

ORDINANCE 2010-

AN ORDINANCE OF THE COUNTY COUNCIL OF
VOLUSIA COUNTY, FLORIDA, AMENDING THE
CODE OF ORDINANCES OF THE COUNTY OF
VOLUSIA, CHAPTER 72, ARTICLE II, "ZONING
ORDINANCE OF VOLUSIA COUNTY, FLORIDA"
TO _____; AMENDING
CHAPTER 72, ARTICLE III, "LAND
DEVELOPMENT REGULATIONS" TO
_____; PROVIDING FOR
INCLUSION IN CODE; PROVIDING FOR
SCRIVENERS ERRORS; PROVIDING AN
EFFECTIVE DATE.

BE IT ORDAINED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY,
FLORIDA AS FOLLOWS:

(Words in ~~strike through~~ type are deletions; words in underscore type are
additions.)

SECTION I: Chapter 72, article I, of the Code of Ordinances, County of Volusia
is amended to read as follows:

72-2 Definitions

CDE

Environmental Core Overlay (ECO)

SECTION II: Chapter 72, article II, division 5 of the Code of Ordinances,
County of Volusia is amended to read as follows:

Sec. 72-175. Reduction of lot area and width prohibited.

No lot existing on the effective date of the ordinance from which this section
derives, shall be reduced in area and width below the minimum requirements of its
classification, except lots made up of combinations of nonconforming lots (refer to
subsection 72-206(1)), conservation development located in ECO and developed pursuant

to section 72-544, or cluster subdivision lots (refer to the definition of cluster subdivision) pursuant to section 72-543.

Sec. 72-176. Reduction of yards below certain minimum dimensional requirements prohibited.

No yard existing on the effective date of the ordinance from which this section derives, shall be reduced below the minimum dimensional requirements of its classification except zero lot line lots (refer to section 72-304543) and conservation development located in ECO and developed pursuant to section 72-544.

SECTION III: Chapter 72, article II, division 7, section 72-241, of the Code of Ordinances, County of Volusia is amended to read as follows:

DIVISION 7. ESTABLISHMENT OF CLASSIFICATIONS

Sec. 72-241. Classifications.

...

R-1 URBAN SINGLE-FAMILY RESIDENTIAL CLASSIFICATION

...

~~Cluster and zero lot line subdivisions (refer to section 72-304).~~

...

R-2 URBAN SINGLE-FAMILY RESIDENTIAL CLASSIFICATION...

~~Cluster and zero lot line subdivisions (refer to section 72-304).~~

...

R-3 URBAN SINGLE-FAMILY RESIDENTIAL CLASSIFICATION

...

~~Cluster and zero lot line subdivisions (refer to section 72-304).~~

1 ...

2 R-4 URBAN SINGLE-FAMILY RESIDENTIAL CLASSIFICATION

3 ...

4 ~~Cluster and zero lot line subdivisions (refer to section 72-304).~~

5 ...

6 R-6 URBAN SINGLE-FAMILY RESIDENTIAL CLASSIFICATION

7 ...

8 ~~Cluster and zero lot line subdivisions (refer to section 72-304).~~

9 ...

10 **SECTION IV:** Chapter 72, article II, division 8 of the Code of Ordinances,
11 County of Volusia is amended to read as follows:

12 **DIVISION 8. SUPPLEMENTARY REGULATIONS**

13 ...

14 **Sec. 72-277. Exceptions to minimum yard or lot coverage requirements.**

15 ...

16 (15) Notwithstanding dimensional requirements set forth in residential zoning
17 classifications Section 72-241, urban cluster dwelling and zero lot line
18 residential subdivisions may be developed in R-1, R-2, R-3, R-4, and R-6
19 Urban Single-Family Residential Classifications pursuant to Section 72-
20 543. The total lot area covered with principal and accessory buildings shall
21 not exceed 40 percent. The lot width shall be a minimum of 45 feet, the
22 size of each lot shall not be less than 5,000 square feet and the setbacks
23 shall be:

1 Front yard: 25 feet, except on a corner lot, one of the front yards
2 may be reduced to 15 feet provided the effective length of any
3 driveway is not less than 25 feet..

4 Rear yard: 20 feet; accessory structures 5 feet.

5 Waterfront yard: 25 feet.

6 Side yard: 5 feet for non-zero-lot-line lots, 0 feet on one side and
7 15 feet on the other side yard for zero-lot-line lots; accessory
8 structures 5 feet.

9 (16) Notwithstanding dimensional requirements set forth in the zoning
10 classifications Section 72-241, conservation development pursuant to
11 Section 72-541 may be developed in FR, RC, A-1, A-2, A-3, A-4, RA,
12 RE, RR, MH-3, MH-4, and MH-8 zoning classifications that are located
13 within ECO and shall not require minimum lot size or maximum lot
14 coverage if the lots are reduced in size below the minimum set forth in the
15 zoning classification in Section 72-541. Such lots created under Section
16 72-541 shall not be considered substandard regardless of width or depth.
17 Minimum setbacks shall be:

18 Front yard: 20 feet and 25 feet to any garage.

19 Side yards: 5 feet.

20 Rear yard: 30 feet for single family dwellings; 15 feet for
21 accessory buildings.

22 Waterfront yard: 40 feet.

1 (17) Notwithstanding dimensional requirements set forth in the zoning
2 classifications in Section 72-241, family homestead exceptions pursuant to
3 Section 72-538 shall be not less than one (1) acre and a minimum
4 setbacks shall be:

5 Front yard: 40 feet

6 Rear yard: 40 feet

7 Side yard: 25 feet

8 Waterfront yard: 40 feet.

9 ...

