURES, USES AND ANIMALS; REVISING ARTICLES I, II, III, V, VI, VII AND XII OF THE TOWN'S LAND DEVELOPMENT CODE REGARDING ACCESSORY BUILDINGS, STRUCTURES, USES, AND ANIMALS; PROVIDING FOR SEVERABILITY, CODIFICATION, RATIFICATION AND AN EFFECTIVE DATE.

Whereas, the Town of Windermere's Code of Ordinances and Land Development Code contains standards relating to accessory buildings, structures and uses, and in the same articles contains standards related to animals.

Whereas, the Town's Development Review Board has met, prepared, and is now recommending revisions to the Town's Code of Ordinances and Land Development Code to consolidate, revise, clean-up and clarify the requirements pertaining to accessory buildings, structures and uses and provisions concerning animals.

BE IT ENACTED BY THE PEOPLE OF THE TOWN OF WINDERMERE:

Section 1. Amendments to Chapter 4 of the Town of Windermere's Code of Ordinances.

Article I of Chapter 4 of the Town's Code of Ordinances entitled "Animals" is hereby revised by the deletion of the strikethrough language and the addition of the underlined language:

Chapter 4 - ANIMALS

ARTICLE I. - IN GENERAL

Sec. 4-1. - Harboring certain animals.

Household pets are permitted in all zoning districts, subject to all other applicable ~~the~~Town and Orange eCounty regulations. Household pets shall not be considered to include poultry, hoofed animals of any type, or any animal that requires a permit for possession from the Florida Fish and Wildlife Conservation Commission. ~~predatory animals of the type normally found in zoos, such as lions, tigers, ocelots or pumas, or other animals normally raised for food. The keeping of all such animals is specifically prohibited in all districts.~~ The term "poultry" means any chickens, turkeys, ducks, geese or guinea fowls.

Exotic or invasive species of any kind, as defined and regulated by the Florida Fish and Wildlife Conservation Commission, shall not be used, kept or introduced into the town.

Sec. 4-2. - Bird sanctuary designated.

The entire area embraced within the corporate limits of the town is designated as a bird sanctuary as defined by the National Audubon Society.

47
48 Sec. 4-3. - Trapping, hunting, shooting or molesting birds or wild fowl.
49 It shall be unlawful to trap, hunt, shoot or attempt to shoot or molest in any manner any
50 bird or wildfowl, or to rob bird or wild fowl nests.
51

52 Sec 4-4. – Kennel Operation

53 A kennel is where four or more, cats, dogs and/or other household pets over four months
54 in age are harbored on a property. Operation of a kennel is subject to approval by the
55 Development Review Board and the Town Council after receipt by the Town of a written,
56 notarized request describing the animals and the method of providing housing,
57 accompanied by a nonrefundable application fee set forth by the Town Council and is on
58 file in the Town Clerk's office.

59
60 Secs. 4-~~45~~—4-24. - Reserved.
61

62 **Section 2. Amendments to Sec. 6-10 of Chapter 6 of the Town of Windermere's Code of**
63 **Ordinances.** Sec. 6-10 in Article II of Chapter 6 of the Town's Code of Ordinances entitled
64 "Unsafe Structures" is hereby revised by the addition of the underlined language:
65

66 **Sec. 6-10. - Definitions.**

67 The following words, terms, and phrases, when used in this article, shall have the
68 meanings ascribed to them in this section, except where the context clearly indicates a
69 different meaning:
70

71 * * *

72
73 *Dilapidated/dilapidation* means structures, dwellings, dwelling units, multiple dwellings,
74 apartments, including garages, sheds, and similar accessory buildings and structures and
75 fences which, by reason of inadequate maintenance or abandonment, are a threat to health
76 and safety, or which constitute a fire hazard or are otherwise dangerous to human life or
77 property.
78

79 * * *

80
81 *Structure* means that which is built or constructed, an edifice or building of any kind,
82 including garages, sheds, and similar accessory buildings and structures and fences, or
83 any piece of work artificially built up or composed of parts joined together in some
84 definite manner. The term "structure" shall be construed as if followed by the words "or
85 part thereof".
86
87

88 **Section 3. Amendments to Sec. 6-21(e) of Chapter 6 of the Town of Windermere's Code of**
89 **Ordinances.** Sec. 6-21(e) in Article II of Chapter 6 of the Town's Code of Ordinances entitled
90 "Unsafe Structures" is hereby revised by the deletion of the strikethrough language and the
91 addition of the underlined language:

92
93 **Sec. 6-21. - Appeal procedure.**
94

95 * * *

96
97 When the findings of the special magistrate sustain the code inspector, the special
98 magistrate may set a new deadline for compliance or authorize the code inspector to
99 proceed to repair or demolish and remove the dwelling or structure, including accessory
100 buildings and structures and manmade bodies of water if necessary, and report the cost to
101 the Town eCouncil as provided herein.
102
103

104 **Section 4. Amendments to Sec. 6-22(a) of Chapter 6 of the Town of Windermere's Code of**
105 **Ordinances.** Sec. 6-22(a) in Article II of Chapter 6 of the Town's Code of Ordinances entitled
106 "Unsafe Structures" is hereby revised by the addition of the underlined language:
107

108 (a) *Emergency condemnation.*
109

- 110 (1) In cases where there is imminent peril to the public safety or general welfare or
111 immediate danger to the life or safety of any person or where the public is endangered
112 by weather conditions, fire, other natural disasters or the particular location of the
113 subject property, unless an unfit or unsafe dwelling or structure, including an
114 accessory building or structure or manmade body of water, is immediately repaired,
115 demolished, or removed, the code inspector shall promptly cause such building,
116 structure or portion thereof, including an accessory building or structure or manmade
117 body of water, to be made safe or removed. For this purpose the code inspector may
118 at once enter such a structure or land on which it stands, or abutting land or structures,
119 to perform an inspection with such assistance and at such cost as may be deemed
120 necessary.
121
122 (2) Upon inspection, the code inspector, shall determine whether the dwelling or
123 structure or portion thereof, including any accessory building or structure or
124 manmade body of water requires immediate emergency demolition in order to
125 maintain the safety and welfare of the owner, tenants, or public. A written report will
126 document results of these inspections. Exterior and interior photographs of the
127 dwelling, structure, or portion thereof including any accessory building or structure or
128 manmade body of water will be taken when feasible.
129
130 (3) The code inspector may order the vacation of adjacent structures and may require the
131 protection of the public by appropriate fence or such other means as may be
132 necessary, and for this purpose may close a public or private way.
133
134 (4) If the code inspector determines there is sufficient time prior to demolition, a notice
135 and order will be provided via priority mail, courier delivery or by other reasonable
136 means to the owner and interested parties informing him/her/them of the

emergency demolition. This written notification must state the findings of the code inspector, documenting cause for demolition or removal. Where the owner or other interested party fails to take immediate corrective action as ordered by the code inspector, the code inspector shall have the authority to promptly proceed with the abatement of the unsafe structure in accordance with this section. Failure to effect personal notice upon the individual owner or interested parties shall not prevent the town from performing the emergency demolition or removal and levying a non-ad valorem assessment on the property. All costs incurred in the evaluation, vacation, security and emergency demolition are the responsibility of the property owner, shall be reported to town council, and the town shall impose a non-ad valorem special assessment on the property if the town is not timely reimbursed for the costs.

