

ORDINANCE 2008- 22

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA AMENDING THE NASSAU COUNTY LAND DEVELOPMENT CODE; AMENDING SECTION 28.15, ACCESSORY STRUCTURES BY PROVIDING USE AND DIMENSIONAL CRITERIA FOR ACCESSORY STRUCTURES; PROVIDING FOR SOLAR ENERGY SYSTEMS AND WIND TURBINES; AMENDING ARTICLE 32 BY DEFINING ACCESSORY BUILDINGS, SOLAR ENERGY SYSTEM, WIND TURBINE, BORROW PIT, YARD, FRONT AND CORNER; AMENDING SECTION 6.02, PERMITTED YARD ENCROACHMENTS; AMENDING SECTION 22.03, CONDITIONAL USES IN THE OR DISTRICT BY ADDING SOLAR PHOTOVOLTAIC FARMS; PROVIDING FOR FINDINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the 2008 Florida Legislature amended Sec. 163.04, F.S. to preclude local governments from banning the installation of solar collectors and energy devices based upon renewable resources; and

WHEREAS, Nassau County desires to address renewable energy technologies in a pro-active manner through its Land Development Code; and

WHEREAS, the provisions of this Ordinance provide development standards, criteria and regulations consistent with the Nassau County Comprehensive Plan; and

WHEREAS, other than solar farms consisting of commercial collection and conversion to electrical energy, Nassau County deems renewable energy devices to be permitted accessory uses thereby necessitating associated amendments to the definitions and standards for accessory uses found in the Land Development Code; and

WHEREAS, the Planning and Zoning Board conducted public hearings on this Ordinance on October 7, 2008 and November 4, 2008 and voted to recommend adoption by the Commission; and

WHEREAS, legal notice of this Ordinance has been provided in accordance with Sec. 125.66, F.S.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA:

SECTION 1. FINDINGS

1. This Ordinance is consistent with Chapter 163, F.S.
2. This Ordinance is consistent with the Nassau County Comprehensive Plan in particular Policy 6.07.02

SECTION 2. AMENDMENTS TO LAND DEVELOPMENT CODE

Section 28.15, Accessory Uses and Structures; Article 32, Definitions; Section 22.03, Conditional Uses in the "OR", Open Rural zoning district; and Section 6.02, Encroachment and Reduction of Lot Area are hereby amended to read as follows:

28.15. Accessory Uses and Structures

- A. Accessory uses and structures are permitted in all districts provided such uses and structures are of a nature customarily incidental to a permitted principal use or structure and is located on the same lot (or contiguous lot in the same ownership) with such use . Any structure of portion thereof, attached to the principal structure on a lot by a roof, shall be considered part of the principal structure and not an accessory building. Accessory uses shall not involve operations or structures not in keeping with the character of the district where located. The square footage of an individual accessory structure shall not exceed the square footage of the principle (main) structure's footprint however, the foregoing square footage limitation shall not be applicable to any lot containing one acre or more of upland area.
- B. Accessory uses and structures shall not be located in required front of or side yards in any zoning district except as follows:
1. Accessory structures for the housing of persons such as guest houses ~~or servants quarters~~ shall not be located in any required yard.
 2. In residential districts, detached accessory structures (other than as in #1 above) which are separated from the principal structure by at least 10 feet, may be located in a required side of or rear yard, but not less than six (6) feet from any lot line, nor within any easement of record.
 3. Air conditioning compressors or other equipment designed to service the main structure may be located in any required side or rear yard, but must be at least six (6) feet from any lot line.
- C. Dog houses, pens and similar structures for the keeping of commonly accepted household pets allowed in all districts. In residential districts, the number of such pets over ten (10) weeks of age shall not exceed four (4) unless a conditional use permit has been granted allowing a greater number.
- D. The following accessory uses and structures shall be permitted in any residential or Open Rural district

1. Non commercial greenhouses and/or plant nurseries
2. ~~Servants quarters or Guesthouses~~ subject to:
 - a. Metered off principle structure (no separate electric meter). If a separate meter is deemed unavoidable by the franchised electric provider, the additional electric meter shall be in the same name of primary meter.
 - b. Guest house square footage cannot exceed square footage of the primary use
 - c. For gratuitous guests not extending longer than six months in any one year period.
3. Private garages and carports, provided no detached garage or carport be designed to accommodate more than three (3) vehicles, unless a conditional use permit has been granted for such and all other requirements of this ordinance have been met.
4. Private boat houses or RV shelters, provided such structures do not exceed one thousand (1,000) square feet in area (OR districts only) and are not live in or "condo" type shelters.
5. Tool and/or garden sheds, pump houses, barbecue pits.
6. Swimming pools and related bathhouses, subject to conditions in Section 28.15 E below.
7. ~~Facilities for security guards and caretakers and similar structures which:~~
 - a. ~~Do not involve business of any kind~~
 - b. ~~Are of a nature not likely to attract visitors in larger number than would normally be expected in a residential neighborhood~~
 - c. ~~Do not involve operations or structures not in keeping with the character of a residential neighborhood.~~
7. Solar energy systems. When affixed to a residential structure shall be roof mounted, not to exceed two feet above existing roof line. Ground mounted systems are subject to applicable setbacks for accessory structures.
8. Multifamily districts (RG-1 and RG-2): Temporary or permanent sales or rental offices provided such sales or rentals are for the dwelling units or lots located on the same premises.