10 **Sec. 72-280. Erection of more than one principal structure on a lot.**

11 ...

12 (e) More than one principal structure may be allowed in a conservation
13 development on that area of the development designated for agri-business
14 or eco-tourism as approved through the subdivision.

15 ...

16 **Sec. 72-290. Additional regulations for certain permitted principal uses.**

17

18 (13) Conservation Development. Property utilizing the conservation
19 development provision Section 72-241 shall be allowed additional
20 permitted principals uses and structures for agriculture, silviculture, sales
21 of agricultural products, equestrian boarding facilities, eco-tourism and
22 agri-tourism facilities including guesthouse, bed and breakfast,

1 boardinghouse, boardwalks and trails, and other non-residential
2 development as provided for in section 72-541.

3 **Sec. 72-291. Final site plan.**

4 (a) *Procedure.* Where final site plan is required by this article, it shall be submitted
5 to the growth management department. An approved final site plan shall expire as
6 provided in division 1, subsection 72-504(9), of the Land Development Code
7 [article III].

8 (b) *Modification of development standards for site plan approval.* This subsection is
9 established to provide standards and procedures for the granting of administrative
10 modifications of development standards. The modification of standards is
11 specifically intended to promote high standards for final site plan reviews under
12 division 3 of the county Land Development Code [article III], provide flexibility
13 in the administration of standards in recognition of site specific conditions, and to
14 establish conditions to ensure compatibility where standards are modified.

15 (1) The zoning enforcement official may approve a maximum reduction of up
16 to ~~ten~~ twenty percent of the required minimum yard setbacks for principal
17 and accessory buildings and/or the number of required parking spaces
18 upon making a finding that the adjustment will protect and encourage the
19 preservation of large canopy, specimen or historic trees, is for commercial
20 uses within a conservation development, or is for a principal commercial
21 structure that is less than 3,000 gross floor area.

22 (2) ~~The zoning enforcement official shall be authorized to approve the~~
23 ~~modification of the request based upon the requirements of this resolution.~~

1 Such modifications shall be deemed to have no effect on adjacent
2 properties.

3 (3) Applications for modification of standards may be reviewed prior to
4 application for final site plan review or may be made in conjunction with
5 final site plan review. Application shall be made to ~~the~~ growth
6 management ~~services—group~~ in conformance with the submittal
7 requirements of this section.

8 (4) Upon acceptance of the application, the zoning enforcement official shall
9 review it and render a decision approving, approving with conditions, or
10 denying the request. A modification of standards report shall be issued and
11 be attached the final site plan.

12 (5) An appeal of a decision of the zoning enforcement official shall be to the
13 county council, and shall be filed under section 72-378 of this article.

14

15 **SECTION V:** Chapter 72, article II, division 8 of the Code of Ordinances,
16 County of Volusia is amended by deleting Section 72-300 Natural resource management
17 area and Section 72-304 Clustering of dwelling units and zero lot line residential
18 subdivisions in the entirety and reserving the sections.

19

20 **SECTION VI:** Chapter 72, article III, division 2 of the Code of Ordinances,
21 County of Volusia is amended to read as follows:

22 **DIVISION 2. SUBDIVISION REGULATIONS**

23 **Sec. 72-536. Purpose.**

1 ...

2 (b) *Prohibitions on transfer of lots and issuance of development or building permits*
3 *for lots not in compliance with this division.* It shall be a violation of this division
4 for anyone who is the owner or agent of the owner of any land to transfer, sell,
5 agree to sell, or negotiate to sell such land by reference to, exhibition of, or other
6 use of a plat of a subdivision of such land without having the plat approved as
7 required by this division. A subdivision plat is required to be approved by the
8 county council and recorded in the public records, except as provided herein. ~~In~~
9 ~~addition, n~~No development permit or building permit shall be issued on any lot
10 unless that lot is in compliance with this division.

11 **Sec. 72-537. Exemption or vested rights.**

12 (a) *Exempt activities.* The following activities are exempt from the provisions of this
13 division, provided said activities are consistent with the Volusia County
14 Comprehensive Plan, Ordinance No. 90-10, as amended, Article II, Chapter 72
15 the Zoning Ordinance of Volusia County, Florida, and division 14 of this article.

16 ...

17 (10) A division of land that fronts on a county maintained right of way into two
18 lots provided the each lot has the minimum frontage required under
19 Article II and there is sufficient driveway separation as set forth in
20 division 4.

21 **SECTION VII:** Chapter 72, article III, division 2 of the Code of Ordinances, County of
22 Volusia is amended by deleting Section 72-538 Sketch plan review and replacing entirely
23 with Section 72-538 Submission requirement.