Section 5. Amendments to Sec. 6-23(c) of Chapter 6 of the Town of Windermere's Code of Ordinances. Sec. 6-23(c) in Article II of Chapter 6 of the Town's Code of Ordinances entitled "Unsafe Structures" is hereby revised by the addition of the underlined language:

Sec. 6-23. - Securing unsafe structures.

* * *

- (c) In default of the owners or other parties of interest repairing or demolishing, removing, or securing of such dwelling or structure, including an accessory building or structure or manmade body of water, within the specified time or such other reasonable time fixed in the notice and order of the code inspector, the code inspector may order vacation of the premises.

Section 6. Amendments to Subsection 1.03.02 of Article I of the Town's Land Development Code. Article VII of subsection 1.03.02 of Article I in the Town's Land Development Code entitled "checklist for preparation and review of development proposals" is hereby revised by the deletion of the strikethrough language and the addition of the underlined language:

1.03.02 Checklist for preparation and review of development proposals. Every attempt has been made to make this Land Development Code as easy as possible for interested citizens, developers and local government staff to use. The articles are arranged in an order that reflects the process by which a developer would start with a parcel of land and conclude with an approved development. This same ordering provides a checklist approach for interested citizens and staff who are reviewing a proposed development for compliance with code requirements. The ordering and checklist are as follows:

* * *

ARTICLE VII. ACCESSORY STRUCTURES AND USES

Article VII creates the standards for the creation, placement and construction of accessory structures or uses. The following is a checklist of provisions that should be consulted with regard to a development proposal:

Are pool and air conditioner accessory structures to be in a yard? See section ~~6.06.02(b)~~7.02.08.

Is a satellite dish antenna to be installed? See section ~~7.01.02~~7.02.01.

Is a storage building, utility building, or greenhouse to be installed? See section ~~7.01.03~~7.02.02.

Is a swimming pool, hot tub or similar structure to be installed? See section ~~7.01.04~~7.02.03.

Is a fence to be installed? See section ~~7.01.05~~7.02.04.

Is a boathouse or dock to be installed? See section ~~7.01.06~~7.02.05.

Is an accessory apartment to be created? See section 7.02.0407.

Is a playset or sport court to be created? See section 7.02.09.

Is a home occupation to be started? See section ~~7.02.02~~7.03.01.

~~Will household pets be included? See section 7.02.03.~~

Section 7. Amendments to Subsection 2.00.02 of Article II of the Town's Land Development Code. Subsection 2.00.02 of Article II in the Town's Land Development Code entitled "definitions" is hereby revised by the deletion of the strikethrough language and the addition of the underlined language:

2.00.02

Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

* * *

Accessory ~~buildings or structures-use~~ means a separate subordinate building or structure located on the same lot or parcel as the principal building, the use of which is incidental to that of the dominant use of the principal building use of land or structure or portion thereof customarily incidental and subordinate to the principal use of the land or structure and located on the same parcel with the principal use.

Section 8. Amendments to Subsection 2.02.02(1) of Article II of the Town’s Land Development Code. Subsection 2.02.02(1) of Article II in the Town’s Land Development Code entitled “types of uses” is hereby revised by the addition of the underlined language:

2.02.02 Types of uses.

(1) *Residential.*

a. The category of residential uses includes single-family dwellings, accessory apartments and guesthouses, rectories and mobile modular and manufactured housing, but specifically excludes recreational vehicles, travel trailers or similar vehicles.

b. Group homes and foster care facilities licensed by the state shall be permitted as required by state law.

Section 9. Amendments to Subsection 2.02.03(1) of Article II of the Town’s Land Development Code. Subsection 2.02.03(1) of Article II in the Town’s Land Development Code entitled “allowable uses within each land use district” is hereby revised by the deletion of the strikethrough language and the addition of the underlined language:

2.02.03 Allowable uses within each land use district.

(1) *Residential.* The following uses are allowed in the residential land use district. All others are prohibited.

a. Single-family residential and accessory dwelling units ~~apartments~~.

b. Public service.

c. Public elementary school.

Section 10. Amendments to Subsection 3.02.02(4)b of Article III of the Town’s Land Development Code. Subsection 3.03.02(4)b of Article III in the Town’s Land Development Code entitled “minimum building size” is hereby revised by the deletion of the strikethrough language:

3.02.02 Development standards.

* * *

(4) Applicable development standards include those imposed upon the initial development except standards for development in a floodplain and standards for stormwater management. The following initial development standards shall be followed if contained in the original approval (pre-Code standards):

* * *

(b) *Minimum building size.*

1. Waterfront homes shall have at least 1,500 square feet of living space. Two bedroom homes or those on a 50-foot interior lot shall be at least 1,000 square

feet and all other interior lots shall have homes of at least 1,500 square feet living space.

2. Mobile homes of at least 1,000 square feet and regulated as real property not personal property shall be permitted on interior lots.
3. No residential structure shall exceed 2½ stories or 35 feet in height, whichever is less, and all other structures shall be limited to two stories or 35 feet in height, whichever is less, as measured from the elevation of the average undisturbed existing lot grade at the front setback.
4. ~~Guesthouses, where authorized, shall not exceed 45 percent of the total square feet of the main dwelling structure.~~

Section 11. Amendments to Subsection 3.02.02(4)d of Article III of the Town's Land Development Code. Subsection 3.03.02(4)d of Article III in the Town's Land Development Code entitled "accessory uses" is hereby deleted in its entirety as indicted by the strikethrough language:

3.02.02 Development standards.

* * *

- (4) Applicable development standards include those imposed upon the initial development except standards for development in a floodplain and standards for stormwater management. The following initial development standards shall be followed if contained in the original approval (pre-Code standards):

* * *

~~d. Accessory uses.~~

- ~~1. On corner residential lots, no accessory use may be in a front yard or closer than ten feet to a side property line.~~
- ~~2. On other residential lots, no accessory uses may be in front or side yards, except for air condition units and pumps, water tanks and pool equipment, which must be screened from view and not closer than five feet to the side property line.~~
- ~~3. Parabolic or dish antennas must be approved by the town council and require submission of a set of plans and specifications.~~
- ~~4. Docks and boathouses shall not be closer than 16 feet to a side property line, shall not exceed 13 feet in height and require town council approval. Also see section 7.01.06.~~
- ~~5. Swimming pools, enclosures, patios and security fences shall not be closer than ten feet to a side property line or closer than 50 feet to the normal high water elevation on a waterfront lot.~~
- ~~6. Guesthouses are permitted on lots exceeding 21,785 square feet, in a rear yard, no closer than ten feet to a side property line, no closer than 20 feet to any main or accessory building, no wider than 50 percent of the lot where located and not exceed 45 percent of the total square feet of the primary structure. It shall not be closer than 25 feet to a rear line or 50 feet to the normal high water elevation on a waterfront lot. (Also see section 5.05.03.)~~

