

ORDINANCE NO. 2017-14

AN ORDINANCE AMENDING CHAPTER 62 ZONING AND LAND DEVELOPMENT REGULATIONS OF THE HILLIARD TOWN CODE; AMENDING SEVERAL SECTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Hilliard has found it necessary to enact the following ordinance;

NOW, THEREFORE, BE IT ORDAINED, by the Town Council of the Town of Hilliard, Florida that the following Section of the Hilliard Town Code, Chapter 62, Zoning and Land Development Regulations, shall be amended as follows:

Section 1.

Sec. 62-1 Definitions - is hereby added to read as follows:

Nuisance is an act or omission that infringes or threatens the health, morals, safety, comfort, convenience, general welfare or property values of or within the Town of Hilliard.

Vehicle means every device in, upon, or by which any person or property is or may be transported or drawn upon a public right-of-way. This definition includes vehicles propelled by power other than muscular power and trailers drawn by such propelled vehicles.

Section 2.

Sec. 62-95. - Appeals is hereby amended to read as follows:

(b) In exercising its powers, the planning and zoning board may, upon appeal and in conformity with provisions of this chapter, reverse or affirm, wholly or partly, or may modify the order requirement, decision or determination being appealed, and to that end, shall have the powers of the land use administrator and may issue the necessary permit. An 80 percent vote of the zoning board (minimum of 4 votes) is required to override a decision of the land use administrator or any other administrative official or official body in the administration or enforcement of this chapter.

Section 3.

Sec. 62-282. - Agricultural district A-1 (b)(1) & (c)(7) are hereby amended to read as follows:

(b) *Permitted principal uses and structures.*

(1) Agricultural, horticultural and forestry uses, including the keeping and raising of farm animals and poultry provided structures for horses, donkeys, cattle, goats and sheep shall not be located within 200 50 feet of any property line.; ~~and, further, provided that goats, sheep or swine shall not be kept or permitted within 200 feet of any property line.~~

(c) *Permissible uses by exception.* The following uses may be permitted by exception after site plan review:

(7) Swine and non-domestic animals.

Section 4.

Sec. 62-285. - Multiple-family district R-3 (d)(1-5) are hereby amended to read as follows:

(d) *Minimum lot requirements.* The minimum lot requirements per dwelling unit are as follows:

(1) Minimum lot width: ~~75~~ 70 feet.

(2) Minimum lot area: ~~7,500~~ 7,000 square feet.

(3) Maximum units per acre: 15

~~(4) Maximum units per structure: 16.~~

(4) Maximum units per ½ acre: 7

(5) Maximum units per structure: 16.

Section 5.

Sec. 62-287. - Mobile home district RMH (h)(12) is hereby amended to read as follows:

(h) *Mobile home parks.* All mobile home parks developed in the town shall meet the following minimum standards:

(12)A landscaped buffer at least eight feet wide and a minimum of six feet high and maximum of eight feet high or privacy fence a minimum of six feet high and maximum of eight feet high shall be maintained along the exterior boundary of the mobile home park.

Section 6.

Sec. 62-349. - Parking or storage of inoperable vehicles is hereby amended to read as follows:

Dismantled and/or partially dismantled vehicles which require major repairs to render such vehicles operable and vehicles not legally registered and licensed by the state department of highway safety and motor vehicles shall not be parked or stored in any residential zoning district, except by exception. In commercial and manufacturing zoning districts vehicles must be unless visually screened ~~in an effective and acceptable manner~~ by a solid wall or privacy fence from any abutting public or private right-of-way.

Section 7.

Sec. 62-352. - Buffer between districts is hereby amended to read as follows:

Where an RMH, ~~PUD, C-N,~~ C-1 or M-1 district adjoins an agricultural or single-family residential district without an intervening street or alley, a buffer as required of planted green space and a solid wall or fence at least six feet in height which creates a visual barrier shall be erected by the owner prior to the exercise of any use permitted in an RMH, commercial or industrial district along all sides and rear property lines so adjoining, except that the buffer shall not project into any adjacent residential property.

Section 8.

Sec. 62-354. - Waste disposal is hereby amended to read as follows:

On all commercial property and multiple-family housing sites where commercial type refuse containers are used, an adequate amount of space shall be provided for the placement of the necessary containers. Junk, scrap and waste collection areas shall be located off-street and to the rear of structures, allowing adequate maneuvering space for the servicing of the sites by the sanitation service. These areas shall have improved surface: milling, crushcrete, gravel, limestone, concrete or asphalt, and ingress-egress corridors to accommodate the servicing vehicles. All areas used for the waste collection shall be enclosed and visually screened ~~in an effective manner~~ by a solid wall or privacy fence from any abutting public or approved private street or public right-of-way. Waste disposal areas shall be constructed in a manner architecturally compatible with surrounding main use buildings.

Section 9.

Sec. 62-357. - Excavation and/or filling is hereby amended to read as follows:

No excavation or filling for purposes other than the construction of a driveway, walk, swimming pool, a permitted wall or building or part thereof, or accessory thereto, or to remove topsoil from one part of the lands of an owner to another part of the same

premises, when such removal is necessary as an accessory use or is for the purpose of farming or improving such property, shall be made unless permission is granted by the planning and zoning board and any necessary state permits are secured, if applicable. Further, excavation or filling new development of any type or the enlargement or alteration of any existing use or structure shall be prohibited in the identified flood hazard areas of the town unless permission is granted by the planning and zoning board and necessary permits are secured from applicable agencies. This does not include ponds and borrow pits.

Section 10.

Sec. 62-358. - Supplementary regulations for certain uses are hereby amended in its entirety to read as follows:

(a) In addition to the permissible uses by exception listed in the schedule of district regulations (article IV of this chapter), the following uses shall be permissible by exception in the districts indicated; and, unless specific provision is made otherwise in the grant of exception, such uses, whether permitted or permissible by exception, shall conform to all supplementary regulations listed under such use:

- (1) *Animals and fowl.* Animals and fowl, excluding household pets and chickens, shall not be kept in residential districts subject to conditions as may be provided by the planning and zoning board in a grant of exception to protect the public health, safety, or general welfare. No nondomestic animal shall be permitted to be kept within the town limits without the granting of an exception by the planning and zoning board.
- (2) *Horses and ponies.* Horses and ponies may be kept in residential districts only for private riding use, shall be limited to one (1) horse or pony per ½ acre, and only if a place of shelter therefor therefore shall be provided which is not closer than ~~400~~ 50 feet to any residence. Such horses and ponies shall be kept in a fenced enclosure in the rear yard, not closer than ~~400~~ 25 feet to any private property line. If the property is a corner or through lot, the horses and ponies shall be kept in the side yard.
- (3) *Other household pets.* Other household pets may be kept in residential districts subject to conditions as may be provided by the planning and zoning board in a grant of exception to protect the public health, safety, or general welfare.
- ~~(4) *Customary home occupations.* Home occupations are a permissible use in any district subject to all of the following conditions:~~
 - ~~a. No person other than members of the family residing on the premises shall be engaged in such occupation.~~
 - ~~b. The use of the premises shall be clearly incidental and subordinate to its use for residential purposes and shall under no circumstances change the residential character thereof.~~

- ~~c. There shall be no change in outside appearance of a building or premises, or other visible evidence of the conduct of such home occupation, except that one sign may be permitted, not exceeding one square foot in area, nonilluminated, mounted flat against the wall of the principal building or on a post in the front yard at least five feet back from the street or roadway line.~~
- ~~d. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood.~~
- ~~e. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.~~
- ~~f. The giving of art, music or other instructions or lessons shall be limited to not more than four persons at any one time.~~
- ~~g. Fabrication of articles such as are commonly classified under the terms of arts and handicraft may be deemed a home occupation, subject to other terms and conditions of this definition, and providing no retail sales are made at the dwelling unit.~~
- ~~h. No outside storage of business materials or products.~~