1 **Sec 72-538. Submission requirement.**

2 All submissions shall track changes made to the document between submittals,
3 designating which changes have been accepted by a previous submittal and
4 distinguishing which changes are new. The submission must include a cover letter from
5 the engineer or surveyor addressing all previous comments and identifying all revisions
6 to the plans from previous submissions. Any revisions not noted in the letter and clearly
7 demarked and highlighted on the plans shall not be approved and the applicant must
8 resubmit all plans and documents.

9
10 **SECTION VIII:** Chapter 72, article III, division 2 of the Code of Ordinances, County of
11 Volusia is amended as follows:

12
13 **Sec. 72-539 Overall development plan review.**

14 (a) *Procedures.* ~~After a sketch plan review has been completed or omitted pursuant~~
15 ~~to section 72-538, an ODP application shall be filed, processed and reviewed~~
16 ~~pursuant to sections 72-503 and 72-504 of this article.~~The information required
17 below shall be submitted on sheet sizes of 24 inches by 36 inches (unless
18 otherwise approved in advanced by the LDM), and shall be signed and sealed by a
19 Florida registered professional engineer except when required to be signed and
20 sealed by a registered surveyor and mapper licensed to practice in the State of
21 Florida.

22 (b) *Required Submittals.* The application shall include the following supporting
23 information:

1 ~~(1) — [Information submitted for sketch plan review.] All items required for~~
2 ~~sketch plan review under subsection 72-538(c).~~

3 (21) General Information.

4 a. Name of subdivision; name, address, telephone number of the
5 subdivider, subdivision designer, professional engineer and
6 registered surveyor; all applicable tax parcel identification
7 numbers according to Volusia County Property Appraiser's Office;
8 ...

9 c. Vicinity map at a scale no smaller than one (1) inch equals two
10 thousand (2,000) feet with sufficient information to locate the
11 property in the field;

12 ed. Total acreage in tract, acreage in public or other land usage, total
13 number of lots, and linear feet in streets;

14 de. Names and location of adjoining subdivisions and streets;

15 f. Legal description of the property proposed for platting.

16 eg. Other supplemental materials or any deed restrictions or protective
17 covenants for the subdivision and any other information considered
18 by either the applicant or the DRC to be pertinent to the review of
19 the ODP.

20 h. A management plan for those subdivisions for which one is
21 required for the management of open space.

22 (32) Existing site data.

- 1 a. Current boundary survey, performed within the last two (2) years,
2 of the property prepared by a registered professional surveyor and
3 mapper licensed to practice in the State of Florida, to include all
4 above-ground improvements, easements of record and the limits of
5 all adjacent rights-of-way.
- 6 ab. City limits lines (if any), property lines, rights-of-way, pavement
7 widths, easements, streets, driveways, railroads, utility
8 transmission lines, storm sewers, ditches and culverts, sanitary
9 sewers, water mains, bridges, buildings, bulkhead and bulkhead
10 lines for the subject property and for the surrounding area within
11 three hundred (300) feet of the proposed development;
- 12 bc. Wooded, wetland, and 100-year floodplain areas, marshes, water
13 bodies or watercourses, ponds, and other similar conditions
14 affecting the site;
- 15 ed. Topography of the site at not more than two-foot vertical contour
16 intervals based on mean sea level data furnished by a professional
17 engineer or surveyor.
- 18 e. Specific soil types and their limitations for planned use. Soil
19 information is to be taken from the most recent soil survey of
20 Volusia County, Florida. The soil types and boundaries shall be
21 delineated on the plan. Soil borings if required.
- 22 f. Predominant plant communities identified by common name and
23 location, graphically depicted on the plans.

1 g. Current zoning and existing uses of subject property and of
2 adjacent and surrounding properties within three hundred (300)
3 feet.

4 h. Known wildlife corridors for federal and state endangered species,
5 threatened species, or species of special concern.

6 i. Known plants and animals which inhabit the site that are listed as
7 federal and state endangered species, threatened species, or species
8 of special concern.

9 j. Known historic and archaeological sites.

10 k. Location (if any) of ECO designated lands on the subject property
11 and surrounding property within three hundred (300) feet.

12 (43) Proposed site data.

13 ...

14 g. Parks, school sites, and other public uses, if any;

15 h. Areas that may be reserved for parks or recreation sites,
16 conservation easements, or open space areas.

17 ~~h~~ i. Designation of areas to be used for purposes other than residential
18 and public, if any;

19 ~~i~~ j. Surface drainage patterns with direction of flow and method if
20 disposal on site and off site;

21 ~~j~~ k. Approximate spot elevations sufficient to indicate proposed
22 grading of the streets and landscapes;

~~§ 1.~~ Plans and information required pursuant to all other applicable articles of this ordinance;

4 m. Tentative construction schedule for the proposed development, including, if applicable, a tentative schedule for phasing construction, the date potable water facilities are needed to serve the proposed development and a commitment from the appropriate potable water provider, if other than the County of Volusia, demonstrating that adequate capacity shall be available to service the proposed development at the time of impact as provided in division 14; provided, however, the level of service standards described in division 14 shall be adhered to by any potable water facility provider;

~~§~~ n. The date sanitary sewer facilities are needed to service the proposed development and a commitment from the appropriate sanitary sewer system provider, if other than the County of Volusia, that adequate capacity shall be available to service the proposed development at the time of impact as provided in division 14; provided, however, the level of service standards described in division 14 shall be adhered to by any sanitary sewer provider.

Sec. 72-540. Preliminary plat and construction plan review.

...

(b) *Procedure and Required Submittals.* After review and approval of an ODP, an application for preliminary plat and construction plan review, the proper fee, and

1 sufficient copies of the exhibits, as determined by the LDM, shall be filed with the
2 LDD. Exhibits shall include:

3 (1) General Information.

4 a. All plans shall be submitted on 24" x 36" sheet sizes, unless
5 otherwise approved in advance by the LDM, and shall be signed
6 and sealed by a Florida registered professional engineer.

7 ...

8 b. A survey of the subject property prepared by a registered surveyor
9 containing the legal description of the subject property and the
10 surveyor's certificate of accuracy is required to be signed and
11 sealed by a registered professional surveyor and mapper licensed
12 to practice in the State of Florida.

13 ...

14

15 **Section 72-542. Unpaved Road Subdivisions.**

16 (a) Certain subdivisions may be approved on unpaved private roads in **FR, RC and A-**
17 **1** zoning classification provided the unpaved roads meet the design and construction
18 criteria as set forth in Division 4 of this article and upon the following conditions:

19 (1) Such subdivisions shall be platted and approved by the county council.

20 (2) The property is not located in whole or part within the Environmental
21 Core Overlay (ECO) map.

22 (3) Each lot or parcel created by the subdivision shall be 10 acres or more.
23 Such calculation of lot or parcel size shall not include roads or swales.

1 (4) Only one such subdivision shall be allowed per parent parcel existing as of
2 (the date of this ordinance), which shall not be divided into more than ten
3 (10) lots. A parent parcel existing as of (the date of this ordinance) shall
4 not be divided into more than ten (10) lots, including residual lands, unless
5 the roads are paved throughout the subdivision.

6 (5) When an unpaved road is established it may only extend 1,320 feet from a
7 publicly maintained roadway that has a minimum of 24 feet of maintained
8 right of way, which has been established as the beginning point of the
9 project.

10 (6) No additional lots or further subdivision may be created on such unpaved
11 road unless it is paved to county standards as set forth in division 4 of this
12 article.

13 (7) A private unpaved road may connect to an unpaved public road provided
14 said road unpaved public road has deeded right-of-way to a paved public
15 road, including right of way to accommodate any design features as set
16 forth in Table II, Section 72-612.

17 (8) The total number of lots served by an unpaved road cannot exceed ten
18 (10).

19 (9) Each lot, parcel or tract of land shall meet the minimum lot width and area
20 requirements of Article II, the zoning ordinance, but shall not be less than
21 two and one-half (2 ½) acres.

22 (10) The proposed unpaved roads shall meet the stormwater criteria as set forth
23 in division 8 of this article. Regardless of the selected road material, the

1 driving surface shall be assumed to be impervious for stormwater design
2 purposes.

3 (11) The roads must meet the design criteria as set forth in Table II, Section 72-
4 612. Roadside swale storage is an acceptable method for meeting the
5 stormwater criteria.

6 (12) The minimum centerline elevation for the roads shall conform to section
7 72-612(k) and subsection 72-619.

8 (13) Each lot served by the unpaved road shall have a minimum of 10,000 sq.
9 ft. of contiguous building area outside of the 100-year flood plain.

10 (14) Any impact to a wetland or wetland buffer must be approved pursuant to
11 Division 11 of this article.

12 (15) The private unpaved road shall be set aside for common ownership and
13 maintenance, which shall be borne by the lot owners using the unpaved
14 road for access. A “Notice to Future Land Owners” declaring that the
15 roadway is a private road that is neither dedicated to nor accepted by
16 Volusia County and that the maintenance of the road is not the
17 responsibility of the county, regardless of use by public service vehicles
18 shall be filed with the clerk of the circuit court for Volusia County. Said
19 “Notice to Future Land Owners” shall be on a form approved by the LDM
20 office prior to final approval which, and shall included at a minimum the
21 overall legal description, tax parcel number, and property owner, and state
22 the following:

1 a. “No governmental agency, including the government of Volusia
2 County, shall ever be responsible for the maintenance, repair,
3 upkeep, or improvements of any drives, roads, streets, easements,
4 or rights-of-way providing ingress and egress to the property
5 herein conveyed.”; and

6 b. “It is the responsibility of any future landowner to determine the
7 maintenance responsibility for any access or roadway serving the
8 property, whether or not a property owner’s association has been
9 created, and the status of any required association payments.”; and

10 c. “The approval of the subdivision is not a finding by the county as
11 to the quality, function, and legal right of access to the properties
12 herein, and the county is not responsible to ensure acceptable
13 access for the residents’ access and for accessory access including,
14 but not limited to, emergency services, trash pickup, mail delivery,
15 delivery/service vehicles, guests or other invitees.”

16 (16) Any connection to an existing publicly maintained road by any new road
17 or access easement serving two (2) or more lots must be constructed
18 consistent with a use permit issued under Division 6 herein or with an
19 FDOT permit prior to final approval. Existing connections may be
20 required to be improved as determined by the CDE.

21 (17) Homeowners’ associations shall be created to maintain the roads created
22 within the subdivision. However, the failure of the Homeowners’
23 association to maintain the roads, collect dues, or retain its corporate status

1 shall not be deemed to be a matter for a code enforcement under Chapter
2 162, Florida Statutes.

3 (18) The subdivision meets all other requirements of Article III, Land
4 Development Regulations, Chapter 72.

5
6 **Sec. 72-543. Clustering of dwelling units and zero lot line residential subdivisions.**

7 (a) A cluster dwelling unit or zero lot line residential subdivision is a development
8 design technique that permits a reduction in lot area by concentrating building in a
9 specific area to allow the remaining land to be used for recreation, open space, or
10 preservation of environmentally sensitive areas. This technique allows for a
11 reduction in lot area provided there is no increase in the number of lots that are
12 permitted under a conventional subdivision.

13 (b) All lot area reduction amounts shall be combined to set aside an equivalent land
14 area for common open space or for preserving environmentally sensitive areas
15 that are not jurisdictional wetland under county, state or federal regulations. The
16 set-aside area cannot be used for stormwater retention or detention.

17 (c) The maximum permissible density of the cluster subdivision shall be consistent
18 with that permitted by the corresponding future land use designation accorded the
19 property by the future land use element of the comprehensive plan.

20 (d) Where a dwelling unit is located on a lot line, a legal provision acceptable to the
21 county council shall be made for permanent access to maintain the exterior
22 portion of the dwelling unit wall along the zero lot line.

1 (e) Doors or other access openings are prohibited on the zero lot line side of the
2 dwelling unit.

3
4 **Sec. 72-544. Conservation Development.**

5 (a) A conservation development is created to encourage the efficient use of land and
6 resources, promote greater efficiency in public utility services, and to encourage
7 innovation in the planning and building of all types of development and provides
8 a tool to conserve significant natural resources or active agriculture by:

9 (1) Permanently preserving and integrating open space into neighborhoods;

10 (2) Offering landowners alternatives to conventional large lot tract
11 development in a rural area;

12 (3) Establishing a less sprawling, more efficient use of land, streets and
13 utilities;

14 (4) Preserving natural topography and wooded areas;

15 (5) Creating usable and accessible open space, recreational areas, and green
16 corridors for wildlife, walking trails and/or bike paths;

17 (6) Encouraging creativity in design through a controlled process of review
18 and approval of the development plan and related documents; and

19 (7) Creating incentives for land owners to conserve natural resources as part
20 of the development process.

21 (b) A conservation development subdivision of a parcel of land shall meet the
22 following criteria:

1 (1) The minimum tract size for a conservation development shall be eighty
2 (80) acres.

3 (2) At least sixty (60%) percent of the gross land area of the proposed
4 subdivision shall be designated as undivided, permanently protected open
5 space, managed for either agriculture or conservation purposes, and on
6 which the underlying development rights of the open space have been
7 severed through a permanent conservation easement. Open space shall be
8 arranged to preserve the function, purpose and integrity of the on-site
9 natural resources to the maximum extent practicable. Lands within the
10 ECO overlay shall be designated as open space as set forth in the Smart
11 Growth Initiative provisions of the Future Land Use Element of the
12 Volusia County Comprehensive Plan. Open space shall be identified as a
13 separate tract on the final plat. Open space shall consist of Conservation
14 Areas, Common Open Space, and/or Active Agricultural Areas.

15 a. Conservation Areas - wetlands, watercourses, water bodies and
16 associated buffers, land within 660 feet of an active bald eagle
17 nest, lands conserved for protection of native or endangered flora,
18 fauna, and habitat., and other selected areas which contain
19 attractive spaces that are unique to the rural character of the site, as
20 determined by the on-site review of the property and agreed to as
21 part of the conceptual development plan. Such lands shall be
22 managed as natural open space and maintained in a natural or
23 restored condition as set forth in the Conservation Management

1 Plan required herein. Boardwalks, walking trails and interpretative
2 signage may be allowed.

3 b. Common Open Space - open space set aside for passive
4 recreational purposes. These areas may contain accessory buildings
5 and improvements necessary and appropriate for recreational uses
6 and public uses as shown on the development plan including areas
7 required for stormwater management and septic drainage systems
8 designed to ensure compatibility with the environment.

9 c. Active Agricultural Areas – improved land used for bona fide
10 agriculture uses subject to Best Management Practices of the
11 Florida Department of Agriculture and Consumer Services
12 including structures and facilities to support bona-fide agricultural
13 uses.

14 (3) The buildable area to support the residential and neighborhood scaled
15 commercial development shall not exceed forty percent (40%) of the gross
16 land area, be confined to the areas most suitable for development and
17 designed to define a compact developable footprint. Density shall be
18 calculated based on the underlying zoning. Lots shall be arranged in a
19 compact fashion and are authorized and encouraged to be smaller than
20 typically allowed in the zoning classification. There shall be no minimum
21 or maximum lot size except those that are approved with the overall
22 development plan. The buildable area shall provide a buffer from adjacent
23 property and external roads which averages 100 feet.

1 (4) Development that preserves all wetlands and at least fifty percent (50%) of
2 the uplands or at least seventy-five percent (75%) of the gross acreage
3 shall be granted a density bonus yield of twenty-five percent (25%) of
4 base yield. In no event shall the bonus yield exceed capacity for existing
5 public infrastructure as measured by concurrency management systems in
6 the land development regulations or §206 School Planning, Volusia
7 County Charter unless the school district enters into a capacity
8 enhancement agreement.

9 (5) The number of residential units in a conservation development shall not
10 exceed 600 units.

11 (6) Innovative development practices that are consistent with the purposes of
12 conservation development are strongly recommended. These include, but
13 are not limited to, Low Impact Development, Dark Skies, Water Star,
14 Firewise, US Green Building Council LEED Certified Development,
15 Florida Green Building Coalition designation or other county approved
16 certifications which promote sustainability, or water neutrality, or for
17 environmental restoration of degraded wetlands or habitat. Provisions of
18 the land development regulations, excluding the provisions of this
19 ordinance, may be waived by DRC to the extent they are in conflict with
20 an approved certification.

21 (7) Centralized water and/or sewer may be necessary to meet county public
22 health requirements if individual lots sizes are smaller than required for
23 on site well and wastewater disposal systems. Buried wastewater disposal

1 systems may be located in improved common open space areas subject to
2 permanent maintenance easement as approved on the development plan
3 and by the health department.

4 (8) Existing vegetation and Florida friendly vegetation are encouraged to
5 reduce water consumption for irrigation.

6 (9) Notwithstanding section 72-612, all roads shall be private unless paved to
7 county standards and accepted for public maintenance. Private roads shall
8 have permanent maintenance by the managing entity or homeowner's
9 association as approved in the development plan. All private roads shall be
10 constructed to the standards for paved or unpaved rural roads set forth in
11 Section 72-612. The private roads shall be set aside for common
12 ownership and maintenance, which shall be borne by the lot owners using
13 the unpaved road for access. A "Notice to Future Land Owners" declaring
14 that the roadway is a private road which is neither dedicated to nor
15 accepted by Volusia County and that the maintenance of the road is not
16 the responsibility of the county, regardless of use by public service
17 vehicles shall be filed with the clerk of the circuit court for Volusia
18 County. Said "Notice to Future Land Owners" shall be on a form
19 approved by the LDM office prior to final approval which, and shall
20 included at a minimum the overall legal description, tax parcel number,
21 and property owner, and state the following:

22 a. "No governmental agency, including the government of Volusia
23 County, shall ever be responsible for the maintenance, repair,

1 upkeep, or improvements of any drives, roads, streets, easements,
2 or rights-of-way providing ingress and egress to the property
3 herein conveyed.”; and

4 b. “It is the responsibility of any future landowner to determine the
5 maintenance responsibility for any access or roadway serving the
6 property, whether or not a property owner’s association has been
7 created, and the status of any required association payments.”; and

8 c. “The approval of the subdivision is not a finding by the county as
9 to the quality, function, and legal right of access to the properties
10 herein, and the county is not responsible to ensure acceptable
11 access for the residents’ access and for accessory access including,
12 but not limited to, emergency services, trash pickup, mail delivery,
13 delivery/service vehicles, guests or other invitees.

14 (c) Open Space requirements:

15 (1) Within ECO, all of the wetlands and at least 50% of the uplands shall be
16 open space.

17 (2) Outside of ECO, at least 60% of the gross land area shall be open space.

18 (3) Open space should include conservation areas, selected areas which
19 contain attractive spaces, historical or archaeological sites, scenic vistas or
20 other areas that are unique to the rural character of the site or

21 (4) Open space shall be protected by recording a conservation easement
22 recorded with the clerk of the circuit court describing the lands subject to
23 the easement in substantially the form set forth in Section 704.06, Florida

1 Statute. The easement shall be held by a state or local jurisdiction, a
2 public conservation agency, or tax exempt conservation organization,
3 qualified under Sec. 170(h) (3) Internal Revenue Code, or combination of
4 the above described entities. A letter shall be submitted with the
5 application for the conservation subdivision from a qualified entity stating
6 its intent to accept the conservation easement. The easement shall be
7 perpetual, run with the land, and be binding against subsequent purchases
8 or transferees. The underlying fee interest may be held by the applicant, a
9 homeowners' association, the county, or a responsible managing entity, or
10 a third party. The underlying fee interest shall be subject to the easement
11 and the Conservation Management Plan.

12 (5) Conservation Management Plan. The applicant, the recipient of the
13 conservation easement, or the party retaining the underlying fee interest
14 shall provide a conservation management plan that outlines the uses and
15 long-term management objectives of the land designated as open space
16 and conservation areas and subject to a conservation easement. The
17 management plan shall describe how the natural open space shall be
18 maintained in perpetuity so as to meet the conservation objectives, how
19 adjustments to the management plan may be made to meet changing
20 conditions, and how the cost of maintenance shall be paid. The
21 management plan shall be approved as part of the overall development
22 plan and enforceable within the conservation easement. The management
23 plan shall designate a managing entity, which shall be responsible for

1 raising all monies required for operations, maintenance, or physical
2 improvements to the open space.

3 (d) Non-residential Development:

4 (1) Will be located in the buildable area and designed to serve the population
5 of the conservation subdivision.

6 (2) Shall be no greater than 3 acres.

7 (3) Shall be limited to 8,500 square feet.

8 (4) consist of convenience commercial as defined in Chapter 72, or otherwise
9 similar classification in accordance with the most recent edition of the
10 North American Industry Classification System (NAICS).

11 (5) Additional non-residential development may be allowed to support an eco-
12 tourism or agri-tourism business proposed as part of the conservation
13 development.

14 (e) Submission of a Site Analysis Map: The applicant may submit to the Land
15 Development Office, without fee, a site analysis map that depicts the following:

16 (1) Property boundaries and existing parcels;

17 (2) Topography, using a minimum two foot contour interval;

18 (3) Wetlands, as delineated by SJRWMD or Volusia County Environmental
19 Management;

20 (4) Watercourses and existing water bodies;

21 (5) 100-year FEMA mapped floodplains, Zone A;

22 (6) Existing rights-of-way and easements;

- 1 (7) The location of any active bald eagle nests and other known nesting or
2 burrow sites of species listed for protection by the USFWS or FFWCC
- 3 (8) Approximate location of Environmental Corridor Overlay areas;
- 4 (9) Soil boundaries as shown on USDA Natural Resources Conservation
5 Service medium-intensity maps;
- 6 (10) The location of significant attractive features such as scenic views into or
7 out from the property, watershed divides and drainage ways, fences,
8 existing structures, roads, tracks and trails; and
- 9 (11) Historic Sites listed on the State Master Site Files.
- 10 (f) Staff Assistance. Upon request of the applicant, the Planning Staff or
11 Environmental Management Staff shall assist the applicant in obtaining
12 information for the Site Analysis Map from publicly available sources. After
13 submission of the site analysis map, the applicant and county planning staff may
14 schedule an agreeable time to jointly visit the site for an on-site review of the
15 property, at which time the primary and secondary conservation areas shall be
16 identified.
- 17 (1) Conceptual Development Plan. At the completion of the on-site visit or
18 shortly thereafter a conceptual development plan the applicant may
19 provide the site analysis map set forth in 72-541 (e) for preliminary
20 review.
- 21 (2) The application must meet all other requirements of Article III, Land
22 Development Regulations, Chapter 72.
- 23

1 **SECTION IX:** Chapter 72, article III, division 4 of the Code of Ordinances,
2 County of Volusia is amended to read as follows:

3 **DIVISION 4. DESIGN AND CONSTRUCTION STANDARDS OF**
4 **IMPROVEMENTS***

5
6 **Sec. 72-612. Streets.**

7 (a) *General requirements for paved and unpaved streets.* All proposed lots or
8 developments, except unpaved road subdivision pursuant to section 72-339 or for
9 utilities such as cable substations, communication towers, etc., shall front on a
10 paved street. Primary access to a subdivision or development shall be from a
11 street paved to the standards of this section. This street, if not already paved, shall
12 be paved by the developer from the entrance of the development to the nearest
13 public paved street. The character, width, grade and location of all streets shall
14 conform to the standards in this section and shall be considered in their relation to
15 existing and planned streets, to topographical conditions, to public convenience
16 and safety, and in their appropriate relation to the proposed uses of the land to be
17 served by such streets. Construction and material specifications for streets shall
18 conform to "FDOT Standard Specifications for Road and Bridge Construction,"
19 except as otherwise may be stated herein or depicted below:

20 ...

21 (2) All newly platted streets intended to serve residential uses shall be public
22 except unpaved road subdivisions pursuant to section 72-539. The DRC
23 may recommend and the county council may approve private streets for
24 security purposes only, provided all such streets meet all design and
25 construction criteria of this article, a permanent security post or posts are

1 provided, and a condominium or homeowners association is created with
2 all duties and powers necessary to ensure perpetual maintenance of such
3 private streets. All streets shall be constructed to the exterior property lines
4 of the development unless they are permanently terminated by a cul-de-sac
5 or an intersection with another street.

6 ...

7 (o) *Street construction specifications.*

8 ...

9 (6) Unpaved roads. Unpaved roads may be constructed in conservation
10 subdivisions and unpaved road subdivisions provided the roads are
11 designated as private roads, a condominium or homeowners association is
12 created with all duties and powers necessary to ensure perpetual
13 maintenance of such private streets, and a “Notice to Future Land
14 Owners” is recorded as set forth section 72-544 and 72-542, respectively.
15 The unpaved roads shall have a minimum Limerock Bearing Ratio 40 and
16 meet the design standards for local roads base and subbase stabilizing set
17 forth in Table I Road Design Standards, unless an engineer performs core
18 sampling and certifies that the existing road base can bear the weight of a
19 fire engine, ambulance, and residential trips generated by the subdivision.

20 ...

21 TABLE II. RURAL DEVELOPMENT REQUIREMENTS

22
23 TABLE INSET:

24

	ARTERIAL	COLLECTOR		LOCAL STREETS		
	Two or Four Lanes	Four-Lane Collector	Two-Lane Collector	Local	Local/ Cul-de-Sac	<u>Unpaved Roads</u>

Volume	10,000-50,000 ADT	5,000-10,000 ADT	2,000-5,000 ADT	300(a)-2,000 ADT	0-300(a) ADT	0-100 ADT
Access	Yes	Yes	Yes	Yes	Yes	<u>Yes</u>
Minimum design speed	50 mph(i)	45 mph(i)	40 mph(i)	30 mph(g)(i)	30 mph(g)(i)	<u>30 mph(g)(i)</u>
Intersection space minimum	660 ft.(b)	660 ft.(b)	330 ft.(b)	250 ft.(e)	250 ft.(e)	<u>250 ft.(e)</u>
Lanes	2-4	4	2	2	2	<u>2</u>
Minimum pavement improved surface width	24 or 48 ft.(j)	48 ft.(j)	24 ft.(j)	24 ft.(j)	24 ft.(j)/43 ft.	<u>20 ft.(j)/43 ft.</u>
Pavement Improved surface radii	40-50 ft.	40-50 ft.	40-50 ft.	30-40 ft.	30-40 ft.	<u>30-40 ft.</u>
Pavement mark/signing	Yes(d)	Yes(d)	Yes(d)	Yes(d)	Yes(d)	<u>N/A/Yes(d)</u>
Parking on street	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	<u>Prohibited</u>
Median	Yes(c)	Yes(c)	No	No	No	<u>No</u>
*Turn lanes	As required(f)	As required(f)	As required(f)	No	No	<u>No</u>
Traffic signal	As warranted	As warranted	As warranted	No	No	<u>No</u>
Pedestrian crossing	At signalized crossings	At signalized crossings	Intersection only	Yes(d)	Yes(d)	<u>N/A</u>
*Approach widening						
(Expand intersection)	Yes	Yes	Yes	No	No	<u>No</u>
*ROW	100 ft.	80 ft.	80 ft.	70 ft.	70 ft./68 ft. radius	<u>60 ft./63 ft.</u>
Design vehicle (geom.)	WB 60 & SU	WB 60 & SU	WB 60 & SU	WB 40 & SU	WB 40 & SU	<u>WB 40 & SU</u>
Corners of ROW	30-ft. chord	30-ft. chord	30-ft. chord	30 ft. chord or 25 ft. radius(k)	30 ft. chord or 25 ft. radius(k)	<u>25 ft. radius</u>
*Sidewalks	As required(h)	As required(h)	As required(h)	No	No	<u>No</u>
*Further explanation in provisions of this section						

- 1
- 2 (a) Over 300 ADT may be allowed if an alternate emergency access is provided.
- 3 (b) Or alternate approved by the development review committee based upon land
- 4 planning and traffic analysis. A minimum 1,320 ft. spacing will be required
- 5 between two signalized intersections.
- 6 (c) Refer to section 72-612.
- 7 (d) As delineated in the “USDOT Manual on Uniform Traffic Control Devices.”
- 8 (e) Or 150 feet for opposing offset T-type intersection.
- 9 (f) Refer to subsection 72-619(e)(5).

(g) Design speeds lower than thirty (30) m.p.h. may be used for local, subdivision type roads and streets. Streets with a design speed less than thirty (30) m.p.h. shall be posted with appropriate legal speed limit signs.

(h) Refer to subsection 72-620(b).

(i) See the Manual of Uniform Standards for Design Construction and Maintenance for Streets and Highways (Green Book).

(j) See FDOT Standard Specifications for Road and Bridge Construction and Table I for the structural section.

(k) Refer to subsection 72-612(d)(3) and subsection 72-612(f)(4).

(l) Pavement is not required. 20 ft. refers to the stabilized surface width.

N/A = Not Applicable

SECTION X: AUTHORIZING INCLUSION IN CODE - The provisions of this ordinance shall be included and incorporated into the Code of Ordinances of the County of Volusia, as additions or amendments thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the code.

SECTION XI: SEVERABILITY - Should any word, phrase, sentence, subsection or section be held by a court of competent jurisdiction to be illegal, void, unenforceable, or unconstitutional, then that word, phrase, sentence, subsection or section so held shall be severed from this ordinance and all other words, phrases, sentences, subsections, or sections shall remain in full force and effect.

SECTION XII: CONFLICTING ORDINANCES - All ordinances, or parts thereof, in conflict herewith are, to the extent of such conflict, repealed.

SECTION XIII: EFFECTIVE DATE - A certified copy of this Ordinance shall be filed with the Department of State by the County Manager within ten (10) days after enactment by the County Council and this Ordinance shall take effect upon filing with the Department of State.

**ADOPTED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY,
FLORIDA, IN OPEN MEETING DULY ASSEMBLED IN THE COUNTY
COUNCIL CHAMBERS AT THE THOMAS C. KELLY ADMINISTRATION
CENTER, 123 WEST INDIANA AVENUE, DELAND, FLORIDA THIS ____
DAY OF _____, A.D. 2013.**

ATTEST: COUNTY COUNCIL
COUNTY OF VOLUSIA, FLORIDA

James T. Dinneen, County Manager

Jason P. Davis, County Chair