- 307 7. ~~Accessory apartments, as authorized as authorized in section 7.02.01, are~~
308 ~~permitted.~~
309 8. ~~Home occupations are authorized as indicated in section 7.02.02.~~
310 9. ~~Household pets. Household pets are an accessory use and permitted in all zoning~~
311 ~~districts, subject to all other applicable town regulations. Household pets shall~~
312 ~~not be considered to include poultry, hoofed animals of any type, predatory~~
313 ~~animals of the type normally found in zoos, such as lions, tigers, ocelots or~~
314 ~~pumas, or other animals normally raised for food. The keeping of all such~~
315 ~~animals is specifically prohibited in all districts. Poultry means any chickens,~~
316 ~~turkeys, ducks, geese, guinea or other fowl.~~
317 10. ~~Building permits for accessory structures shall not be issued prior to the~~
318 ~~construction of the main structure.~~
319

320 **Section 12. Amendments to Section 5.02.02 of Article V of the Town's Land Development**
321 **Code.** Section 5.02.02 of Article V in the Town's Land Development Code entitled
322 "definitions" is hereby revised by the deletion of the strikethrough language and the addition of
323 the underlined language:

324 **Sec. 5.02.02. - Definitions.**

325 The following words, terms and phrases, when used in this division, shall have the
326 meanings ascribed to them in this section, except where the context clearly indicates a
327 different meaning:
328

329 Accessory Buildings or Structures Use means a separate subordinate building or
330 structure located on the same lot or parcel as the principal building, the use of which is
331 incidental to that of the dominant use of the principal building, use of land or structure, or
332 portion thereof, customarily incidental and subordinate to the principal use of the land or
333 structure and located on the same parcel with the principal use.
334

335 * * *

336
337 **Section 13. Amendments to Subsection 5.02.05(b)(4) of Article V of the Town's Land**
338 **Development Code.** Subsection 5.02.05(b)(4) of Article V in the Town's Land Development
339 Code entitled "definitions" is hereby revised by the addition of the underlined language:

340
341 **Sec. 5.02.05. - Restricted development zone.**

342
343 * * *

344 (b) *Development activities within restricted development zone.*
345

346 * * *

347 (4) The following special design standards applying within restricted development
348 zones adjacent to conservation areas:

- 349 a. All development shall be setback greater than or equal to 50 feet from the landward
350 boundary of the conservation area.

- b. Total impervious surface, including, but not limited to, buildings, houses, parking lots, garages, accessory buildings and structures, driveways, pools and walkways is limited to 25 percent of the land area of the entire site.
- c. The development shall leave a minimum of 50 percent of the site as trees, shrubs or other natural vegetation, or replace existing trees at a minimum ratio of 2:1.
- d. Point source and nonpoint source discharges are prohibited, except for stormwater, which may be discharged only if it meets the following minimum standard. Stormwater discharges shall include an additional level of treatment equal to 50 percent of the treatment criteria specified in rules of the South Florida Water Management District, and shall provide offline retention or off-line detention with filtration of the first one-half inch of runoff of the total amount required to be treated. If the county or any state agency has a stormwater rule which is stricter than this standard, then the stricter rule or combination of rules shall apply.
- e. Siltation and erosion control measures shall be applied to stabilize banks and other unvegetated areas during and after construction. Sediment settling ponds shall be installed for stormwater runoff prior to the creation of any impervious surfaces. For lots or parcels that are cleared, silt screens shall be placed between the construction site and the water body to prevent erosion and siltation.
- f. Any channels constructed shall be of a minimum depth and width capable of achieving the intended purposes. Sides of channels shall reflect an equilibrium shape to prevent slumping and erosion and to allow revegetation.
- g. Any dredging shall be conducted at times of minimum biological activity to avoid fish migration and spawning, and other cycles and activities of wildlife.
- h. Any spoil that results from dredging shall be disposed of at upland sites and stabilized within 30 days, unless the spoil is causing turbidity or other problems, in which case the developer must stabilize the spoil immediately.
- i. If dredging changes the littoral drift processes and causes adjacent shores to erode, the developer shall periodically replenish these shores with the appropriate quantity and quality of aggregate.
- j. Septic tanks shall not be located closer than 150 feet from the normal high water. If septic tanks are allowed, there may be no more than one septic tank per acre of land.
- k. Environmental swales shall be constructed landward from any conservation area as prescribed by the development review (zoning) board.

Section 14. Amendments to Section 5.05.03 of Article V of the Town's Land Development Code. Section 5.05.03 of Article V in the Town's Land Development Code entitled "structures near lakes, canals or runs" is hereby revised by the deletion of the strikethrough language and the addition of the underlined language:

Sec. 5.05.03. - Structures near lakes, canals or runs.

No structure to include accessory buildings and structures ~~uses~~ shall be erected or placed within 50 feet of the normal high-water elevation, unless otherwise provided within the Land Development Code, and no fill shall be permitted below that normal high-water elevation. In addition, as required in section 16-69 of the Code of Ordinances and this division, residential finished floor construction of Lake Down or its canals, Lake Butler and Wauseon Bay shall be no lower than 104-foot MSL and or Lake Bessie no lower than 105-foot MSL.

Section 15. Amendments to Subsection 6.01.03 of Article V of the Town's Land Development Code. Section 6.01.03 of Article VI in the Town's Land Development Code entitled "building setback requirements" is hereby revised by the deletion of the strikethrough language and the addition of the underlined language:

Sec. 6.01.03. - Building setback requirements.

(a) Minimum setback on side and rear yards. There are no minimum setbacks required for side and rear yards (those sides of a building which do not abut a right-of-way), provided that one of the following requirements shall be met:

- (1) If the distance from the exterior wall and any air conditioner, pump, heater or other structural element is less than five feet, the applicant must show evidence of a maintenance easement granted by adjacent property owners.
- (2) The structure may be built on the property line provided the owner shall grant an attachment easement to the adjacent property owners, but to only one adjacent side owner. Where structures are built on a property line, a rear yard of 35 feet is required for fire vehicles (turn around, movement.)

(b) Minimum setbacks for buildings exceeding 25 feet in height. When a building exceeds 25 feet in height, the minimum distance from an adjacent building or property line shall be increased by two feet for each story or half story above two.

