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8 **ORDINANCE**
9 **NUMBER 2022-10**

10
11 **AN ORDINANCE OF LEVY COUNTY, FLORIDA, AMENDING**
12 **THE TEXT OF THE LAND DEVELOPMENT CODE RELATED**
13 **TO ACCESSORY DWELLING UNITS AND ASSOCIATED**
14 **DEFINITIONS; PROVIDING FOR INCLUSION IN THE CODE;**
15 **PROVIDING A SEVERABILITY CLAUSE; PROVIDING A**
16 **REPEALING CLAUSE; PROVIDING A TRANSITION**
17 **CLAUSE AND PROVIDING DIRECTION TO THE CLERK**
18 **AND AN EFFECTIVE DATE.**
19
20

21 **WHEREAS**, Section 1, Article VIII of the Florida Constitution and Chapter 125,
22 Florida Statutes, vest the Board of County Commissioners of Levy County, Florida (the
23 “Board”) with the authority to adopt county ordinances that are not inconsistent with state
24 general or special law and provide the required procedures to adopt such ordinances; and
25

26 **WHEREAS**, in 1990, the Board adopted the Levy County Comprehensive Plan
27 pursuant to the provisions of Chapter 163, Florida Statutes, and have amended the Plan
28 through adoption of subsequent ordinances (the “Comprehensive Plan”); and
29

30 **WHEREAS**, in 1991, the Board adopted the Levy County Land Development
31 Regulations, now codified as Chapter 50 titled “Land Development Code” of the Code of
32 Ordinances of Levy County; and
33

34 **WHEREAS**, the Board desires to amend the Land Development Code to allow
35 property owners to establish separate living quarters on their property that may be used to
36 house guests, to assist friends or relatives, and/or provide rental housing; and
37

Note: deletions shown ~~stricken~~, additions shown underlined.

1 **WHEREAS**, the Board finds that allowing accessory dwelling units, subject to
2 appropriate conditions to limit potential adverse impacts, has the potential to increase the
3 range and supply of accessible and affordable housing in the County; and

4 **WHEREAS**, as required by Part II of Chapter 163, Florida Statutes and Section 50-
5 55 of the Land Development Code, this proposed ordinance has been reviewed by the
6 County Planning Commission for consistency with the Comprehensive Plan and the
7 Planning Commission recommendation has been forwarded to the Board; and

8
9 **WHEREAS**, in accordance with Section 125.66(4)(b), Florida Statutes, notice was
10 given by publication of a first advertisement no less than two columns wide by ten inches
11 long in a newspaper of general circulation notifying the public of this proposed ordinance
12 and of a public hearing in the Levy County Government Center in Bronson, Florida, to be
13 held at least seven days after the day the first advertisement was published; and

14
15 **WHEREAS**, in accordance with Section 125.66(4)(b), Florida Statutes, notice was
16 given by publication of a second advertisement no less than two columns wide by ten
17 inches long in a newspaper of general circulation notifying the public of this proposed
18 ordinance and of a second public hearing in the Levy County Government Center in
19 Bronson, Florida, to be held at least five days after the day the second advertisement was
20 published; and

21
22 **WHEREAS**, in accordance with Section 125.66(4)(b), Florida Statutes, the two
23 public hearings were held at least 10 days apart and at least one of the public hearings
24 was held after 5pm; and

25
26 **WHEREAS**, the Board finds that this proposed ordinance serves a public purpose
27 and benefits the County; and

28
29 **NOW THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of
30 Levy County, Florida, that:

31
32 **SECTION 1.** Certain definitions within Section 50-1 of the Levy County Code, are
33 amended to read as follows. Except as amended herein, the remainder of Sec. 50-1
34 remains in full force and effect.

35
36 **Sec. 50-1. Definitions.**
37

Note: deletions shown ~~stricken~~, additions shown underlined.

1 Accessory dwelling unit means an additional dwelling unit, including a
2 separate entrance and permanent provisions for living, sleeping, eating,
3 cooking and sanitation, that is incidental and subordinate to the principal
4 single family dwelling or principal mobile home dwelling on the lot.

5
6 ~~Guest house means an accessory building to a private dwelling used~~
7 ~~to accommodate guests of the dwelling owner without kitchen facilities.~~

8
9
10 **SECTION 2.** A new Section 50-712 of the Levy County Code is created to read as
11 follows:

12 **Sec. 50-712. Accessory dwelling units.**

13 In all zoning districts that allow residential use, a single accessory dwelling unit is
14 allowed as an accessory use to a principal single family dwelling or a principal mobile
15 home dwelling (referred to in this section as the “principal dwelling”), without being
16 included in density calculations, subject to all of the following requirements:

17 (a) Location. An accessory dwelling unit may be attached or detached from the
18 principal dwelling.

19 (b) Type. An accessory dwelling unit may be a single family dwelling or a mobile
20 home dwelling.

21 (c) Access. An accessory dwelling unit and any off-street parking spaces must be
22 served by the same driveway/driveway connection as the principal dwelling.

23 (d) Standards. An accessory dwelling unit must comply with all standards
24 applicable within the zoning district, including required setbacks and building
25 height limits.

26 (e) Owner occupancy required. Property owner residency in either the principal
27 dwelling or the accessory dwelling unit is required for permitting and continued
28 use of an accessory dwelling unit.

29 (1) Existing principal dwelling. Prior to the issuance of a building permit for
30 the construction of an accessory dwelling unit on a lot with an existing
31 principal dwelling, the owner/applicant must submit a signed affidavit (in
32 the recordable form provided by the county) along with proof of
33 homestead exemption for the principal dwelling; or

34 (2) New principal dwelling and new accessory dwelling unit. Prior to the
35 issuance of building permits for a new principal dwelling and an accessory
36 dwelling unit that are being applied for at or near the same time, the
37 owner/applicant must submit a signed affidavit (in the recordable form

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1 provided by the county) affirming that the property owner will permanently
2 reside and obtain/maintain homestead exemption on the lot.

3 (f) *Building size.* The floor area of the accessory dwelling unit is limited to a
4 maximum of fifty (50) percent of the floor area of the principal dwelling or one
5 thousand two hundred (1,200) square feet, whichever is greater.

6 (g) *Water and wastewater services.* An accessory dwelling unit must be connected
7 to: (1) the central water and central sewer system that serves the principal
8 dwelling; or (2) where central water and central sewer service is not available,
9 a shared well and septic with the principal dwelling and/or its own well and
10 septic, provided all applicable requirements of the Florida Department of
11 Health are met.

12 (h) *No conveyance.* Ownership of an accessory dwelling unit may not be
13 transferred or conveyed and must remain under unified ownership with the
14 principal dwelling.

15 (i) *Minimum lot size.* An accessory dwelling unit is allowed on a lot as small as
16 one (1) acre, provided the total estimated daily flow for the principal and
17 accessory dwelling units combined does not exceed the maximum flow limits
18 established by the Florida Department of Health.

19
20 **SECTION 3.** Section 50-764 of the Levy County Code is deleted in its entirety:

21
22 **Sec. 50-764. – Reserved. Guest houses.**——

23
24 ~~A guest house may be utilized as an accessory use to a private dwelling only if it complies~~
25 ~~with all of the following conditions.~~

26
27 ~~(1) For a guest house to be allowed on a parcel occupied by a mobile home as~~
28 ~~the principal residence, the mobile home must have an "RP" tag.~~

29
30 ~~(2) No guest house may be rented or occupied by tenants rent free in lieu of~~
31 ~~wages.~~

32
33 ~~(3) No guest house may contain kitchen facilities.~~

34
35 ~~(4) No guest house may receive electrical service separate from the meter~~
36 ~~supplying power to the principle residence.~~

37
38 **SECTION 4.** Section 50-852 of the Levy County Code is deleted in its entirety:

39
40 **Sec. 50-852. – Reserved. Hardship variances.**

Note: deletions shown ~~stricken~~, additions shown underlined.

1
2 ~~Hardship variances for reasons of health will not be considered by the board of adjustment.~~
3 ~~Persons or families requesting such a variance will be required to provide the zoning officer~~
4 ~~with a medical certificate documenting the need for the variance, and the zoning officer will~~
5 ~~present the application to the board of county commissioners for their consideration and a~~
6 ~~decision. At a minimum, the following conditions will apply to a hardship variance for~~
7 ~~reasons of health:~~

8
9 (1) ~~Health variances terminate when the health problem is resolved.~~

10
11 (2) ~~Recipients of health variances will be required to submit a status report to the~~
12 ~~zoning officer on a yearly basis, accompanied by a recertification by a doctor or by~~
13 ~~the state department of health that the health problem continues to exist.~~

14
15 **SECTION 5.** Inclusion in the Code. The provisions of Sections 1 through 4 of this
16 ordinance shall become and be made a part of the Levy County Code, and the sections of
17 this ordinance may be renumbered or relettered and the word “ordinance” may be changed
18 to “section,” “article,” “regulation,” or other appropriate word or phrase in order to
19 accomplish the codification.

20
21 **SECTION 6.** Severability Clause. It is declared to be the intent of the Board that if any
22 section, subsection, sentence, clause, phrase, portion or provision of this Ordinance is for
23 any reason declared or held invalid or unconstitutional by any court of competent
24 jurisdiction, such section, subsection, sentence, clause, phrase, portion or provision shall
25 be deemed a separate, distinct and independent provision, and the remainder of this
26 Ordinance shall be not affected by such declaration or holding.

27
28 **SECTION 7.** Repealing Clause. All ordinances or parts of ordinances and all resolutions
29 or parts of resolutions of Levy County in conflict herewith are hereby repealed to the extent
30 of such conflict.

31
32 **SECTION 8.** Transition Clause. Any property owner that was issued a hardship variance
33 under Section 50-852 of the County Code prior to the effective date of this ordinance and
34 that does not meet the requirements of Section 2 of this Ordinance (new Section 50-712 of
35 the Code) will be recognized as a legal non-conforming structure. The property owner will
36 no longer be required to submit yearly health status reports and will not be required to
37 remove the hardship variance dwelling unit when the health issue is resolved. Instead, the
38 hardship variance dwelling unit may remain, subject to the limitations of a non-conforming
39 structure under the County Code. Any hardship variance dwelling that meets all of the

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1 requirements of an accessory dwelling unit set forth in Section 2 of this Ordinance (new
2 Section 50-712) must submit an application to the County Planning and Zoning
3 Department in order to be administratively recognized as an accessory dwelling unit.
4

5 **SECTION 9. Effective Date.** In accordance with Section 125.66, Florida Statutes, the
6 Clerk to the Board of County Commissioners is directed to file this ordinance with the
7 Florida Department of State within 10 days after adoption and upon such filing, this
8 ordinance shall become effective.
9

10 PASSED AND ADOPTED this 17th day of May, 2022.

11 BOARD OF COUNTY COMMISSIONERS
12 OF LEVY COUNTY, FLORIDA
13

14
15 _____
16 Russell Meeks, Jr, Chairman
17

18 ATTEST: Danny J. Shipp, Clerk of
19 the Circuit Court and Ex-Officio Clerk
20 to the Board of County Commissioners
21

22 _____
23 Danny J. Shipp
24

25 Approved as to form and legal sufficiency
26

27 _____
Nicolle M. Shalley, County Attorney

Note: deletions shown ~~stricken~~, additions shown underlined.