

ORDINANCE 21-11 (f.k.a. ORD. 20-15)

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS MANATEE COUNTY, FLORIDA AMENDING THE MANATEE COUNTY LAND DEVELOPMENT CODE; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FINDINGS; AMENDING THE LAND DEVELOPMENT CODE BY AMENDING CHAPTER 2, DEFINITIONS TO PROVIDE DEFINITIONS FOR “ACCESSORY DWELLING UNIT (ADU)” AND “OBSCURE GLASS”; AMENDING CHAPTER 4, ZONING BY ADDING “ACCESSORY DWELLING UNIT” AS A USE IN SPECIFIED ZONING DISTRICTS IN SECTION 401.2, SCHEDULE OF USES TABLE 4-1 – USES IN AGRICULTURAL AND RESIDENTIAL DISTRICTS; TABLE 4-12 - SCHEDULE OF USES FOR PLANNED DEVELOPMENT (PD) DISTRICTS; TO AMEND SECTION 401.3. – BULK AND DIMENSIONAL REGULATIONS, TO PROHIBIT OUTDOOR STAIRWAYS ASSOCIATED WITH ADUS FROM ENCROACHING INTO THE ZONING DISTRICT STANDARD SETBACKS OR FROM BEING LOCATED ON THE REAR OF THE ADU; AND BY ADDING LANGUAGE TO SECTION 403.132, WHITFIELD RESIDENTIAL OVERLAY DISTRICT, TO PROHIBIT THE CONSTRUCTION OF AN ADU; AMENDING CHAPTER 5 – PART II - STANDARDS FOR ACCESSORY USES AND STRUCTURES, TO CREATE A NEW SECTION 511.18 – ACCESSORY DWELLING UNITS (ADUs), TO PROVIDE DEVELOPMENT STANDARDS AND GUIDELINES FOR ACCESSORY DWELLING UNITS; PROHIBITING ADUS IN THE BAYSHORE GARDENS PARK AND RECREATION DISTRICT AND ADDING MAP 5.1 DEPICTING THE BOUNDARIES OF THE DISTRICT; PROVIDING THAT ACCESSORY DWELLING UNITS SHALL NOT BE CONSIDERED DWELLING UNITS FOR DENSITY CALCULATIONS; AMENDING SECTION 531.32.C.1, MOBILE HOMES, MOBILE HOME SUBDIVISIONS, AND MOBILE HOME PARKS TO EXEMPT MOBILE HOMES USED AS ACCESSORY DWELLING UNITS FROM CERTAIN MOBILE HOME STANDARDS; AMENDING CHAPTER 10, TRANSPORTATION MANAGEMENT; SECTION 1005, OFF-STREET PARKING; RATIOS, TO ADDRESS PARKING REQUIREMENTS FOR ACCESSORY DWELLING UNITS; PROVIDING FOR OTHER AMENDMENTS AS MAY BE NECESSARY FOR INTERNAL CONSISTENCY; PROVIDING FOR CODIFICATION; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on June 4, 2015, the Board enacted Ordinance No. 15-17 amending and restating the Manatee County Land Development Code (the “Land Development Code”) which has been subsequently amended; and

WHEREAS, Section 163.3174(1), Florida Statutes, requires that the governing body of each local government in Florida shall designate and by ordinance establish a “local planning agency”; and

WHEREAS, the Manatee County Planning Commission has been duly designated in Section 301 of the Land Development Code as the Local Planning Agency of the County; and

WHEREAS, Section 163.3174(4)(c), Florida Statutes, provides that the Local Planning Agency shall review proposed land development regulations and make recommendations to the governing body as to consistency of the proposed land development regulations with the adopted Comprehensive Plan; and

WHEREAS, Section 301.1.D. of the Land Development Code authorizes the Planning Commission to hold public hearings and make recommendations as to proposed amendments to the text of the Land Development Code; and

WHEREAS, the Planning Commission acting in its capacity as the Local Planning Agency, held a duly noticed and advertised public hearing on April 11, 2019, June 13, 2019, October 8, 2020 and May 13, 2021, in accordance with Section 341.2 of the Land Development Code and to receive public comment; and

WHEREAS, the Planning Commission, acting in its capacity as the Local Planning Agency, held a duly noticed and advertised public hearing on April 11, 2019, June 13, 2019, October 8, 2020 and May 13, 2021, found LDCT Amendment 20-03/Ordinance No. 21-11 to be consistent with the Manatee County Comprehensive Plan (“the Comprehensive Plan”), and recommended that the Board of County Commissioners adopt the LDCT Amendment 20-03/Ordinance No. 21-11 into the Land Development Code of the County; and