(c) Other.

- (1) No principal building ~~structure~~ or accessory building or structure, ~~use~~ other than a boathouse or dock or potable water or irrigation well shall be permitted within 50 feet of the normal high-water elevation of any water body.
- (2) No septic tank or drainfield shall be placed within 150 feet of the normal high-water elevation of any water body unless a variance is applied for and approved by the town council.

Section 16. Amendments to Section 6.01.04 of Article VI of the Town's Land Development Code. Subsection 6.01.04(c) of Article VI in the Town's Land Development Code entitled "maximum floor area ratio" is hereby revised by the deletion of the strikethrough language and the addition of the underlined language:

Sec. 6.01.04. - Height and floor area limitations.

* * *

(c) *Maximum floor area ratio.* Principal and accessory Bbuildings and accessory structures constructed in residential zones shall not exceed a floor area ratio of 38 percent.

Section 17. Amendments to Article VII of the Town's Land Development Code. Article VII in the Town's Land Development Code entitled "Accessory Structures and Uses" is hereby revised by the deletion of the strikethrough language and the addition of the underlined language:

Article VII - ACCESSORY BUILDINGS, STRUCTURES, AND USES

DIVISION 7.01.00. - IN GENERAL

Sec. 7.~~0001.0001~~. - Purpose.

It is the purpose of this article to regulate the installation, configuration and use of accessory buildings and structures, and the conduct of accessory uses, in order to ensure that they are not harmful either aesthetically or physically to residents and surrounding areas.

Sec. 7.01.~~0002~~. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building, accessory: means a separate subordinate building or a portion of the main building located on the same lot or parcel as the main principal building, the use of which is incidental to that of the dominant use of the principal building, or premises. Accessory buildings include, but are not limited to, storage buildings, detached garages and carports, guesthouses, pool cabanas, greenhouses, animal shelter or housing, or any other building or structure not defined as a principal building.

Building envelope: the area of a lot or parcel that delineates where a building may be placed subject to applicable building setback requirements and other locational criteria of the code.

Building, principal: ~~means~~ a building in which is conducted the principal use of the ~~lot~~lot or parcel on which it is situated. In a residential district, ~~any dwelling~~the single-family home shall be deemed the principal building on the ~~lot~~lot or parcel on which the same is situated. An attached carport, shed or garage, or any other structure with one or more walls ~~or a part of the principal building and that is~~ structurally dependent, totally or in part, on the principal building, shall be deemed a part of the principal building, but a detached and structurally independent carport, garage or other structure shall be deemed an accessory building.

Courtyard: an open space that is completely surrounded by a building or group of buildings.

~~Kennel means an accessory use where four or more, cats, dogs and/or other household pets (see section 7.02.03), over four months in age are harbored on a property. Operation of a kennel is subject to approval by the development review board and the town council after receipt by the town of a written, notarized request describing the animals and the method of providing housing, accompanied by a nonrefundable application fee set forth by the town council and is on file in the town clerk's office.~~

Structure, accessory: anything constructed or erected which requires a permanent location on the ground or attachment to something having such location which is subordinate to the principal building on the same lot. Accessory structures include, but are not limited to, docks and boathouses, fences, swimming pools, satellite dish antennas, play equipment or sport courts, mechanical equipment, and other similar structures.

Use, accessory: the use of a property that is clearly secondary and subordinate to the permitted principal use of the lot or parcel.

Yard: ~~means~~ an open space at grade between a building or structure and the adjoining ~~lot~~ lot or parcel lines unoccupied and unobstructed by any portion of a building or structure from the ground upward, except as may be specifically permitted by this article. For the purpose of determining the depth of front, rear and side yards, the minimum horizontal distance between the ~~lot~~ lot or parcel lines and the building or structure shall be used.

Yard, front: ~~means~~ a yard extending across the front of a ~~lot~~ lot or parcel, being the minimum horizontal distance between the street right-of-way line and the principal building or any projections thereof other than the projections of uncovered steps, uncovered balconies or uncovered porches. On corner ~~lots~~ lots or parcels two front yards and two side yards are applicable and no rear yard.

Yard, rear: ~~means~~ a yard extending across the rear of a ~~lot~~ lot or parcel, and being the minimum horizontal distance between the rear of the principal building or any projections thereof other than the projections of uncovered steps, uncovered balconies or uncovered porches to the rear ~~lot~~ lot or parcel line.

Yard, side: ~~means~~ an open unoccupied space on the same ~~lot~~ lot or parcel with a main building, situated between the side line of the building and the adjacent side line of the ~~lot~~ lot or parcel and extending from the rear line of the front yard to the front line of the rear yard. As stated, corner ~~lots~~ lot or parcels have two side and no rear yard.

Sec. 7.01.0103. - General standards and requirements for accessory buildings and structures.

~~Any number of different a~~ Accessory buildings and structures may be located on a lot or parcel, provided that the following requirements are met:

- (1) There shall be a permitted principal ~~building-development~~ on the ~~lot or parcel, unless exempted or superseded in this section or Land Development Code, located in full compliance with all standards and requirements of this Land Development Code.~~ lot or parcel, unless exempted or superseded in this section or Land Development Code.
- (2) All accessory ~~structures-buildings and structures~~ shall comply with standards pertaining to the principal use, unless exempted or superseded elsewhere in this ~~section or~~ Land Development Code.
- (3) Accessory ~~structures-buildings and structures~~ shall ~~not only~~ be located ~~within a the area of the building envelope front yard, required buffer, landscape area or minimum building setback area, unless exempted or superseded elsewhere in this section or Land Development Code.~~ within a the area of the building envelope front yard, required buffer, landscape area or minimum building setback area, unless exempted or superseded elsewhere in this section or Land Development Code.

- (4) Accessory ~~structures~~ buildings and structures shall be included in all calculations of gross floor area, impervious surface, and stormwater runoff.
- (5) Accessory structures to include mechanical equipment such as, but not limited to, pool and heat/air accessories, water wells, pumps and tanks, and generators, or similar mechanical structure shall be shown on any concept development plan with full supporting documentation as required in article XII of this Land Development Code and screened as required in section 6.06.02(b).

DIVISION 7.02.00. – Accessory Buildings and Structures

Sec. 7.0102.0201. - Satellite dish antenna.