9. Temporary sales offices: The temporary use of a residential structure as a sales office shall be in accordance with the Florida Building Code, Chapter 104.1.2, temporary structures and shall be limited to a duration of one (1) year unless an extension is requested and approved by the building official, in accordance with Section 104.5.1, permit intent.

E. Swimming pools and bathhouses are permitted as accessory uses in any district. Private swimming pools, as regulated herein, shall be any pool, pond, lake, open tank located either above or below the existing finished grade of the site, not located within a completely enclosed building, and exceeding one hundred fifty (150) square feet in surface area and two (2) feet in depth, designed to be used for swimming or bathing purposes. A private swimming pool shall be allowed in any residential district as an accessory use only if it fully complies with the following conditions:

1. The pool is to be used solely for the enjoyment of the occupants or bona fide guests
2. The pool is not located closer than ~~five (5)~~ seven and one half (7.5) feet to any side or rear property line, ~~and is not~~ No swimming pool shall be located in the required side or front yard. If the pool is enclosed by a screened enclosure (i.e., screening material walls and roof), the screened enclosure shall not be closer than ten (10) seven and one half (7.5) feet to any side or rear property line.
3. The pool shall be enclosed as required by Section 424.2.17.1.1 through 424.2.18 of the Florida Building Code.
4. For purposes of measuring pool setbacks, the yard shall be measured from the outside of the bulkhead (water line) of the pool structure. The above setbacks shall be observed unless the setbacks for the respective district are less than 7.5 feet
5. Notwithstanding any of the above setbacks, no portion of any swimming pool deck or screen enclosure shall be located within a utility, drainage or access easement.

F. In the case of double frontage lots, accessory buildings shall observe front yard requirements on both street frontages wherever there are

any principal buildings fronting on said streets in the same block or adjacent blocks.

- G. On corner lots, a detached accessory building shall not be located closer to the side property line along a public street than the permitted distance for the main building on the lot.
- H. No accessory building shall be located on a residential lot unless a principal building is also located on the same lot.

Article 32. DEFINITIONS

YARD: An open space at grade between a main building and the adjoining lot lines, unoccupied and unobstructed by a structure or portion of a structure except as permitted in the Code. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building shall be used. - For the purposes of this Code, setback is synonymous with yard. For allowable encroachments, see Section 6.02.

YARD, FRONT: A yard extending across the front of a lot between the side lot lines and being the minimum horizontal distance between the street line and the principal building or any projections thereof, other than the projections of uncovered steps, uncovered balconies or uncovered porches. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension. On double frontage lots, the front yard shall be measured from the road of lower functional classification, other than an alley. If both streets have the same functional classification, the orientation of the house and driveway shall determine the front yard. ~~In the case of corner lots or lots with more than one (1) street frontage, a front yard of the required depth shall be provided on one (1) frontage as to be determined by the senior planner.~~ The required front yard of the other frontage may be reduced by twenty (20) percent, unless the prevailing front yard pattern on adjoining lots indicated otherwise. In such case the senior planner may waive the requirement for the normal front yard and substitute, therefore, a special yard requirement which shall not exceed the average of the yards provided on adjacent lots.

ACCESSORY BUILDINGS AND USES:

A subordinate building or portion of a main building, the use of which is incidental to that of the dominant use of the main building or land, including but not limited to: accessory signs, ~~bona fide servants' quarters~~ and swimming pools, sheds, decks, piers, detached garages, guest houses, wind turbines and solar energy systems that operate on a nonprofit basis. An accessory use is one that is incidental to the main use of the premises.

SOLAR ENERGY SYSTEM: Equipment for capturing the energy of the sun and converting it to usable thermal or electrical energy. Such devices include solar photovoltaic devices and solar thermal panels.

WIND TURBINE: A device for capturing kinetic wind energy and converting it to electrical energy.

BORROW PIT: A location where soil or other natural deposits on or in the earth are removed from their location and sold commercially for use to build up land. No processing is involved, except for the use of scalping screen to remove large rocks, wood, and other debris. The materials are used more for their bulk than their intrinsic qualities. Where a size in acres is specified in this Code, size refers to the land area measured at top of bank.

Section 22.03. Conditional uses.

(A) See article 28, section 28.14.

(B) Radio or television broadcasting office, studio, transmitter, antenna, and line of sight relay device.

(C) Class III landfill and construction and demolition (C&D) debris disposal sites (as defined by section 17-701, Fla. Administrative Code, subject to the following conditions:

- (1) Minimum lot size of ten (10) acres (excluding wetlands as defined by the Department of Environmental Protection (DEP) and areas located within a flood hazard zone as depicted on the flood insurance rate maps for Nassau County.
- (2) Maintain a minimum setback of one hundred (100) feet from any DEP defined wetland or property boundary under different ownership.
- (3) Provide and maintain an opaque buffer of vegetation within the surrounding setback area.
- (4) Obtain required approval and permits from DEP and SJRWMD.

- (5) Record the use on any deeds or surveys of the property.
- (D) Race track for vehicles or animals.
- (E) Animal hospital, veterinary clinic, agricultural, animal and environmental science and research and educational center, animal boarding place, fur farm, dog kennel, provided no structure for the housing of animals shall be located within two hundred (200) feet of any residence of different ownership.
- (F) Rifle, shotgun or pistol shooting range, field archery range, golf course, golf driving range, [par] three golf course, country clubs and private clubs.
- (G) Private outdoor recreational uses such as parks and playgrounds, sport fields and courts, swimming pools, camps, camping areas and private indoor recreational and entertainment facilities such as bowling alleys, gymnasiums, spas, exercise facilities, swimming pools, meeting rooms, theaters, and game rooms and similar uses.
- (H) Marina, bait and tackle shop, commercial hunting or fishing camp.
- (I) Hospitals, sanitariums, mental health centers, rest homes, nursing homes, convalescent homes, group homes and homes for orphans and aged.
- (J) General store, feed store or convenience store.
- (K) Churches, monasteries, convents, cemeteries, crematories, columbariums, and mausoleums.
- (L) Borrow pits (in excess of one (1) acre in size), sawmills, railroad yards, railroad right-of-way and trackage.
- (M) Aircraft landing fields and fly-in developments, provided all Federal Aviation Administration (FAA) rules and regulations are met.
- (N) Poultry and animal slaughtering and dressing facility, livestock auction facility.
- (O) Lodge halls.
- (P) Gasoline dispensing facility containing not more than one (1) pump island with not more than four (4) gasoline and/or fuel pumps, provided no repairs or other automobile services are offered, are permitted.
- (Q) Truck and equipment storage and repair. Truck and equipment storage and repair, if the truck and/or equipment is used in the agricultural, timber cutting, horticulture, forestry, or silviculture business. No automobile repair or automobile body work shall be permitted.
- (R) Day nurseries, kindergartens, day care and child care centers licensed for fifteen (15) or more children.
- (S) Bed and breakfast inns.
- (T) Schools, colleges and universities.
- (U) Educational and research institutions, foundations and other not-for-profit organization involved primarily in agricultural, environmental and animal science, and cultural and artistic research, training and education.
- (V) Administrative office space associated with and/or for the specific support of permitted and other conditional uses of the property.

- (W) Housing and lodging facilities associated with and/or for the specific support of permitted and other conditional uses of the property.
- (X) Home Occupations, subject to the requirements in section 28.14(A).
- (Y) Solar Farms consisting of acreage developed with multiple photovoltaic solar panels devoted to the commercial collection and conversion to usable electrical energy

Section 6.02. Encroachment and reduction of lot area.

The minimum yards, off-street parking and loading spaces, open spaces, including lot area for each dwelling unit required by this ordinance for all buildings in existence at the time of passage of these regulations or for all buildings hereafter erected, shall not be encroached upon or considered as required yard or open space for any other building, except as hereinafter provided, nor shall any lot area be reduced below the requirements of these regulations.

Minimum yards may include eaves, overhangs, or gable ends up to 24"; objects 30 inches below general ground level (such as decks and pavement); fences, walls, landscaping, and other customary yard accessories, ornaments and furniture; HVAC compressors; and USPS approved mailboxes, all subject to easements and applicable height and traffic visibility requirements. Septic tanks and drain fields may be located in any yard but must meet minimum Health Department standards.

SECTION 3. CODIFICATION

It is the intent of the Board of County Commissioners that the provisions of this Ordinance shall be included and incorporated into the Land Development Code (LDC) of Nassau County, Florida. The codifier may re-letter or renumber sections to conform to the uniform numbering and style of the LDC.

SECTION 4. SEVERABILITY

It is the intent of the Board of County Commissioners of Nassau County, Florida, and is hereby provided, that if any section, subsection, sentence, clause, phrase, or provision of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

SECTION 5. EFFECTIVE DATE

This ordinance shall take effect upon filing with the Secretary of State as provided in Section 125.66, Florida Statutes.

Adopted this 22nd day of December, 2008 by the Board of County Commissioners of Nassau County, Florida.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA




BARRY V. HOLLOWAY
Its: Chairman

ATTEST as to Chairman's Signature:



JOHN A. CRAWFORD
Its: Ex-Officio Clerk

Approved as to form by the
Nassau County Attorney



David A. Hallman,
County Attorney