WHEREAS the Board held two (2) adoption public hearings on June 20, 2019, November 5, 2020, December 10, 2020, June 3, 2021 and June 17, 2021, to receive public comments and consider the recommendation of the Planning Commission as to the proposed LDCT Amendment 20-03/Ordinance No. 21-11; and

WHEREAS, the Board has found and determined that the adoption of the proposed LDCT Amendment 20-03/Ordinance No. 21-11 will foster and preserve the public health, safety and welfare and aid in the harmonious, orderly and progressive development of the County and thus will serve a valid public purpose.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Manatee County, Florida;

Section 1. Purpose and Intent. This Ordinance is enacted to carry out the purpose and intent of, and exercise the authority set out in the “Community Planning Act”, codified as Chapter 163, Part II, Florida Statutes, and Chapter 125, Florida Statutes, as amended.

Section 2. Findings. The recitals set forth in the Whereas clauses above are true and correct and are hereby adopted as findings by the Board of County Commissioners for the adoption of the Ordinance.

Section 3. Adoption of the Land Development Code Text Amendment. The Land Development Code Text Amendment attached to this Ordinance and incorporated herein as Exhibits 1 through 4 are hereby adopted as Amendments to the Land Development Code of the County. The Land Development Code Text Amendment shall consist of the following Chapters and Sections of the Land Development Code as set forth in the following four (4) Exhibits:

- (a) Exhibit 1 - Chapter 2, DEFINITIONS;
- (b) Exhibit 2 - Chapter 4, ZONING;
- (c) Exhibit 3 - Chapter 5, STANDARDS FOR ACCESSORY AND SPECIFIC USES AND STRUCTURES; and

(d) Exhibit 4 - Chapter 10, TRANSPORTATION MANAGEMENT

Section 4. Codification. The publisher of the County’s Land Development Code, the Municipal Code Corporation, is directed to incorporate the Amendments in Section 3 of this Ordinance into the Manatee County Land Development Code.

Section 5. Applicability. The Amendments set forth in this Ordinance shall apply to all applications, decisions or controversies pending before the County upon the effective date hereof or filed or initiated thereafter.

Section 6. Severability. If any section, sentence, clause, or other provision of this Ordinance, or other provision of the Land Development Code Text Amendment contained within Application LDCT-20-03 shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance, or the LDC Text Amendment, as the case may be.

Section 7. Effective Date. This Ordinance shall become effective as provided by law.

PASSED AND DULY ADOPTED with a quorum present and voting this 17th day of June 2021.

**BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA**

BY: _____
Vanessa Baugh, Chairperson

ATTEST: **ANGELINA COLONNESO
CLERK OF THE CIRCUIT COURT AND COMPTROLLER**

BY: _____
Deputy Clerk

Exhibit 1 – Chapter 2, DEFINITIONS

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Accessory Dwelling Unit (ADU) shall mean an attached or detached residential dwelling unit, with cooking and bathroom facilities, which is subordinate and separate from the primary dwelling unit.

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Obscure Glass shall mean glass with reduced transparency, that distorts the view from both sides, revealing only silhouettes (i.e. frosted glass).

DRAFT, Ver. 6

Exhibit 2 – Chapter 4, ZONING

Table 4-1: Uses in Agriculture and Residential Districts

Land Use	See Section #	CON	A	A-1	RSF	RSMH	RDD	RMF	VIL
Residential Uses									
<ul style="list-style-type: none"> • <u>Residential Use:</u> <u>Accessory Dwelling Unit</u> 	<u>511.18</u>	<u>X</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P</u>

“X” = prohibited; “P” = permitted

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401.3. - Bulk and Dimensional Regulations.

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F. Yard Encroachments. Every part of a required yard shall be open and unobstructed from thirty (30) inches above the finished grade of a lot upward, except as hereinafter provided or as otherwise permitted in this Code. Structures less than thirty (30) inches in height above final grade are not considered yard encroachments, except in drainage swales and easements, where no encroachments are permitted, except as described in paragraph 6 below. No structure shall be built or erected which would require railings or construction to encroach or extend upward above thirty (30) inches above the finished grade, except as provided under paragraph 1, below. No structure shall be built or finish grade to be constructed or altered which will cause stormwater to flow onto adjacent property. In those developments where the required yards are determined by a specified distance between buildings, this regulation shall likewise apply and the midpoint of the shortest line that can be drawn between the two (2) buildings shall be employed as the lot line.

...