- (a1) ~~Standards.~~ A satellite dish antenna shall be an accessory structure and shall be constructed, erected or placed in compliance with all of the provisions for accessory structures.
- (2) Satellite dish antennas shall not exceed 12 feet in diameter.
- (3) Only one satellite dish antenna that exceeds one meter (3.28 feet) in diameter shall be permitted on each lot or parcel. Such satellite dish antenna that exceeds one meter (3.28 feet) in diameter shall not be attached to a building; shall be located within the building envelope but not in front of the principal building; and shall not exceed 18 feet in height above the finished grade.
- (4) Consistent with the Federal Telecommunications Act of 1996, as amended, there shall be no limit on satellite dish antennas one meter (3.28 feet) or less in diameter and said satellite dish antenna(s) may be attached or unattached to a building. If said satellite dish antenna(s) is attached, then it shall not extend above the highest point of the roof of the structure to which it is attached, If said satellite dish antenna(s) is unattached, then it shall not exceed 18 feet in height above the finished grade and shall be located within the building envelope but not in front of the principal building.
- (5) All attached and unattached satellite dish antennas in a residential zoning district shall be screened from public view, and private and public streets; be neutral in color; and, to the maximum extent possible, compatible with the surrounding neighborhood appearance and character. In addition, no form of lettering, advertising or identification shall be allowed on any such satellite dish antenna or its framework (other than the manufacturer's small identification plate).
- (1) ~~All satellite dish antenna installations beginning with the enactment of this Land Development Code shall meet the following requirements:~~
- a. ~~The satellite dish antenna shall be considered a structure requiring a building permit to be issued prior to installation. Subsequent to installation, the antenna shall be maintained in compliance with all applicable building and electrical codes.~~
- b. ~~The satellite dish antenna installation, and any part thereof, shall maintain vertical and horizontal clearances from any electric lines and shall conform to the applicable state and federal regulations.~~

- c. ~~The satellite dish antenna installation shall meet all FCC and manufacturer specifications, rules and requirements.~~
- d. ~~The satellite dish antenna shall be of a nonreflective surface material and shall be made, to the maximum extent possible, to conform and blend, taking into consideration color and location, with the surrounding area and structures.~~
- e. ~~The satellite dish antenna shall contain no advertising or signage of any type, however imprinted lettering with letters less than four inches high imprinted by the manufacture shall be permitted.~~
- f. ~~The installer of any satellite dish antenna, prior to installation, shall submit detailed blueprints/drawings of the proposed satellite dish antenna installation and foundation which shall be certified by the manufacturer or a professional engineer.~~
- g. ~~The satellite dish antenna installation shall not be permitted to be placed in front yards.~~
- (2) ~~The following standards are for installations in developments:~~
- a. ~~A satellite dish antenna shall be considered an accessory structure to the main dwelling structure and shall not constitute the principal use of the property.~~
- b. ~~Home satellite dish antenna's installed pursuant to this subsection (a)(2) shall not be used for any commercial purpose.~~
- c. ~~Satellite dish antenna installations shall be limited to one installation per lot or parcel.~~
- d. ~~The maximum size of the satellite dish antenna, whether ground or pole mounted, shall be limited to 12 feet in diameter.~~
- e. ~~The maximum height of a ground mounted satellite dish antenna installation shall be 18 feet.~~
- f. ~~The maximum height of a pole mounted satellite dish antenna installation shall be 18 feet above the eaves of the roof.~~
- g. ~~A satellite dish antenna shall not be permitted to be installed on the roof of any structure unless a professional engineer certifies that this is the only practical method of installation and the installation is hurricane safe.~~
- h. ~~The satellite dish antenna installation, whether ground or pole, shall be mounted at a fixed point and shall not be portable.~~
- i. ~~Commercial satellite dish antennas which transmit data may be considered for installation provided full justification for their use is provided the town council.~~
- (b6) Nonconforming satellite dish antenna. Any satellite dish antenna lawfully installed prior to the enactment of this section Land Development Code shall be allowed to remain, until such time as it is replaced or moved. At the time of replacement or relocation, the provisions of this section Land Development Code shall be met.

Sec. 7.0102.0302. - ~~Storage Accessory~~ buildings, ~~utility buildings~~, ~~greenhouses~~.

(a1) No accessory buildings used for industrial storage of hazardous, incendiary, noxious or pernicious materials shall be located within the ~~town~~ Town limits.

(b) ~~Storage buildings, greenhouses and the like shall be permitted only in compliance with standards for distance between buildings, and setbacks, if any, from property lines.~~

(e2) ~~Storage and other Accessory~~ buildings regulated by this section shall be permitted only ~~in side and rear yards and shall not encroach into any required building setback within the building envelope for the lot or parcel.~~

(d3) ~~Storage and other Accessory~~ buildings regulated by this section shall be included in calculations for impervious surface, floor area ratio, or any other site design requirements applying to the principal use of the ~~lot~~ lot or parcel.

Sec. 7.0102.0403. - Swimming pools, hot tubs, and similar structures.

(a1) Swimming pools, etc., shall be permitted only within the building envelope for the lot or parcel. However, swimming pools, etc. shall not be placed in the front of the building envelope unless it is enclosed within a courtyard or within the principal or accessory building in side and rear yards, and shall be no closer than ten feet to the side or rear property line or closer than 50 feet to the normal high water elevation on water fronts.

(b2) ~~Screen Enclosures for pools, etc., shall be considered a part of the principal residential structure and shall located within the building envelope comply with standards for minimum distance between buildings, yards requirements of the Code.~~

(e3) As required by the Florida Building Code, Aall pools etc. shall be completely enclosed with an approved wall, fence or other substantial structure not less than five feet in height. The enclosure shall completely surround (to include the water front) the pool and shall be of sufficient density to prohibit unrestrained admittance to the enclosed area through the use of self-closing and self-latching doors. Exception: Adjacent waterway, permanent natural or permanent manmade features such as bulkheads, canals, lakes, navigable waterways, etc., adjacent to a public or private swimming pool or spa may be permitted as a barrier when reviewed by the ~~t~~Town ~~d~~Development ~~r~~Review ~~b~~Board and approved by the ~~t~~Town ~~e~~Council. When evaluating such barrier features, the ~~d~~Development ~~r~~Review ~~b~~Board and ~~t~~Town ~~e~~Council may perform on-site inspections and review evidence such as surveys, aerial photographs, water management agency standards and specifications, and any other similar documentation to verify the subject barrier features adequately restricts access to the pool, spa or similar structure.

(d4) No overhead electric power lines shall pass over any pool, etc., unless enclosed in conduit and rigidly supported, nor shall any power line be nearer than ten feet horizontally or vertically from the pool's water edge.

(e5) Excavations for pools to be installed for existing dwellings shall not exceed a 2:1 slope from the foundation of the house, unless a trench wall is provided.

(6) Swimming pools, hot tubs, and similar structures in existence at the time of adoption of this section, but not in compliance with this section, shall be considered legal nonconforming uses as long as they are maintained in a structurally sound and an attractive manner and may be repaired, improved, or replaced as long as the action does not increase the nonconforming situation or does not result in a new nonconforming situation.

641 **Sec. 7.0102.0504. - Fencing standards.**

642
643 (a1) *Purpose.* The purpose of this section is to regulate the types of materials used to
644 construct and install fences, walls and posts, and the location, height and maintenance of
645 fences, walls and posts to promote consistent, uniform construction and installation, and to
646 prevent the existence of nuisances within the town. In all land use districts, fences, walls and
647 posts are permitted only as set forth in this section.

