

## ORDINANCE 2023-06

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF GADSDEN COUNTY, FLORIDA AMENDING THE LAND DEVELOPMENT CODE BY AMENDING SECTION 5100, RESIDENTIAL STANDARDS AND SUBSECTION 5101, RESIDENTIAL USES AND ADDING SUBSECTION 5108, ACCESSORY DWELLING UNITS IN CHAPTER 5, DEVELOPMENT STANDARDS; AND PROVIDING FOR REPEAL, SEVERABILITY, INCLUSION IN THE GADSDEN COUNTY LAND DEVELOPMENT CODE, MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING, AND CORRECTION OF SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, Chapter 125, Florida Statutes, establishes the right and power of counties to provide for the health, welfare and safety of existing and future residents of the county by enacting and enforcing regulations concerning the use of property necessary for the protection for the public; and

**WHEREAS**, the Board of County Commissioners of Gadsden County has adopted the Gadsden County Land Development Code, as required pursuant to §163.3202, Florida Statutes; and

**WHEREAS**, The Gadsden County Planning Commission, acting as the local planning agency, reviewed this amendment and made a recommendation to the Board of County Commissioners; and

**WHEREAS**, duly noticed public hearing was conducted on such proposed amendment on November 16, 2023 by the Gadsden County Planning Commission and on December 19, 2023 by the Board of County Commissioners.

**WHEREAS**, words with underline type shall constitute addition and ~~strikethrough~~ shall constitute deletions to the original text from the language existing prior to adoption of this Ordinance.

Now therefore, be it ordained by the Board of County Commissioners of Gadsden County, Florida, that:

### **SECTION I:** Approval and Adoption of Amendment.

The amendment to the Gadsden County Land Development Code as attached hereto as Exhibit "A" is hereby adopted and approved.

### **SECTION II:** Repeal

Those parts of Chapter 5 of the Gadsden County Land Development Code in conflict herewith are hereby repealed and superseded to the extent of such conflict and shall have no further effect whatsoever.

If any phrase or portion of this Ordinance, or the particular application thereof, shall be held invalid or unconstitutional by any court, administrative agency or other body with

appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases and their application shall not be affected thereby.

### **SECTION III: Severability**

If any phrase or portion of this Ordinance, or the particular application thereof, shall be held invalid or unconstitutional by any court, administrative agency or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases and their application shall not be affected thereby.

### **SECTION IV: Inclusion in the Land Development Code**

This Ordinance shall be codified in the Gadsden County Land Development Code as set forth in Exhibit "A."

### **SECTION V: Modification**

It is the intent of the Board of County Commissioners that the provisions of this Ordinance, including the amendment attached hereto as Exhibit "A," may be modified as a result of considerations that may arise during public hearings. Such modifications shall be incorporated into the final version of the Ordinance adopted by the Board and filed by the Clerk.

### **Section VI: Scrivener's Errors**

The County Attorney may correct any scrivener's errors found in this Ordinance by filing a corrected copy of the Ordinance with the Clerk.

### **Section VII: Effective Date**

This Ordinance shall become effective as provided by law.

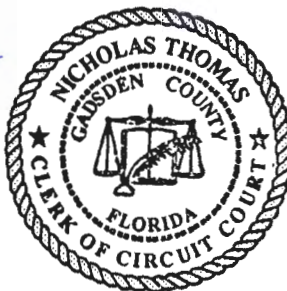
The above and foregoing Ordinance was read and approved at a duly convened public hearing at a regular meeting of the Board of County Commissioners of Gadsden County, Florida, this 19<sup>th</sup> day of December 2023.

BOARD OF COUNTY COMMISSIONERS OF GADSDEN COUNTY, FLORIDA

By: \_\_\_\_\_

Ronterious Green, Chairman

\_\_\_\_\_  
Nicholas Thomas  
Clerk of the Circuit Court



## EXHIBIT "A"

### GADSDEN COUNTY LAND DEVELOPMENT CODE

\*\*\*

#### CHAPTER 5

#### DEVELOPMENT STANDARDS

\*\*\*

**SECTION 5100. RESIDENTIAL STANDARDS.** This section outlines standards applicable to residential land uses which govern lot area, building placement and dwelling unit type. Supplemental performance standards designed to prevent negative impacts not covered elsewhere in this Code are set forth in Subsection 5002 and for manufactured housing in Subsection 5106. Supplemental standards for residential infill development and Special Residential uses are established in Subsections 5104 and 5105, respectively. Subsection 5107 addresses fair housing. Standards for accessory dwelling units (ADUs) are established in Subsection 5108. For criteria and procedures regulating the subdivision of land, refer to Chapter 6.

(Ord. # 2003-006, 8-19-03; Ord. # 2023-06, 12-19-2023)

#### **Subsection 5101. Residential Uses.**

This subsection describes allowable dwelling unit types, requirements for lot area, density, building setbacks and other standards which apply to all residential uses in Gadsden County. The purpose of this Section is to encourage innovative design which preserves the character of the County, while at the same time providing for affordable housing. The development of any residential use shall be permitted only in full compliance with the following standards.

- A. Dwelling unit types. Dwelling unit types are defined in Subsection 2102 of this Code. Subject to supplemental standards in Subsections 5102, 5103 and 5104, any dwelling type or combination of dwelling unit types shall be allowed within Gadsden County on any parcel, when the structures can be so located in full compliance with the provisions of this Code and compatibility of adjacent uses can be achieved. The category of residential uses includes single-family dwellings, accessory ~~apartments~~ dwelling units, multi-family dwellings in a variety of housing types, modular and manufactured housing, but specifically excludes recreational vehicles. (Recreational vehicles are permitted for residential use only in Recreational Vehicle Parks, subject to the requirements of this Code.) While a district may be designated for residential use, it does not follow that any housing type (single-family, apartment, townhouse, etc.) is allowed. Certain areas are limited to one or more housing types in order to preserve the established character of the area.



1. Class I uses: Residential uses shall be considered Class I when developed in areas with Agriculture 1, Agriculture 2, Agriculture 3, Urban Service Area (USA) and Rural Residential land use designations on the Future Land Use Plan Map Series. Multi-family units (up to four units) are considered Class I when developed in USA or Commercial land use categories.
  - a) Single-family: A structure containing one (1) dwelling unit and not attached to any other dwelling unit.
  - b) Multifamily structure: Any residential building containing two (2) or more separate dwelling units. (This includes duplexes, homes with 'in-law' suites, triplexes, and quadraplexes or 4 unit apartment buildings.)
  - c) Manufactured (Mobile) Home.
2. Class II Uses:
  - a) Subdivisions that create more than five lots (seven (7) lots for subdivisions restricted to site built homes) or that require dedication of a public road.
  - b) Multi-family developments of more than four (4) units.
  - c) Mobile Home Parks.

(Ord. # 1996-005, 7-2-96; Ord. # 2003-006, 8-19-03; Ord. #2006-020, 8-29-06; Ord. #2016-015, 11-15-2016; Ord. # 2023-06, 12-19-2023)

\*\*\*

#### **Subsection 5108. Accessory Dwelling Units.**

- A. Accessory Dwelling Unit Defined. An accessory dwelling unit (ADU) is a site-built secondary residential dwelling unit constructed on the same parcel as a primary residential dwelling unit. The ADU must be incidental and subordinate to the primary residential dwelling unit.
- B. General Requirements.
  1. Accessory dwelling units (ADU) are allowed in single-family residential land use categories that allow accessory dwelling units; provided the ADU and the principal residential unit are owned by the same owner at all times, the ADU must have a separate E-911 address, and the ADU is incidental to an owner occupied principal residential unit.
  2. Prior to constructing an ADU, the property owner must own at minimum one upland acre under one parcel ID number. The construction or existence of an accessory dwelling unit (ADU) shall be allowable by right regardless of the allowable density in which the parcel is located. Prior to the development of

ADUs, ADU applications must be obtained from the Growth Management Department, and the final inspection must occur prior to the issuance of the certificate of occupancy.

3. Pursuant to Section 163.31771 (4), F.S., an application for a building permit to construct an accessory dwelling unit must include an affidavit from the applicant which attests that, if rented, the unit will be rented at an affordable rate to an extremely-low-income, very-low-income, low-income, or moderate-income person or persons.

C. Development Standard Requirements. Accessory dwelling units shall be constructed on privately owned residential properties, incidental to principal residential unit with the following development standards requirements:

1. No more than one ADU shall be permitted on any owner-occupied single-family residential parcel. The ADU cannot exist or be constructed prior to the principal residential unit.
2. The ADU shall be located and designed not to interfere with the appearance of the principal residential unit and shall be clearly subordinate to the principal residential unit in keeping with the following:
  - a) The ADU is consistent with land use designation and the setback requirements applicable to the principal residential unit, unless otherwise allowed by Table 5108;
  - b) ADUs are exempt from districts density limitation and parking requirements; however, are subject to land development code setback, height, and impervious surface ratio requirements;
  - c) The ADU shall be placed towards the rear or side of the property;
  - d) The ADU shall be limited to a maximum of 80% of the principal residential unit's livable area;
  - e) The ADU shall not exceed the height of the principal residential unit;
  - f) ADUs shall utilize a separate utility meter from the principal residential unit;
  - g) Accessory dwelling units shall not be sold separately from the principal residential unit;
  - h) ADUs shall be connected to the same common driveway as the principal residential unit, and provided legal access is from the same right-of-way or easement;



- i) The accessory dwelling unit shall not be available for short-term vacation rental;
  - j) Recreational vehicle(s) shall not be utilized as an accessory dwelling unit;
  - k) In no instance shall a mobile home, standard design manufactured home, or storage shed be used as an accessory dwelling unit;
  - l) ADUs shall be constructed in compliance with the current Florida Building Code; and
  - m) ADU requires an additional septic system; the subject parcel must have a minimum of one (1) acre of developable uplands.
- D. Design Standards. Accessory dwelling unit shall be detached from the principal dwelling unit and shall be located in rear yards or side yards in accordance with the following standards:

**Table 5108 Design Standards**

<u>Min. Setback from Principal Residential Unit</u>	<u>15' from the rear or side of the principal residential unit</u>
<u>Min. Interior Side Setback</u>	<u>Side setbacks must total 25' or more, and be no less than 10' on any side</u>
<u>Min. Rear Setback</u>	<u>10'</u>
<u>Min. Side Setback on Corner Lots</u>	<u>20'</u>
<u>Living Area</u>	<u>Min. 310 sf</u> <u>Max. 80% of the square footage of the principal residential unit livable area.</u>

(Ord. # 2023-06, 12-19-2023)