5. Outside *Stairways*. An outside *stairway*, unenclosed above and below the steps thereof, may extend four (4) feet into any required side or rear yard, but not nearer to any side lot line than a distance of ten (10) feet. Stairways for Accessory Dwelling Units shall not encroach into the zoning district’s standard setbacks or be located on the rear of the ADU.

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Table 4-12: Schedule of Uses for PD Districts

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RESIDENTIAL														
Land Use		PDR	PDO	PDC	PDRP	PDI	PDPI	PDW	PDMU	PDRV	PDMH	PDGC	PDA	PDEZ
<u>Accessory Dwelling Unit</u> ⁶	<u>511.18</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P</u>	<u>X</u>
Assisted Living Facility, Large ¹	531.45	P	P	P	X	X	P	X	P	X	X	X	P	X
Assisted Living Facility, Small ¹	531.45	P	P	P	X	X	P	X	P	X	X	X	P	X
Community Residential Homes	531.44	P	X	X	X	X	P	X	P	P	P	X	P	X
Group Housing	531.23	X	X	X	X	X	P	X	P	X	X	X	X	X

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P = Permitted (see [Section 315](#)); SP = Special Permit (see [Section 316](#)), P = Permitted, X = Not Permitted; P/SP = Administrative Permit required as specified in [Chapter 3](#) or elsewhere in this Code.

¹ Acute medical facilities are not allowed within the Coastal Evacuation Area, as defined in the Comprehensive Plan.

² Hotels are allowed only where the underlying Future Land Use category is Industrial-Light (IL).

³ Limited to three thousand (3,000) square feet in gross floor area.

⁴ Asphalt/Concrete Processing, Manufacturing, or Recycling Plants are prohibited from locating on property within the Watershed Protection Overlay District.

⁵ FSEDs are required to be located within the Retail/Office/Residential (ROR) or the Mixed Use (MU) Future Land Use Categories.

⁶ If expressly approved in the zoning ordinance and any site plan approving the Planned Development project, or unless expressly approved as an amendment to existing Planned Development Zoning Ordinance and any applicable site plan.

NOTES:

- Uses identified as "Permitted Uses" in all Planned Development Districts may be permitted in conjunction with a PD approval. PD zoning in itself does not constitute approval to develop.
- Uses may be further restricted or modified by the overlay district regulations.

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403.13. - Whitfield Residential Overlay District (WR).

A. Purpose and Intent. The WR District is established to: (1) officially designate areas having special and substantial public interest in protection of existing or proposed character, or of principal view of, from, or through the WR Overlay District; (2) provide additional land use controls to protect the established, primarily residential character of that part of Manatee County previously known as the "Whitfield Zoning District."

B. Boundaries. The WR District corresponds generally to the area outlined as WR in the Official Zoning Atlas. This zoning classification is not intended to be applied elsewhere in Manatee County.

C. Use and Dimensional Regulations. In addition to, any other requirements of this Code, the following regulations shall apply to all land in the WR District used or developed for residential dwelling units on individual lots.

1. Front Yard Setbacks. The front yard setback shall be thirty (30) feet except that the front yard setback shall be forty (40) feet for all property platted as part of Ballentine Manor Estates Subdivision, as shown in Plat Book 2, Page 136, of the Official Records of Manatee County, Florida.

2. Minimum Floor Area.

- Single Family Detached: 1,400 sq. ft.

- All Other Residential: 950 sq. ft./dwelling unit. The construction of an Accessory Dwelling Unit is prohibited.

3. Accessory Uses and Structures. This section applies to all residential uses.

a. Accessory uses and structure(s) shall not be located in any required yard other than a rear yard except for statues, arbors, trellises, flagpoles, planters, mailboxes, outdoor lighting, or similar structures; or fences in the side yard.

b. An accessory structure(s), when allowed, shall not occupy more than twenty-five (25) percent of a required rear yard area.