648 (b2) *Definitions.* The following words, terms and phrases, when used in this section,
649 shall have the meanings ascribed to them in this subsection, except where the context clearly
650 indicates a different meaning:

651 *Fence:* ~~means~~ a freestanding structure of minimal thickness designed to prevent ingress and
652 egress across a property boundary line.

653 *Gate:* ~~means~~ a point of entry or passage to a space that is enclosed by a fence or wall.

654 *Post:* ~~means~~ any stake of material that is set upright into the ground to serve as a marker or
655 support of a fence or wall.

656 *Wall:* ~~means~~ a solid structure of more than minimal thickness designed to prevent ingress
657 and egress across a property boundary line.

658 (3e) *Applicability.* The requirements of this section shall apply to all fences, walls and
659 posts equal to or exceeding 30 inches in height, constructed and installed in all land use
660 districts within the town. Construction of fences that protect construction sites, equipment
661 enclosures, pool enclosures and sediment fencing are not subject to this section. Refer to
662 other provisions of the Code of Ordinances regarding construction of these fences and
663 enclosures.

664 (d4) *Permit required.* No fence, wall or post shall be installed without first obtaining a
665 permit from the ~~the~~ Town. Each application for a permit shall be accompanied by the fee set
666 forth in the ~~the~~ Town's fee directory.

667 (e5) *Standards.*

668 (4a) *Materials.* The types of acceptable materials for the construction and installation
669 of fences, walls and posts shall include wood, stone, preformed concrete block,
670 concrete, brick, wrought iron, aluminum, stucco, plastic, chain link and wire mesh,
671 except that wire mesh or chain link fencing shall not be permitted within required front
672 yard setbacks.

673 (2b) *Location.* No fence, wall or post shall be located on ~~the~~ Town property. Fences may
674 only be located on private property in front, side, rear and corner yard setbacks.

675 (3c) *Maximum height.* The maximum height of any fence, wall or post shall be the
676 following:

677 a1. The height of a fence or wall or combination thereof, shall be measured from the
678 lowest grade within three (3) feet on both sides of the fence or wall. If a fence or
679 wall is built on top of a berm or retaining wall, then the combined height of the
680 fence or wall and berm or retaining wall must not exceed the allowable fence
681 height.

2. Fences or walls within the portion or portions of the lot or parcel between the right-of-way and the building shall have a maximum height of 48 inches. All other fences or walls (i.e., side yard and rear yard) shall have a maximum height of 72 inches.

b3. A wall or a fence between residential properties and nonresidential properties shall have a maximum height of 96 inches.

e4. Posts shall not exceed a wall or fence height by more than 24 inches including a light fixture and/or all decoration elements, with a minimum distance of ~~eight-six~~ feet, centerline to centerline, between each post. Each post can be a maximum of 30 inches by 30 inches in width. The posts of each fence must be resistant to decay, corrosion and termite infestation. The posts must also be pressure-treated for strength and endurance.

d5. Gates shall be no higher the 60 inches from the ground and the highest point on the gate, including its decorative elements, Gates shall not exceed the height of the adjoining wall or fence by more than 12 inches and no more than 60 inches from the ground in the front yard. Maximum height of a gate in the side and rear yard is to ~~match correspond to~~ the fence height. Any gate attached to a fence that is required to be 48 inches or less is required to be 50 percent transparent.

e6. In areas where the property faces two roadways or is located in any other area constructed to be a corner ~~lot~~lot or parcel, no fence higher than 24 inches shall be located in the vision triangle (See section 6.02.04(h)).

f7. Security fences shall have a minimum height of 72 inches around any gas, water and sewer substation, treatment plants, and sub-stations and cell towers.

(4d) *Orientation and configuration.*

a1. All fences, walls or posts shall be constructed and installed so as to locate visible supports and other structural components toward the subject property. Any fence, wall or post located adjacent to a public right-of-way or private road shall also be placed with the finished side facing that right-of-way.

b2. Gates must open in a manner so as to not cross a public right-of-way or property line.

(5e) *Maintenance.* All fences, walls or posts shall be maintained in a structurally sound and attractive manner, as determined by the ~~t~~Town ~~m~~Manager or his designee.

(f6) *Safety and protection of a hazard.* A fence required for safety and protection of a hazard by a public agency is subject to height limitations set forth in subsection (e)(3) of this section, however approval to exceed height standards may be given by the ~~t~~Town Manager ~~council~~ upon receipt of satisfactory evidence of the need to exceed height standards.

(g7) Chainlink fences in residential land use districts. In any residential land use district, all chainlink fences shall be installed with the pointed ends to the ground. No electrically charged wire fence shall be erected in any residential land use district. ~~n~~No barbed wire fence shall be erected in any residential land use district, except for security of public utilities, provided such use is limited to three strands, a minimum of 72 inches above the ground.

(h8) *No interference with drainage.* No fence or wall shall be constructed or installed in such a manner as to interfere with drainage on the site.

(i9) *Enforcement.* Enforcement of this section shall be through code enforcement procedures.

(j10) *Nonconforming fences, walls and posts.* Fences, walls and posts in existence at the time of adoption of this section, but not in compliance with this section, shall be considered legal nonconforming uses as long as they are maintained in a structurally sound and an attractive manner and may be repaired, improved, or replaced as long as the action does not increase the nonconforming situation or does not result in a new nonconforming situation.

Sec. 7.0102.0605. - Boathouses and docks.

The ~~T~~Town hereby adopts, by reference, Orange County's ordinances regulating, restricting and otherwise addressing boat dock construction, as such ordinances may be amended from time-to-time. This Section does not preempt Orange County's jurisdiction within the town for purposes of Section 704 of the Orange County Charter, and the ~~T~~Town shall have concurrent jurisdiction with Orange County to enforce all county ordinances pertaining to boat dock construction within the town. Notwithstanding the foregoing, the following shall apply to boathouses and docks constructed in the town:

- (1) Boathouses shall not exceed a height of 14½ feet above the normal high-water level of the water body.
- (2) Boathouses and docks shall have no minimum setback from the Normal High Water Elevation. Boathouses and docks shall have a minimum side-setback of 16 feet from the upland property line and the projected property line. For purposes of this section, projected property line means a continuation of, and extension to, the upland property line. In cases of privately owned bottomland, that is, non-sovereignty submerged lands underlying a water body, the projected property line is the actual property line. For purposes of this section, upland property line means the actual property line lying landward of the established Normal High Water Elevation.
- (3) Applicants shall submit applications for boathouse and dock construction to the town on forms approved by the town, and the town manager shall issue construction permits.
- (4) Boathouses and docks may be located in the front yard.
- (5) Any other applicable requirements of the town's Land Development Code shall apply.
- (6) Copies of the approved permits for the proposed boathouse or dock from the Orange County Environmental Protection Division and the Florida Department of Environmental Protection shall be submitted with the Town's building permit application.

