



## INTER-OFFICE MEMORANDUM

**TO:** Chairman Frank Severino  
and PLDRC Members

**DATE:** October 31, 2013

**FROM:** Scott Ashley, Senior Zoning Manager  
Current Planning

**FILE NO:** 13-CP-017

**SUBJECT:** Ordinance No. 2013-XX. Amending Chapter 22 and Chapter 72 of the Code of Ordinances

Administrative text changes are proposed to update and revise certain definitions, requirements and code section references of Chapters 22 Buildings and Buildings Regulations, Chapter 72, Land Planning, and Chapter 90, Planning of the Volusia County Code that are out of date with county or statutory changes that have occurred.

#### Ordinance summary

The ordinance amends definitions in Chapter 22 and Chapter 72, Article I. Updates and revises certain code sections in Chapter 72, Article II. Zoning, to reference the "Florida Building Code", and the new "Community Planning Act" adopted by the State in 2011. Additionally, this ordinance includes several changes to Article III. Land Development Code, by amending certain provisions of flood regulations of Division 7. Flood Hazard Management, certain environmental provisions of Division 10 Tree Preservation, Division 11. Wetland Alteration and Division 13 Potable Water Well, and to certain provisions of Division 14. Concurrency Management. Replaces the references to the "Local Government Comprehensive Planning and Land Development Regulation Act" with "Community Planning Act" in Chapter 90, Planning, Footnote(s) and section 90-35(e) of the Code of Ordinance, County of Volusia

#### Consistency

This amendment is consistent with the Volusia County Comprehensive Plan.

#### Staff recommendation

Staff recommends that the PLDRC find Ordinance No. 2013-XXX consistent with the comprehensive plan and forward to the county council for final action with a recommendation of approval.

## ORDINANCE 2013-

AN ORDINANCE OF THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE COUNTY OF VOLUSIA, AMENDING CHAPTER 22, BUILDINGS AND BUILDING REGULATIONS, ARTICLE III, CONTRACTORS, DIVISION 1, SECTION 22-81, DEFINITIONS; BY AMENDING CHAPTER 72, LAND PLANNING; ARTICLE I, DEFINITIONS AND INTERPRETATION, SECTION 72-2 DEFINITIONS; BY AMENDING ARTICLE II, ZONING, DIVISION 8, SUPPLEMENTARY REGULATIONS, SECTION 72-282, FENCES, WALLS AND HEDGES; BY AMENDING DIVISION 9, ADMINISTRATION AND VIOLATIONS, SECTION 72-341, ADMINISTRATION; BY AMENDING DIVISION 11, PLANNING AND LAND DEVELOPMENT REGULATION COMMISSION, SECTION 72-413, POWERS AND DUTIES; BY AMENDING ARTICLE III, LAND DEVELOPMENT REGULATIONS, DIVISION 2, SUBDIVISION REGULATIONS, SECTION 72-538, SKETCH PLAN REVIEW; BY AMENDING DIVISION 7, FLOOD HAZARD MANAGEMENT, SECTION 72-745, DEFINITIONS; BY AMENDING SECTION 72-746, GENERAL PROVISIONS; BY AMENDING SECTION 72-749, PROVISIONS FOR FLOOD HAZARD REDUCTION; BY AMENDING DIVISION 10, VOLUSIA COUNTY TREE PRESERVATION ORDINANCE, SECTION 72-833, DOCUMENTS INCORPORATED BY REFERENCE; BY AMENDING SECTION 72-835, GENERAL EXEMPTIONS; BY AMENDING DIVISION 11, WETLAND ALTERATION PERMITS, SECTION 72-882, WETLAND IDENTIFICATION; BY AMENDING SECTION 72-884, PERMIT REQUIREMENTS; BY AMENDING DIVISION 13, POTABLE WATER WELL FIELD PROTECTION, SECTION 72-961, PURPOSE AND INTENT; BY AMENDING SECTION 72-962, ESTABLISHMENT OF WELL FIELD PROTECTION ZONES; BY AMENDING DIVISION 14, CONCURRENCY MANAGEMENT, SECTION 72-1006, FINDINGS AND INTENT; BY AMENDING SECTION 72-1007, CERTIFICATE OF CAPACITY OR NONCONCURRENCY AFFIDAVIT; BY AMENDING SECTION 72-1009, CRITERIA FOR AND LEVELS OF SERVICE FOR CONCURRENCY; BY AMENDING DIVISION 20, PENDING APPLICATIONS; CONFLICTING PROVISIONS; ENFORCEMENT;