Exhibit 3 – Chapter 5, STANDARDS FOR ACCESSORY AND SPECIFIC USES AND STRUCTURES

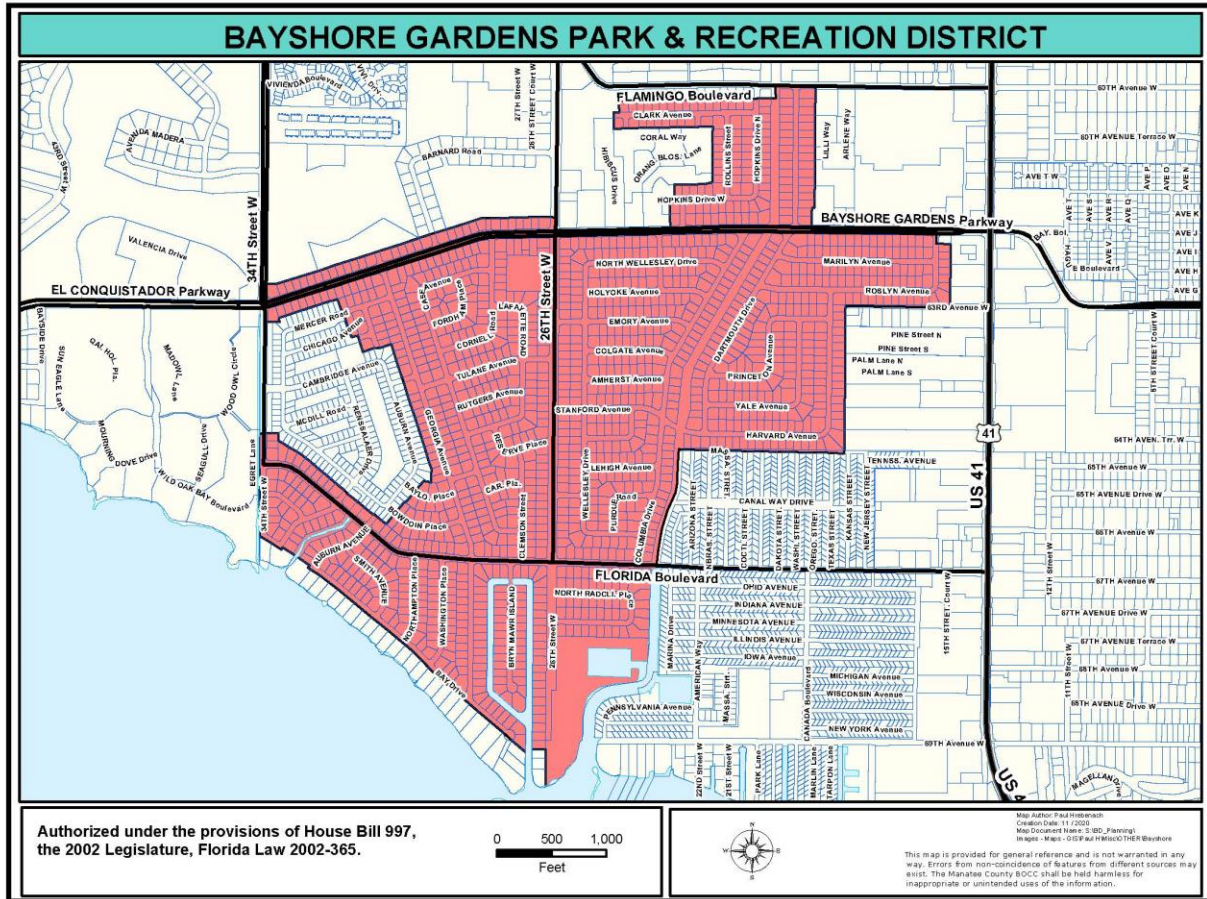
Section 511.18 Accessory Dwelling Units (ADUs)

Section 511.18.A INTENT AND PURPOSE

This Section is intended to address the establishment of Accessory Dwelling Units (ADUs). The following criteria constitutes the standards that the County shall use to evaluate a proposed accessory dwelling unit:

1. An accessory dwelling unit shall be limited to parcels containing one (1) existing dwelling, single family detached or one (1) existing mobile home (A Zoning District only) and on parcels zoned: A, A-1, RSF, PD, and within the Village Zoning Districts. ADUs are prohibited within the Whitfield Residential Overlay District (WR, Section 403.13), and the Bayshore Gardens Park and Recreation District, an independent recreation district authorized pursuant to Chapter 2002-365, Laws of Florida (See Map 5-1 for current boundaries).
2. An accessory dwelling unit shall be held in common ownership with the principal dwelling unit. Either the accessory dwelling unit or the primary dwelling shall be owner occupied.
3. An accessory dwelling unit shall not be considered a dwelling unit for purposes of calculating density.

Map 5-1: Bayshore Gardens Park and Recreation District (an independent recreation district)



Section 511.18.B DEVELOPMENT STANDARDS

Accessory dwelling units shall be subordinate to the primary dwelling and shall meet all applicable requirements of the Land Development Code (LDC). Their placement shall prioritize privacy for adjacent properties over the privacy between the principal dwelling and ADU on the lot. These units, excluding mobile homes that are permitted in the A zoning district, shall match the principal dwelling's color and architectural style.

1. ADUs, attached or detached, shall follow the setback and height requirements of the principal dwelling's standard zoning district or meet the following requirements:
 - a. Detached
 - i. The rear yard setback may be reduced to a minimum of ten (10) foot side and rear yard setback requirement if the ADU:

1. Has obscure glass windows facing neighboring properties or the windows are adequately screened by foliage or a fence; and
2. Has a maximum height of twelve (12) feet and shall be a single story, with no lofts.

b. Above a Detached Garage

i. The rear yard setback may be reduced to a minimum of fifteen (15) foot side and rear yard setback requirement if the ADU:

1. Is constructed over an existing garage that is positioned in line with or behind the façade of the primary dwelling;
2. Has obscure glass windows on all exterior windows facing neighboring properties; and
3. Has a maximum structure height of twenty-four (24) feet, and maximum exterior wall height of twenty (20) feet.

2. The floor area of any ADU shall not exceed the following maximum allowances:

Maximum Accessory Dwelling Unit Square Footage

Zoning District	Maximum Square Footage
<u>RSF, PD, VIL</u>	<u>750</u>
<u>A, A-1</u>	<u>1,000 or 80% of primary structure, whichever is less</u>

3. Mobile homes meeting the standards of Section 531.32, this section, and are legally permitted, may be used as an accessory dwelling unit, in the A zoning district.

- a. Mobile homes may be used as an ADU, provided that they meet the square footage limitation of 511.18.B.2.;
- b. The minimum roof overhang shall be one (1) foot on all sides. The fascia of the overhang shall be a minimum width of six (6) inches;
- c. The exterior finish shall be horizontal lap siding or brick, or similar materials;
- d. Foundations shall be continuous block or masonry or compatible in appearance to foundations or residences built on adjacent or nearby

locations; and

- e. Exterior window treatments such as shutters or awnings shall be provided on the exterior facade fronting all streets.
4. Exterior stairways shall not encroach into the zoning district's standard setbacks and may not be located on the rear of the ADU. Porches or balconies on ADUs must be built facing the principal dwelling.
5. The ADU shall comply with all applicable requirements of the Florida Building Code and shall be constructed with material that meets all building and safety requirements subject to the approval of the Building Official.
6. One (1) off-street parking space shall be provided for an accessory dwelling unit. Off-street parking for the accessory dwelling unit may be provided on an existing driveway leading to a garage or carport but must be in addition to any parking required for the primary single-family residence. The parking space location shall be submitted with the building permit. The location of the designated parking space shall be delineated on the lot survey and shall be included in the building permit application.
7. Conforming lots with a principal dwelling unit shall be limited to one ADU, or one guest house.
8. Concurrent with recording of the Notice of Commencement, a Notice to Buyers shall be recorded in the Official Records of Manatee County at the expense of the Applicant that states: The property owner must occupy either the primary dwelling unit or the Accessory Dwelling Unit (ADU) in perpetuity. A copy of the Notice to Buyers shall be included in the Building Permit Application.

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Section 531.32. - Mobile Homes, Mobile Home Subdivisions, and Mobile Home Parks.

Any proposed mobile home which complies with the following standards may be approved administratively in the A and VIL zoning districts; otherwise, Special Permit approval is required.

- A. Individual mobile homes shall be set back from the front property line at least fifty (50) feet.
- B. The minimum size of new parcels and lots of record used for an individual mobile home shall be a minimum of five (5) acres.
- C. All mobile homes shall meet Federal and State construction and safety standards, in addition to the following.
 1. The minimum width of the main body of the manufactured home shall not be less than twenty-four (24) feet, as measured across the narrowest portion, or at the Department Director's discretion, that the manufactured meets the intent of the twenty-four (24) foot width. This

subsection shall not apply to mobile homes utilized as an accessory dwelling unit within the A zoning district, in accordance with Section 511.18;

2. The minimum roof overhang shall be one (1) foot on all sides. The fascia of the overhang shall be a minimum width of six (6) inches;
3. The exterior finish shall be horizontal lap siding or brick, or similar materials;
4. Foundations shall be continuous block or masonry or compatible in appearance to foundations or residences built on adjacent or nearby locations; and
5. Window treatments such as shutters or awnings shall be provided on the exterior facade fronting all streets.

Exhibit 4 – Chapter 10, TRANSPORTATION MANAGEMENT

Table 10-2: Parking Ratios		
Use	Spaces/Sq. Ft or Unit of Measure	Notes
<i>Residential Uses:</i>		
<u>Accessory Dwelling Units</u>		<u>19</u>

Table Notes:

19. Off-street parking for the accessory dwelling unit may be provided on an existing driveway leading to a garage or carport but must be in addition to any parking required for the primary single-family residence.