Sec. 7.0102.0706. - Communication tower control.

(1a) The ~~€~~Town accepts and subjects itself to the jurisdiction of the ~~e~~County ~~e~~Code, ~~e~~Chapter 38, ~~s~~Section 38-1427, as amended, regarding communication towers and incorporates the same herein by reference.

(b2) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Communication antenna: ~~means~~ an antenna designed to transmit or receive communications as authorized by the Federal Communications Commission.

Communication tower:-

(1) ~~The term "communication tower" means~~ a tower greater than 35 feet in height that does not exceed 300 feet in height (including an antenna) which supports communication (transmission or receiving) equipment. Design examples of communication towers are described as follows:

- a. Self-supporting lattices;
- b. Guyed; and
- c. Monopole.

(2) The term "communication tower" does not include amateur radio operators' equipment, as licensed by the Federal Communications Commission (FCC).

(e3) Communication towers shall not be permitted in residential, agricultural, public or mixed-use districts and shall be located in a rear yard of a commercial property and not be in the rear setback or buffer area.

(d4) The meaning of several items in the county code, section 38-1427, shall be as shown on the following page:

(1) Zoning ~~m~~Manager—Town ~~m~~Manager.

(2) County—Town.

(3) County—Town.

(4) County ~~e~~Chairperson—Mayor.

(5) Board of ~~e~~County ~~e~~Commission—Town ~~Council-board~~.

(6) Board of ~~z~~Zoning ~~a~~Adjustment—Development ~~r~~Review ~~b~~Board.

(7) County ~~e~~Comptroller—Town ~~m~~Manager.

(e5) The inventory of towers required in section 38-1427(10) shall include all towers in the county.

(f6) Section 12.06.04 shall apply with respect to any appointed hearing officer.

(g7) In the event of a conflict between the county code, chapter 38, section 38-147, and the provisions of this section, this section shall supersede and prevail over the conflicting provision of the county code.

Sec. 7.02.07. – Accessory Dwelling Units.

(1) Within residential areas, only one accessory dwelling unit may be provided in addition to the primary dwelling unit.

(2) The accessory dwelling unit may be located within the primary building (i.e. accessory apartment) or may be located within a separate building (i.e. guesthouse) on the lot or parcel.

(3) The accessory dwelling unit may not be sold independent of the principal structure, rented, or leased.

(4) If the accessory dwelling unit is located within the primary building (i.e. accessory apartment), then the following regulations apply:

DIVISION 7.02.00. – ACCESSORY USES

Sec. 7.02.01. – Accessory apartments.

~~(a) Purpose. The purpose of this section is to provide for inexpensive housing units to meet the needs of older households, making housing available to elderly family persons who might otherwise have difficulty finding homes. They shall not be rented, leased or used by others. This section is also intended to protect the property values and residential character of neighborhoods where accessory apartments are located.~~

~~(b) Standards. Accessory apartments may be allowed in single family homes provided that all of the following requirements shall be met:~~

~~(1a) No more than~~ one accessory apartment shall be permitted on any residential lot or parcel.

~~(2b)~~ Any accessory apartment shall be located within the principal ~~structure~~building. (Note: The principal ~~structure~~building shall be construed to mean the dwelling unit or house located on the ~~lot~~lot or parcel, and not any other accessory structure.) An accessory apartment shall not be construed to be located within the principal ~~structure~~building if connected only by a breezeway, roofed passage or similar structure.

~~(3c)~~ ~~An~~The accessory apartment shall not exceed 25 percent of the gross floor area of the principal ~~building~~structure within which it is located.

~~(4d)~~ The accessory apartment shall be located and designed not to interfere with the appearance of the principal ~~building-structure~~ as a ~~one~~single--family dwelling unit.

~~(5) No variations, adjustments or waivers to the requirements of this Land Development Code shall be allowed in order to accommodate an accessory apartment.~~

(5) If the accessory dwelling unit is not located within the principal building (i.e. guesthouse) and is located in a separate accessory building, then the following regulations apply:

(a) The accessory dwelling unit must be no closer than 10 feet to the principal building or any other accessory building.

(b) The accessory dwelling unit may not exceed 45 percent of the gross square feet of the principal building.

(c) The accessory dwelling unit shall be located within the building envelope for the lot or parcel.

(d) The accessory dwelling unit shall be designed to be similar in appearance to the principal building.

Sec. 7.02.08. – Mechanical equipment and related structures.

(1) All mechanical equipment including air conditioner units, generators, pool or hot tub pumps and heaters or other similar mechanical equipment shall be located within the building envelope and be screened from view from the street or adjoining property.

(2) Potable water wells and irrigation wells may be located anywhere on a lot or parcel. Supporting or related equipment to the potable water or irrigation well such as, but not limited to, above ground pumps, storage tanks, and filters shall maintain a minimum 5 foot separation from any lot or parcel line and be screened from view from the street or adjoining property. Well coverings (i.e. well houses) shall be no closer than 5 feet to any lot or parcel line and limited to no larger than the minimum required to cover the well and its equipment. If the well covering is within the front or side yard, then it shall be screened from view from the street or adjoining property.

(3) Mechanical equipment and related structures in existence at the time of adoption of this section, but not in compliance with this section, shall be considered legal nonconforming uses as long as they are maintained in a structurally sound and an attractive manner and may be repaired, improved, or replaced as long as the action does not increase the nonconforming situation or does not result in a new nonconforming situation.

Sec. 7.02.09 – Playsets, recreation equipment, sport courts, and other similar equipment or structures

(1) Playsets, recreation equipment, sport courts, and other similar equipment or structures shall comply with the following requirements:

a. Located behind the front of the principal building, meet the required side yard setbacks, placed no closer than 10 feet to a rear property line. If a building permit is required (foundation, electric, plumbing), then for waterfront properties it is placed no closer than 50 feet from the normal high water line. However, if contained within a primary or accessory building, then it shall be located within the building envelope but behind the front of the principal building.

b. There shall be no direct glare visible from any adjacent property from any unshielded or other sources of lighting.

(2) Playsets, recreation equipment, sport courts, and other similar equipment or structures in existence at the time of adoption of this section, but not in compliance with this section, shall be considered legal nonconforming uses as long as they are maintained in a structurally sound and an attractive manner and may be repaired, improved, or replaced as long as the action does not increase the nonconforming situation or does not result in a new nonconforming situation.

Division 7.03.00 – ACCESSORY USES

Sec. 7.023.021. - Home occupations.