(4)(5) *Day nurseries.* Day nurseries, including kindergartens and child care centers, shall be a permissible use by exception in all residential districts subject to all the following conditions:

- a. Minimum lot area shall be not less than 7,500 square feet and lot width in portion used for fenced play area shall be not less than 60 feet.
- b. A fenced outdoor play area of not less than 600 square feet shall be provided in the rear yard.
- c. All facilities, operation and maintenance shall meet all applicable county and/or state regulations for such use.
- d. An application for exception, where required, shall state the maximum number of children to be accommodated and in no case shall the number of children approved in the grant of exception be exceeded.
- e. Off-street parking, loading and unloading areas shall be maintained as provided in the plan approval with the exception of a permit for such use.

f. A ten-foot-wide planting buffer and a six-foot-high solid fence shall be erected and maintained by any commercial or industrial use abutting a residential use or district.

~~(5)~~~~(6)~~ *Cemeteries*. Cemeteries and mausoleums (but not funeral homes or mortuaries) are permissible uses by exception in all residential districts.

~~(6)~~~~(7)~~ *Railroads*. Railroad right-of-way and trackage (but not switching, loading, freight or storage yards, building and maintenance structures) are permissible uses by exception in all residential districts.

~~(7)~~~~(8)~~ *Private school*. Private elementary and high schools with academic curriculum similar to those of public elementary and high schools are permissible uses by exception in all residential districts.

~~(8)~~~~(9)~~ *Churches*. Churches (but not temporary revival establishments) are permissible uses by exception in all residential districts.

~~(10)~~ *Yard sales*. ~~No yard sale shall be permitted Monday through Thursday. All merchandise shall be removed from site at the end of the last day of sale.~~

(b) In addition to the permissible uses by exception listed in the schedule of district regulations (article IV of this chapter), the following uses shall be permissible by exception in the districts indicated; and, unless specific provision is made otherwise in the grant of exception, such uses, whether permitted or permissible by exception, shall conform to all supplementary regulations listed under such use:

(1)~~(4)~~ *Customary home occupations*. Home occupations are a permissible use in any district subject to all of the following conditions:

a. No person other than members of the family residing on the premises shall be engaged in such occupation.

b. The use of the premises shall be clearly incidental and subordinate to its use for residential purposes and shall under no circumstances change the residential character thereof.

c. There shall be no change in outside appearance of a building or premises, or other visible evidence of the conduct of such home occupation, except that one sign may be permitted, not exceeding one square foot in area, nonilluminated, mounted flat against the wall of the principal building or on a post in the front yard at least five feet back from the street or roadway line.

d. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood.

- e. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
- f. The giving of art, music or other instructions or lessons shall be limited to not more than four persons at any one time.
- g. Fabrication of articles such as are commonly classified under the terms of arts and handicraft may be deemed a home occupation, subject to other terms and conditions of this definition, and providing no retail sales are made at the dwelling unit.
- h. No outside storage of business materials or products.

(2)(40) Yard sales. Yard sales are a permissible use in any district subject to all of the following conditions:

- (a) No yard sale shall be permitted Monday through Thursday.
- (b) All merchandise shall be removed from site at the end of the last day of sale.

(3) Chickens. Chickens are a permissible use in any district subject to all of the following conditions:

- a. Chicken, for the purpose of this section shall be defined as a hen (*gallus domesticus*), and shall be kept within a coop or enclosure (a fenced or wired-in area, pen or run) at all times. A coop is herein defined as a covered house, structure or room that will provide the chickens with shelter from weather and with a roosting area protected from predators.
- b. Any coop and/or fenced enclosure shall be located in the rear yard of the property, unless the property is deemed to be a corner lot or double frontage lot. No coop, enclosure or chicken shall be allowed in any front or side yard (on corner and through lots the enclosure shall be located in the side yard).
- c. Property owners shall obtain a non-fee permit from the town prior to constructing or erecting any coop or enclosure.
- d. Chickens may not be kept in the multifamily (R-3, RM-4 or RMH) zoning districts.

- e. No Roosters, ducks, geese, turkeys, peafowl, pheasants, quail or any nondomestic fowl may be kept except by the granting of an exception by the planning and zoning board.
- f. Chickens shall be kept for personal use only. The maximum number of chickens that may be kept shall not exceed 15 chickens. Selling of hens, eggs or manure, or the breeding of chickens for commercial purposes is prohibited.
- g. All coops or enclosures shall be located at least ten (10) feet from the rear property line, side property line and the property's principal residential structure. Coops and enclosures shall be maintained in a clean and sanitary condition at all times. Chickens shall not be permitted to create a nuisance consisting of odor, noise or pests, or contribute to any other nuisance condition.

Section 11.

Sec. 62-359. – Accessory uses and structures (a)(3)(c-d) & (a)(5-6) are hereby amended to read as follows:

(a) Accessory uses and structures are permitted in all districts provided such uses and structures are of a nature customarily incidental and clearly subordinate to a permitted or permissible principal use or structure and, unless otherwise provided, are located on the same lot (or contiguous lot in the same ownership) as such principal use. Where a building or portion thereof is attached to a building or structure containing such principal use, such building or portion shall be considered as a part of a principal building and not an accessory building. Accessory uses shall not involve operations or structures not in keeping with the character of the district where located and shall be subject to the following:

(3) Private swimming pools, as regulated herein, shall be a structure of concrete, masonry or other approved material and finish, not located within a completely enclosed building, filled with a controlled water supply, and used or designed to be used for bathing or swimming purposes by humans. A private swimming pool shall be allowed in a residential district as an accessory use only if it fully complies with the following conditions:

- c. That the pool shall be enclosed by a retaining wall or fence having a minimum height of four feet, but not over eight feet, and so constructed or installed as to obstruct access thereto by persons other than the owners or occupants of the premises on which the swimming pool is located. All gates installed in such fences shall be self-latching with latches placed at least four feet six inches above the underlying ground. In accordance with Florida Statutes.

d. Any temporary or aboveground pool exceeding two (2) feet in height shall meet conditions in subsections (a) (3) a, b and c of this section.

(5) ~~Cargo boxes, semitrailer boxes or the like shall not be used as accessory buildings unless visually screened in an effective manner from any abutting public or private right-of-way in permitted backyard areas. These units shall be allowed in the C-1, M-1, and A-1 districts only.~~

(6) Containerized freight units may be used as accessory buildings in any district provided that the exterior of the unit must be coated with paint, stucco, vinyl or other material so as to be aesthetically consistent with the residence on the property, in the case of residential districts, and aesthetically consistent with other building(s) on the property in the case for other districts. ~~In C-1, M-1, and A-1 districts, the units must be visually screened in an effective manner from any abutting public or private right-of-way.~~ In all other districts, these units will be allowed in backyard areas only. Notwithstanding anything to the contrary herein, the term "Containerized Freight Units" shall be limited to containers that have a metal shell, have been used in commerce, not home-made, not used for residential purposes, and not constructed of or used to carry liquids or hazardous materials.

Section 12.

Sec. 62-361. – Ponds and Borrow Pits is hereby added to read as follows:

(a) Applicability.

Provisions of this section apply to all new ponds and borrow pits located within the Town of Hilliard. Ponds and borrow pits constructed prior to this ordinance [section] are not subject to these provisions. However, any expansion or change to an existing pond or borrow pit shall be subject to these standards. Size, as specified in this article section, refers to the land area at the top of bank at the largest point during the excavation.

(b) Exemptions.

The following activities are exempt from the requirements of this section:

- (1) Bona fide agricultural activities on property classified as agricultural land by the Nassau County Property Appraiser's Office according to F.S. § 193.461(3) (a), or Exempt Agricultural Activities per Rule 40C-44.051, F.A.C.;
- (2) Maintenance dredging or repair of canals, lakes, rivers, and stormwater management facilities, provided permit requirements from other local, state, and federal agencies are met;

- (3) Work included in a duly approved residential subdivision or non-residential construction project;
- (4) Swimming pool construction, provided that a building permit has been issued for construction of the swimming pool.
- (5) Sites where contamination investigation and remediation are being conducted under the direction of the Department of Environmental Protection or the United States Environmental Protection Agency, provided that there will be no permanent change in the final grade of the land surface upon completion of the project. Such activities include, but are not necessarily limited to, contaminated soil removal.
- (6) Minor excavations normally and customarily associated with owner-occupied, single-family residences, where no material leaves the property and the excavation is performed without heavy equipment.

(c) Standards for ponds.

- (1) The owner/applicant shall submit a scaled site plan or sketch to the building department illustrating the following: Parcel boundaries, easements, buildings, septic systems, wetlands, and the proposed pond. The building department shall review the application within ten (10) working days of submittal and issue a letter confirming that the application conforms to this article.
- (2) The following standards shall apply to ponds:
 - a. Twenty-five (25) foot setbacks shall be observed from parcel boundaries, septic systems, and wetlands;
 - b. Four (4) feet horizontal to one (1) foot vertical (4:1) slopes shall be observed to a depth of two (2) feet below mean low water line;
 - c. Maximum depth shall be twelve (12) feet below the seasonal high groundwater table elevation; and
 - d. Lot upon which the proposed pond will be located shall be a minimum of one (1) acre in size (uplands).
- (3) The aggregation requirements of this section 62-361(d) (4) shall apply to the excavation of any pond.
- (4) Duration of town approval. ~~County~~ Town approval to excavate a pond shall expire sixty (60) days from the approval date. The expiration date may be extended for thirty (30) days upon submission of a written extension request from

the operator to the building department. Upon expiration of the ~~county town~~ approval, the operator may re-apply in accordance with this article section.

(5) Application requirements for ponds. An application for a pond shall contain the following documentation:

a. Any access/haul roads that abut a public or private paved road shall provide for edge of pavement stabilization with, a minimum depth of six (6) inches, which stabilization may consist of compacted crushed crete, limerock, slag rock, or asphalt millings, to protect pavement edge; and

(6) Hours of operation. Ponds excavation from 7:00 a.m. to 6:00 p.m., Monday through Saturday.

(d) Standards for borrow pits.

(1) The owner/applicant shall submit a site plan signed and sealed by a professional engineer registered in the State of Florida to the building department illustrating the standards established in subsection (6). The building department shall review the application within five (5) working days of submittal and issue a letter confirming that the application conforms to this article section.

(2) The owner/applicant shall obtain permits from the SJRWMD for projects which exceed thresholds for management and storage of surface waters and consumptive use. The owner/applicant shall be responsible for determining requirements of the SJRWMD. The applicant shall provide the building department with SJRWMD permits necessary to operate the borrow pit or, if the SJRWMD determines no permit is required for the construction and operation of the borrow pit, written verification from the SJRWMD exempting the borrow pit from the SJRWMD's permitting requirements.

(3) Where the SJRWMD determines that no permit is required for the construction and operation of the borrow pit, the borrow pit shall be no closer than one hundred (100) feet setback from any property boundary.

(4) Borrow pits shall not be closer than seventy-five (75) feet to any part of a septic tank system.

(5) Any two (2) or more excavations, located upon lands under common ownership, within six hundred sixty (660) feet of each other shall be aggregated and regulated as if a single excavation.

(6) Application requirements for borrow pits. An application for a borrow pit shall contain the following documentation:

a. Erosion and sediment control measures if required by the SJRWMD;

- b. Plans for any dewatering activities if required by the SJRWMD;
- c. Access to the project (Note: Owner to provide access to the appropriate county town personnel for the purpose of inspection during normal working hours and at reasonable times when work is in progress);
- d. Fence detail. If side slopes are less than four (4) feet horizontal to one (1) foot vertical (4:1) down to two (2) feet below mean low water level;
- e. Location and setbacks to: Property lines, structures, septic tanks, wetlands, right-of-way, easements, and existing bodies of water;
- f. Documentation of the seasonal high groundwater level (soil bore to determine lithology) if excavation will be deeper than twelve (12) feet below the seasonal high groundwater table elevation as referenced in Rule 40C-42.026, F.A.C.;
- g. Any access/haul roads that abut a public or private paved road shall provide for edge of pavement stabilization with, a minimum depth of six (6) inches, which stabilization may consist of compacted crushed crete, limerock, slag rock, or asphalt millings, to protect pavement edge; and
- h. Access points abutting a public or private road shall be at least twelve (12) feet wide.

(7) Hours of operation. Borrow pits may operate from 7:00 a.m. to 6:00 p.m., Monday through Saturday.

(8) Duration of town approval. County Town approval to operate a borrow pit shall expire on the expiration date of the environmental resource permit (ERP) issued by the SJRWMD. If the operator obtains an extension of the ERP by the SJRWMD, the operator shall provide the building department with a copy of the ERP extension approval from the SJRWMD. The building department shall extend county town approval to operate the borrow pit to that expiration date established by the ERP.

(e) Bonding requirements for platted subdivisions.

For the duration of the authorized work, a maintenance bond, equal to ten cents (\$0.10) per cubic yard of material removed, shall be required by the public works director for any pond or borrow pit where the excavation is accessed from a road or street dedicated as part of a subdivision platted pursuant to F.S. Ch. 177.

(f) Administration and enforcement.

- (1) Unless exempted as provided in this article, all ponds and borrow pits in the Town of Hilliard shall conform to the procedures and standards established in this section. It shall be unlawful to operate or construct a pond or borrow pit without approval as established in this article section.
- (2) The building department shall issue written approval to the applicant prior to commencement of the activities. Said approval must be in effect at all times during the construction of the pond or operation of the borrow pit.
- (3) Code enforcement shall investigate alleged violations in accordance with county town regulations. Code enforcement shall have the authority to temporarily stop work pending adjudication.
- (4) Revocation. Authorization under this article section shall be revocable at any stage of the work contemplated herein upon the following grounds:

 - a. Approval was granted upon gross misrepresentation by the applicant;
 - b. The work violates any ordinance of the county town;
 - c. The work is not being performed in accordance with the provisions of this section; or
 - d. The work is not being performed in accordance with the terms of any permit or development order.
- (5) The town may avail itself of any other legal or equitable remedy available to it, including, without limitation, injunctive relief or revocation of any approval involved. Any person violating this article section shall be liable for all costs incurred by the county town in connection with enforcing this chapter, including, without limitation, attorneys' fees, and temporary safety measures put in place, or caused to be put in place by the county town.

(g) Audit.

One (1) year after the adoption of this article section, the planning and zoning department and the building department shall perform an audit of ponds and borrow pits constructed or operated pursuant to this article section. The audit shall evaluate the efficacy of this article section in the regulation of ponds and borrow pits and shall include an evaluation of enforcement efforts against unauthorized excavations.

Section 13.

Sec. 62-384. - Design standards (g) is hereby repealed as follows:

~~(g) Screening. Wherever off-street parking spaces for four or more automobiles are located closer than 40 feet to a lot zoned residential and when such parking spaces are not entirely screened visually from such a lot by an intervening building or structure, there shall be provided along the lot line a continuous screen with a minimum height of six feet. Such screen shall consist of a solid wall or fence.~~

Section 14.

This ordinance shall become effective upon passage.

Adopted this 17th day of August, 2017, by the Hilliard Town Council, Hilliard, Florida.

John P. Beasley
Council President

ATTEST:

Lisa Purvis
Town Clerk

APPROVED:

Cris W. McConnell
Mayor

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