1           **OFFICIAL AUTHORITY; LEGAL ACTIONS, SECTION 72-**  
2           **1241, EFFECT ON PENDING APPLICATIONS; BY**  
3           **AMENDING CHAPTER 90, PLANNING, FOOTNOTE(S);**  
4           **ARTICLE II, VOLUSIA GROWTH MANAGEMENT**  
5           **COMMISSION CONSISTENCY CERTIFICATION RULES**  
6           **AND ORGANIZATION, DIVISION 2, VOLUSIA GROWTH**  
7           **MANAGEMENT COMMISSION CONSISTENCY**  
8           **CERTIFICATION RULES, SECTION 90-35, APPLICATION**  
9           **FOR CERTIFICATE; PROCEDURE FOR ISSUANCE;**  
10          **PUBLIC HEARING REQUIREMENTS; PROVIDING FOR**  
11          **INCLUSION IN CODE; PROVIDING FOR**  
12          **SEVERABILITY; PROVIDING FOR CONFLICTING**  
13          **ORDINANCES; AND PROVIDING FOR AN EFFECTIVE**  
14          **DATE.**

15  
16           BE IT ORDAINED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY,  
17   FLORIDA, AS FOLLOWS:

18  
19           (Words in ~~strike-through~~ type are deletions; words in underscore type are  
20   additions.)

21  
22  
23           **SECTION I:** Chapter 22, Article III, Division 1, Section 22-81 of the Code of  
24   Ordinances, County of Volusia is hereby amended to read as follows:

25           **Sec. 22-81. Definitions**

26           ...

27           ~~Swimming pool code means the swimming pool code adopted by Volusia County as~~  
28   ~~mandated by Florida Statutes.~~

29           ...

30           **SECTION II:** Chapter 72, Article 1, Section 72-2. of the Code of Ordinances, County of  
31   Volusia is amended to read as follows:

32  
33  
34           **Sec. 72-2. Definitions.**

35           ...

1        *Community residential home:* A dwelling unit licensed by the State of Florida to serve  
 2        residents, as defined in Chapter 419, Florida Statutes, who are clients of the Department  
 3        of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice,  
 4        or the Florida Department of Children and Family Services which provides a living environment  
 5        for seven (7) to fourteen (14) unrelated residents who operate as the functional equivalent of a  
 6        family, including such supervision and care by supportive staff as may be necessary to meet the  
 7        physical, emotional and social needs of the residents.

8        ...

9  
 10        *Deteriorated tree:* Degenerated or damaged to the point where death of the tree is  
 11        imminent or to the point where the tree poses a significant hazard.

12        ...

13        *Group home:* A residential facility licensed by the State of Florida ~~under F.S. ch. 393,~~  
 14        which provides a family living environment for ~~at least four, but not more than~~ seven (7) to  
 15        fifteen (15) unrelated residents, including supervision and care necessary to meet the physical,  
 16        emotional, and social needs of its residents. A group home includes adult congregate living  
 17        facility, foster care facility, and residential treatment facility as defined in state law.

18        ...

19        *Historic tree:* Any Live Oak (*Quercus virginiana*) or Bald Cypress (*Taxodium*+  
 20        distichal) 36 inches DBH or greater, or other tree which is determined by the County Council of  
 21        Volusia County to be of such unique and intrinsic value to the        general public because of its  
 22        size, age, historic association or ecological value as to justify this classification. Any tree in this

county selected and duly designated a Florida State Champion, United States Champion or a World Champion by the American Forestry Association shall likewise be within this definition.

...

Well field protection zone: The surface and subsurface area surrounding a potable water supply well, through which contaminants are reasonably likely to move toward and reach the well.

...

**SECTION III:** Chapter 72, Article II, Division 8, Section 72-282 of the Code of Ordinances, County of Volusia, is hereby amended to read as follows:

**Sec. 72-282. Fences, walls and hedges.**

Fences, walls and hedges may be permitted in any yard area, provided:

(1) Fences, walls and hedges, except those with an opacity of 25 percent or less erected to meet the requirements of the ~~Standard Swimming Pool Code, Volusia County Ordinance No. 81-30 [Code section 22-212]~~ Florida Building Code, as amended, shall not exceed three feet in height when erected on an atypical lot rearward of the rearmost point of the principal structure as defined by the required yard area. Fences, walls and hedges in all other rear and side yards shall not exceed six feet in height.

...

**SECTION IV:** Chapter 72, Article II, Division 9, Section 72-341 of the Code of Ordinances, County of Volusia, is hereby amended to read as follows:

**Sec. 72-341 Administration.**

1 ...

3 (h) *Consistency with comprehensive plan.*

4 (1) The Volusia County Comprehensive Plan guides future development and land  
 5 use within the unincorporated area of the county. As required by the “~~Local Government~~  
 6 ~~Comprehensive Planning and Land Development Regulation Act~~” (F.S. ch. 163), Community  
 7 Planning Act, Chapter 163, Florida Statutes, as amended, all decisions regarding land  
 8 development, notwithstanding any provisions for vested properties, shall be consistent with the  
 9 comprehensive plan. Where there are any apparent conflicts between the comprehensive plan  
 10 and this article, the plan shall prevail. Provided, however, said comprehensive plan provides for  
 11 recognition of vested rights pursuant to section F, chapter 21 of said plan.

12 ...

14 **SECTION V:** Chapter 72, Article II, Division 11, Section 72-413 of the Code of  
 15 Ordinances, County of Volusia, is hereby amended to read as follows:

16 **Sec. 72-413 Powers and duties.**

17 ...

18 (b) The commission is hereby designated as the local planning agency as required by F.S.  
 19 163.3161 et seq. and 163.3174 of the ~~Local Government Comprehensive Planning and Land~~  
 20 ~~Development Regulation Act~~ Community Planning Act. It shall prepare, or cause to be prepared,  
 21 the elements of the comprehensive plan required in F.S. 163.3177 and any other appropriate  
 22 elements, and shall make recommendations regarding the comprehensive plan to the county  
 23 council. It shall have the general responsibility for the conduct of the comprehensive planning

1 program. It shall comply with all requirements of the ~~Local Government Comprehensive~~  
 2 ~~Planning and Land Development Regulation Act~~ Community Planning Act and shall monitor and  
 3 oversee the effectiveness and status of the comprehensive plan, and recommend to the county  
 4 council such changes in the comprehensive plan as may from time to time be required. It shall  
 5 perform any other duties assigned by the county council, and may prepare and recommend to the  
 6 county council any other proposals to implement the comprehensive plan. No recommendation  
 7 for approval of any comprehensive plan amendment may occur unless four members concur.

8 (c) As the local planning agency, the commission is hereby designated as the land  
 9 development regulation commission in accordance with the provisions of F.S. 163.3161 et seq.  
 10 and ~~163.3194~~ 163.3194(2) of the ~~Local Government Comprehensive Plan and Land~~  
 11 ~~Development Regulation Act~~ Community Planning Act. The commission shall develop and  
 12 recommend to the county council land development regulations which implement the  
 13 comprehensive plan and review land development regulations which implement the  
 14 comprehensive plan and review land development regulations or amendments thereto for  
 15 consistency with the adopted plan.

16 ...  
 17  
 18

19 **SECTION VI:** Chapter 72, Article III, Division 2, Section 72-538 of the Code of  
 20 Ordinances, County of Volusia, is hereby amended to read as follows:

21 **Sec. 72-538. Sketch plan review.**

22 ...

23 (c) *Required submittals.* Sketch plan shall be drawn at a scale no smaller than one inch  
 24 equals 200 feet and shall illustrate clearly:

1 ...

2 (5) ~~Swamp or wetland areas~~ Wetlands as defined ~~herein~~ in Section 72-2.

3 ...

4  
5 **SECTION VII:** Chapter 72, Article III, Division 7, Section 72-745 of the Code of  
6 Ordinances, County of Volusia, is hereby amended to read as follows:

7 **Sec. 72-745 Definitions.**

8 Unless specifically defined below ~~or in the glossary for the land development code or in~~  
9 Section 72-2, as amended, words or phrases used in this division shall be interpreted so as to give  
10 them the meaning they have in common usage and to give this division its most reasonable  
11 application consistent with the purpose and objectives stated herein.

12 ...

13 *Existing construction:* Means, for the purposes of floodplain management, structures for  
14 which the start of construction commenced before ~~December 5, 1974~~ November 11, 1973.  
15 ~~Existing construction means, for the purposes of determining rates, structures for which the start~~  
16 ~~of construction commenced before January 1, 1975.~~ This term may also be referred to as  
17 "existing structures."

18 ...

19 *Existing manufactured home park or subdivision:* A manufactured home park or  
20 subdivision for which the construction of facilities for servicing the lots on which the  
21 manufactured homes are to be affixed (including at a minimum the installation of utilities, the  
22 construction of streets, and either final site grading or the pouring of concrete pads) was  
23 completed before ~~December 5, 1974~~ November 11, 1973.



1 ...

2 *New construction:* Any structure for which the "start of construction" commenced on or  
 3 after ~~December 5, 1974~~ November 11, 1973. The term also includes any subsequent  
 4 improvements to such structures.

5 *New manufactured home park or subdivision:* A manufactured home park or subdivision  
 6 for which the construction of facilities for servicing the lots on which the manufactured homes  
 7 are to be affixed (including at a minimum, the installation of utilities, the construction of streets,  
 8 and either final site grading or the pouring of concrete pads) was completed on or after  
 9 ~~December 5, 1974~~ November 11, 1973.

10 ...

11 *Variance:* A variance is a grant of relief from the requirements of this division.

12 ...

13 See ~~the land development code glossary~~ Section 72-2 for the remainder of definitions.

14  
 15 **SECTION VIII:** Chapter 72, Article III, Division 7, Section 72-746 of the Code of  
 16 Ordinances, County of Volusia, is hereby amended to read as follows:

17 **Sec. 72-746 General Provisions.**

18 ...

19 (b) *Basis for establishing the areas of special flood hazard.* The areas of special flood  
 20 hazard identified by the Federal Emergency Management Agency (hereinafter "FEMA") in the  
 21 Flood Insurance Study (hereinafter "FIS") for the County of Volusia, dated ~~April 4, 1983~~  
 22 February 19, 2014, with the accompanying maps and other supporting data, and any subsequent

revisions thereto, are adopted by reference and declared to be a part of this division. The FIS and FIRM are on file at: The County of Volusia, 123 W. Indiana Ave., DeLand, FL 32720.

...

**SECTION IX:** Chapter 72, Article III, Division 7, Section 72-749 of the Code of Ordinances, County of Volusia, is hereby amended to read as follows:

**Sec. 72-749 Provisions for flood hazard reduction.**

...

(b) *Specific standards for A-zones where base flood elevation data have been provided or base flood elevation is undetermined or not numbered.* In all A-zones where base flood elevation data have been provided (zones AE, A1-30, and AH), as set forth in subsection 72-746(b), and A-zones where the base flood elevation is undetermined or unnumbered on said maps, the following provisions shall apply:

(1) ...

a. The floor of ~~A~~accessory structures as defined in section 72-245, Definitions.

b. The lowest floor of a garage used solely for the purpose of parking vehicles shall ~~have the lowest floor~~ be elevated no lower than the base flood elevation.

c. The floor of a substantial improvement of any residential structure with a certificate of completion permitted prior to the adoption of Ordinance No. 88-3, January 19, 1988, shall be elevated no lower than the base flood elevation or the floor of the existing structure, whichever is greater.

(2) ...

a. The floor of ~~A~~accessory structures as defined in section 72-245,

Definitions.

b. The floor of a substantial improvement of any nonresidential structure

with a certificate of completion permitted prior to the adoption of Ordinance No. 88-3, January

19, 1988, shall be elevated no lower than the base flood elevation or the floor of the existing

structure, whichever is greater.

(d) ...

(1)...

a. The floor of ~~A~~accessory structures as defined in section 72-245,

Definitions.

b. The lowest floor of a garage used solely for the purpose of parking

vehicles shall ~~have the lowest floor~~ be elevated above the highest grade at least as high as the

depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest

floor, including basement, shall be elevated to no less than two feet above the highest adjacent

grade.

c. The floor of a substantial improvement of any residential structure with

a certificate of completion permitted prior to the adoption of Ordinance No. 88-3, January 19,

1988, shall have the lowest floor elevated above the highest grade at least as high as the depth

number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor,

including basement, shall be elevated to no less than two feet above the highest adjacent grade.

(2)...

c. The following exceptions shall apply:

1. The floor of ~~A~~accessory structures as defined in section 72-245, Definitions.

2. The floor of a substantial improvement of any nonresidential structure with a certificate of completion permitted prior to the adoption of Ordinance No. 88-3, January 19, 1988, shall have the lowest floor elevated above the highest grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated to no less than two feet above the highest adjacent grade.

**SECTION X:** Chapter 72, Article III, Division 10, Section 72-833 of the Code of Ordinances, County of Volusia, is hereby amended to read as follows:

**Sec. 72-833 Documents incorporated by reference.**

When a word, term, or phrase used in this division is not defined in Section 72-2, ~~this article III, herein, Volusia County Land Development Code, Glossary of Definitions~~, the definitions set forth in publications recognized as authoritative in the scientific and engineering fields, as applicable, shall apply. Such publications shall include the latest edition of Trees Native to Tropical Florida by Tomlinson; Dig Manual by the State of Florida; Guide for Plant Appraisal by the Council of Tree and Landscape Appraisers; Trees and Development by Jim Clark and Nelda Matheny; Tree, Shrub and Other Woody Plant Maintenance-Standard Practices by the American National Standards Institute (ANSI A-300); Grades and Standards for Nursery Plants by the Florida Department of Agriculture and Consumer Services. These publications, as amended, are adopted and incorporated into this division by reference.

**SECTION XI:** Chapter 72, Article III, Division 10, Section 72-835 of the Code of Ordinances, County of Volusia, is hereby amended to read as follows:

**Sec. 72-835. General exemptions.**

...

(c) Deteriorated trees, as defined in Section 72-2 ~~the glossary portion of the article III of the Volusia County Land Development Code~~, which have been removed with prior approval of the county forester, are exempt from the provisions of this division. Trees removed without prior approval of the county forester shall be presumed to have been in good condition. Removal of said trees without review by the county forester shall be considered a violation of this division and subject to the provisions of section 72-832 of this division.

(d)...

(1) ...

Historic trees located on residential owner-occupied property as defined ~~herein~~ in Section 72-2, are exempt from the requirement of this division.

...

(2) ...

Historic trees located on agricultural use property as defined ~~herein~~ in Section 72-2, are exempt from the requirement of this division.

...

**SECTION XII:** Chapter 72, Article III, Division 11, Section 72-882 of the Code of Ordinances, County of Volusia, is hereby amended to read as follows:

**Sec. 72-882. Wetland identification.**

The wetlands shall be as defined in ~~the glossary~~ Section 72-2. The landward extent of wetland delineation shall be as provided in Rule 62-340 et seq., Florida Administrative Code. In the event an undeveloped area has been cleared within six months from the date of application submittal or jurisdictional determination of all vegetation, the wetland boundary may be determined by a study of the soils, aerial mapping, photography, hydrology and other historical information as appropriate.

**SECTION XIII:** Chapter 72, Article III, Division 11, Section 72-884 of the Code of Ordinances, County of Volusia, is hereby amended to read as follows:

**Sec. 72-884. Permit requirements.**

It is hereby unlawful for any person to engage in any activity which will remove, fill, drain, dredge, clear, destroy, or alter any wetland or wetland buffer as ~~herein~~ defined in Section 72-2 on any lot or portion thereof without obtaining a wetland alteration permit in accordance with the provisions of this Chapter. Said above-described permit may be issued concurrent or in conjunction with other land development permits. It is the intent of this section that construction of a single-family dwelling on upland which does not alter by removing, filling, draining, dredging, clearing or destroying any wetland or wetland buffer shall not require a permit pursuant to this section.

**SECTION XIV:** Chapter 72, Article III, Division 13, Section 72-961 of the Code of Ordinances, County of Volusia, is hereby amended to read as follows:

**Sec. 72-961. Purpose and intent.**

(a) The purpose and intent of this article is to safeguard the public health, safety and welfare of the people of Volusia County, Florida, by providing for regulation of the storage, handling, use or production of hazardous substances within zones of protection surrounding potable water supply wells as defined in ~~this division~~ Section 72-2, thereby protecting the potable water supply from contamination. This division is required by F.S. § 163.3202.

...

**SECTION XV:** Chapter 72, Article III, Division 13, Section 72-962 of the Code of Ordinances, County of Volusia, is hereby amended to read as follows:

**Sec. 72-962. Establishment of well field protection zones.**

The regulations set forth in this division shall apply to all lands surrounding a potable water supply well designated as the primary or secondary well field protection zone(s) as defined in ~~this article~~ Section 72-2.

(1) *Mapping.* The environmental management director (EMD) shall provide well field protection zone maps to designate and geographically delineate and amend, as necessary, the primary and secondary well field protection zones as defined in ~~this division~~ Section 72-2. Said maps shall be on file with the environmental management department.

...

**SECTION XVI:** Chapter 72, Article III, Division 14, Section 72-1006 of the Code of Ordinances, County of Volusia, is hereby amended to read as follows:

**Sec. 72-1006. Findings and Intent.**

(a) The County Council of Volusia County, Florida, finds that F.S. 163.3161 et seq. establishes the ~~Local Government Comprehensive Planning and Land Development Regulation Act~~ Community Planning Act

...

(e) ~~F.S. 163.3177(10)9h) provides that it is the intent of the legislature that public facilities and services needed to support development shall be available concurrent with the impact of such development. This is commonly referred to as the concurrency provision of the Act.~~ F.S. 163.3180 provides that it is the intent of the legislature that sanitary sewer, solid waste, drainage, and potable water shall be available concurrent with the impact of development. Additional public facilities shall be subject to a concurrency requirement at the option of the local government. This is commonly referred to as the concurrency provision of the act.

(f) ~~Rule 9J-5.005, Florida Administrative Code, requires that a concurrency management system be implemented after the adoption of the comprehensive plan to ensure that public facilities and services needed to support development are available concurrent with the impacts of such development.~~ F.S. 163.3180 requires that if concurrency is applied to public facilities in addition to sanitary sewer, drainage, and potable water, the comprehensive plan must provide the principles, guidelines, standards, and strategies, including adopted levels of service, to guide its application. The comprehensive plan must demonstrate that the levels of service adopted can be reasonably met for any concurrency requirement, whether state or locally mandated. The comprehensive plan must include principles and methodologies for the establishment of a concurrency management system.

...



1           **SECTION XVII:** Chapter 72, Article III, Division 14, Section 72-1007 of the Code of  
2 Ordinances, County of Volusia, is hereby amended to read as follows:

3           **Sec. 72-1007. Certificate of capacity or nonconcurrency affidavit.**

4           ...

5           (1) Each applicant for a preliminary development order as defined in ~~this article~~  
6 Section 72-2 shall elect one of the following options:

7                   a. Apply for a certificate of capacity; or

8                   b. Execute a nonconcurrency affidavit.

9           (2) Each applicant for a final development order as defined in ~~this article~~ Section 72-2  
10 shall apply for a certificate of capacity. Each application for a certificate of capacity shall  
11 include, at a minimum, a statement as to specific land use(s) and zoning together with the  
12 appropriate land use classification(s) in the most recent edition of the "Institute of Transportation  
13 Engineers Trip Generation Manual", the number of units, and the floor area or square footage for  
14 all nonresidential structures or other areas that will be used for display or storage of goods or  
15 dedicated to performance of services, as applicable or relevant to the estimation of impacts for  
16 purposes of meeting the intent of these regulations. For phased projects, this information shall be  
17 provided for each phase. The application shall also include, at a minimum, the location of the  
18 project, including parcel identification numbers. The county manager, or his/her designee, may  
19 require additional information or request supplemental information for specific concurrency  
20 facilities. Information supplied by the applicant in any related development approval  
21 application(s) may be used for the certificate of capacity determination.

22           ...

**SECTION XVIII:** Chapter 72, Article III, Division 14, Section 72-1009 of the Code of Ordinances, County of Volusia, is hereby amended to read as follows:

**Sec. 72-1009 Criteria for and levels of service for concurrency.**

(a) Thoroughfare system roads.

(1)...

...

b. The facilities necessary to serve the project or project phase and maintain the adopted levels of service are guaranteed in an enforceable development agreement that includes the provisions of ~~Rule 9J-5.0055(2)(a)(1)~~ F.S. 163.3177(6)(b) pursuant to F.S. 163.3220, or an agreement or development order issued pursuant to F.S. ch. 380. The agreement must guarantee the necessary facilities to serve the project or project phase and maintain the adopted levels of service will be in place at the time of issuance of the certificate of capacity; or will be in place or under actual construction within three years from the date of issuance of the certificate of capacity; or

...

d. The project or project phase satisfies the proportionate fair share mitigation requirements of chapter 70, or F.S. ~~163.3180(12)~~ 163.3180(5)(h)3 for developments of regional impact; or

...

**SECTION XIX:** Chapter 72, Article III, Division 20, Section 72-1241 of the Code of Ordinances, County of Volusia, is hereby amended to read as follows:

**Sec. 72-1241. Effect on pending applications.**

Any application for a development order or development permit as ~~herein~~ defined in Section 72-2, filed pursuant to applicable county ordinances and regulations in effect prior to the initial adoption of this article shall be subject to the following transition provisions:

...

**SECTION XX:** Chapter 90, Planning, Footnote(s) of the Code of Ordinances, County of Volusia, is hereby amended to read as follows:

...

**State Law reference**— Powers of chartered counties, Fla. Const. art. VIII, § 1(g); ~~Local Government Comprehensive Planning and Land Development Regulation Act~~, Community Planning Act F.S. § 163.3161 et seq.

...

**SECTION XXI:** Chapter 90, Article II, Division 2, Section 90-35 of the Code of Ordinances, County of Volusia, is hereby amended to read as follows:

...

**Sec. 90-35. Application for certificate; procedure for issuance; public hearing requirements.**

...

(e) Nothing contained in this article shall preclude the concurrent processing of applications for certification and the state's related review pursuant to the ~~Local Government Comprehensive Planning and Land Development Regulation Act~~ Community Planning Act (F.S. § 163.3161 et seq.), as amended from time to time.

...

**SECTION XXII: 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 XXIII: 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 XXIV: CONFLICTING ORDINANCES** - All ordinances or part thereof, in conflict herewith are, to the extent of such conflict, repealed.

**SECTION XXV: EFFECTIVE DATE** - An electronic 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