A home occupation shall be allowed in a bona fide dwelling unit, subject to the following requirements:

- (1) No person other than members of the family residing on the premises shall be engaged in such occupation.
- (2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and shall under no circumstances change the residential character of the structure. It shall include any business, profession or gainful employment of any sort whatever, which is conducted from a home or residential area, whether inside or outside a dwelling or other building situated thereon.
- (3) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation.
- (4) No home occupation shall occupy more than 20 percent of the first floor area of the residence. No accessory building, freestanding or attached, shall be used for a home occupation.
- (5) No traffic shall be generated by such occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and not other than in any front-yard required pursuant to this Land Development Code.
- (6) No equipment, tools or process shall be used in such a home occupation which creates interference to neighboring properties due to noise, vibration, glare, fumes, odors or electrical interference. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio, telephone or television receivers off the premises or causes fluctuations in line voltage off the premises.

~~(7) Fabrication of articles commonly classified under the terms arts and handicrafts may be deemed a home occupation, subject to other terms and conditions of this definition, and providing no retail sales are made at the home.~~

~~(8)~~ Outdoor storage of materials shall not be permitted.

~~(9) The following shall not be considered home occupations: beauty shop, barbershops, band instrument or dance instructors, swimming instructor, studio for group instruction, public dining facility or tea room, antique or gift shops, photographic studio, graphic (commercial) artist, fortune telling or similar activity, outdoor repair, food processing, retail sales, nursery school or kindergarten.~~

~~(10) The giving of individual instruction to one person at a time such as an art or piano teacher, shall be deemed a home occupation; individual instruction as a home occupation for those activities listed in subsection (9) of this section shall be prohibited. Artists and writers, not instructors, shall not require a business tax receipt.~~

(118) A home occupation shall be subject to all applicable ~~the~~Town and ~~the~~County occupational licensing requirements, fees and other business taxes.

(129) No advertising shall be permitted using a residential address.

(1310) Home occupations such as television repair, building contractors, lawn care, etc., shall be on a called-out basis only.

~~(14) — Home occupations are not encouraged.~~

(1511) Anyone proposing to engage in a home occupation shall make application to the ~~the~~Town ~~the~~Clerk and pay a filing fee which shall be established by resolution of the ~~the~~Town ~~the~~Council and on file in the ~~the~~Town ~~the~~Clerk's office, plus all necessary postage costs for mailing notification to property owners as hereinafter provided. The ~~the~~Town ~~the~~Clerk shall, upon receipt of said application, notify, by certified mail, all property owners within 500 feet of the proposed location of such home occupation, requiring said owners to notify the ~~the~~Town ~~the~~Clerk of their approval or disapproval within 15 days of receipt of such notice. After the expiration of 15 days, the application shall be approved or disapproved by the ~~the~~Town ~~the~~Manager. If the applicant or any of the property owners within 500 feet disapprove of the ~~the~~Town ~~the~~Manager's decision regarding such application, they may request in writing a public hearing before the ~~the~~Town ~~the~~Council. At said public hearing, the ~~the~~Town ~~the~~Council shall make a determination with regard to said application. The ~~the~~Town ~~the~~Council shall be the sole judges of the sufficiency and validity of any application and/or protest for any home occupation.

(1612) Business tax receipts will be issued for one year only and shall be reviewed at the time of renewal by the ~~the~~Town ~~the~~Council before January 1 of each year.

(1713) The ~~the~~Town, acting through its ~~the~~Town ~~the~~Council, shall have the right and authority to revoke any business tax receipts granted under this section for noncompliance with the provisions of this Land Development Code.

~~Sec. 7.02.03. — Household pets. (See division 7.01.00.)~~

~~Household pets are an accessory use and permitted in all zoning districts, subject to all other applicable town regulations. Household pets shall not be considered to include poultry, hoofed animals of any type, predatory animals of the type normally found in zoos, such as lions, tigers, ocelots or pumas, or other animals normally raised for food. The keeping of all such animals is specifically prohibited in all districts. The term "poultry" means any chickens, turkeys, ducks, geese, guinea or similar fowls.~~

~~Sec. 7.02.04. — Exotic species.~~

~~Exotic species of any kind shall not be used, kept or introduced into the town and especially on or adjacent to lands or waters containing unique native habitats.~~

Section 18. Amendments to Subsection 12.03.01(b) of Article XII of the Town's Land Development Code. Subsection 12.03.01(b) of Article XII in the Town's Land Development Code entitled "submittals" is hereby revised by the addition of the underlined language:

Sec. 12.03.01. - Review by town.

* * *

(b) *Submittals.* The town shall consider a proposed minor replat upon the submittal of the following materials:

- (1) An application form provided by the department accompanied;
- (2) 21 paper copies of the proposed minor replat;
- (3) A statement indicating whether water and/or sanitary sewer service is available to the property; and
- (4) Land descriptions and acreage or square footage of the original and proposed lots and a scaled drawing showing the intended division shall be prepared by a professional land surveyor registered in the state. In the event a lot contains any principal or accessory buildings or structures, a survey showing the structures on the lot shall accompany the application.

* * *

Section 19. Amendments to Subsection 12.04.02(b)(3)d of Article XII of the Town's Land Development Code. Subsection 12.04.02(b)(3)d of Article XII in the Town's Land Development Code entitled "certified foundation survey" is hereby revised by the addition of the underlined language:

Sec. 12.04.02. - Review and issuance by the town.

* * *

(b) Permits for development in other than residential areas require approval of the town council.

* * *

(3) Certified foundation survey.

* * *

d. Each application for a land use and/or building permit shall be accompanied by a site plan, drawn to scale and indicating:

1. Property lines;
2. Rights-of-way;
3. Public utilities;
4. Existing and proposed structures;

5. Accessory buildings and structures;
6. Proposed curb cuts;
7. Driveways;
8. Parking areas;
9. Protected trees (their location, DBH, common name, estimated height);
10. Trees proposed for removal (with data set forth in subsection (b)(3)d.9 of this section and the reason for removal);
11. Landscape plans (with grade, spacing, size and names of proposed landscape materials);
12. Irrigation plans;
13. The normal high-water line; and
14. Current waterfront line.

Section 20. Severability. If any provision or portion of this ordinance is declared by a court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this ordinance shall remain in full effect.

Section 21. Codification. The provisions of this Ordinance shall become and be made a part of the town's Code of Ordinances and Land Development Code.

Section 22. Ratification. All other provisions of the Town's Code of Ordinances and Land Development Code shall remain unchanged, ratified, and confirmed by this ordinance.

Section 23. Effective Date. This Ordinance takes effect immediately upon its enactment.

ENACTED this ____ day of ____, 2016, at a regular meeting of the Town Council of the Town of Windermere, Florida.

Town of Windermere, Florida
by: Town Council

by: _____
Gary Bruhn, Mayor

Attest:

Dorothy Burkhalter, CMC
Town Clerk

First reading:

Second reading: