

1 **Staff Summary**

2 This ordinance proposes to rescind and replace Section 7.00.08, Land Development
3 Regulations, in its entirety in order to update the Code to meet all requirements of the
4 2030 Comprehensive Plan and to establish the mechanism and criteria for the Transfer
5 of Development Rights (TDR) within the Wekiva River Protection Area of
6 unincorporated Lake County, Florida. This Ordinance will revise and simplify the TDR
7 process by combining steps and reducing the duplication of processes.

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9 After consideration by the Lake County Planning & Zoning Board on August 7, 2013,
10 staff corrected three (3) scrivener's errors in the ordinance that staff had intended to
11 change in the ordinance that went before the Planning & Zoning Board. These changes
12 did not affect the title of the ordinance. Specifically, three references to the term
13 "conservation easement" were removed and replaced with the term "recordable, legally
14 binding instrument" or "legally binding instrument" on Page 6, Line 19 and Page 7,
15 Lines 6, 8 and 9. The term "recordable, legally binding instrument" is more expansive
16 than the term "conservation easement" and is consistent with the language contained in
17 Comprehensive Plan Policies creating the Future Land Use categories in the Wekiva
18 River Protection Area.

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20 Changes are shown as follows: Strikethrough for deletions and Underline for additions
21 to existing Code sections. The notation " " shall mean that all preceding or
22 subsequent text remains unchanged (excluding any re-numbering or re-lettering that
23 might be needed).

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25 **ORDINANCE NO. 2013-49**

26 **AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LAKE**
27 **COUNTY, FLORIDA; AMENDING CHAPTER II, LAKE COUNTY CODE, APPENDIX**
28 **E, LAND DEVELOPMENT REGULATIONS, ENTITLED "DEFINITIONS", TO CREATE**
29 **DEFINITIONS FOR THE TRANSFER OF DEVELOPMENT RIGHTS; RESCINDING**
30 **AND REPLACING SECTION 7.00.08, LAKE COUNTY CODE, APPENDIX E, LAND**
31 **DEVELOPMENT REGULATIONS, ENTITLED "TRANSFER OF DEVELOPMENT**
32 **RIGHTS", IN ITS ENTIRETY, TO ESTABLISH THE MECHANISM AND CRITERIA**
33 **FOR THE TRANSFER OF DEVELOPMENT RIGHTS WITHIN THE WEKIVA RIVER**
34 **PROTECTION AREA WITHIN THE UNINCORPORATED AREA OF LAKE COUNTY,**
35 **FLORIDA; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE**
36 **CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

37 **WHEREAS**, the County regulates the use of land within the Wekiva River
38 Protection Area as defined by Florida Statutes; and

39 **WHEREAS**, in order to permit the owners of property subject to the limitation on
40 density established herein to utilize the development potential of that property existing
41 prior to March 12, 1990, it is necessary to provide for a system of transferability of
42 development rights; and

1 **WHEREAS**, the Lake County Comprehensive Plan became effective on
2 September 22, 2011; and

3 **WHEREAS**, Policy 1-1.1.8, Lake County Comprehensive Plan, requires Lake
4 County to adopt and maintain a set of specific and detailed Land Development
5 Regulations (LDR) that implement and are consistent with the goals, objectives, and
6 policies of the Comprehensive Plan; and

7 **WHEREAS**, LDR Chapter 2, entitled "Definitions", and LDR Section 7.00.08,
8 entitled "Transfer of Development Rights", must be amended in order to conform to the
9 policies and objectives of Goal I-3 of the Lake County Comprehensive Plan, entitled
10 "Wekiva Area"; and

11 **WHEREAS**, the Planning & Zoning Board, in its capacity as the Local Planning
12 Agency, considered this ordinance and recommended approval at a properly advertised
13 public hearing on August 7, 2013; and

14 **WHEREAS**, the Lake County Board of County Commissioners desires to amend
15 Chapter II, LDR, and to repeal and replace Section 7.00.08, LDR, in order to create and
16 update provisions of the LDR pertaining to transfer of development rights in accordance
17 with the Lake County Comprehensive Plan;

18 **NOW THEREFORE, BE IT ORDAINED** by the Board of County Commissioners
19 of Lake County, Florida, as follows:

20 **Section 1. Recitals.** The foregoing recitals are true and correct and
21 incorporated herein by reference.

22 **Section 2. Amendment.** Chapter II, Lake County Code, Appendix E, Land
23 Development Regulations, entitled Definitions, is amended to create definitions to read
24 as follows, and to be inserted in their alphabetical order in Chapter II:

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27 **Rural Conservation Subdivision.** A clustered subdivision design that
28 preserves natural resources and features within the subdivision in large contiguous
29 common open space tracts consistent with the design criteria in the Comprehensive
30 Plan and Land Development Regulations.

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33 **Section 3. Amendment.** Chapter VII, Section 7.00.08, Lake County Code, Appendix
34 E, Land Development Regulations, entitled Transfer of Development Rights, is repealed
35 in its entirety, and replaced with the following text:

1 **7.00.08 Transfer of Development Rights.**

2 A. Intent. It is the intent of this Section to establish the mechanism and
3 criteria for the Transfer of Development Rights (TDR) consistent with the
4 Wekiva Area Goals, Objectives, and Policies of the Lake County
5 Comprehensive Plan.

6 B. Sending Areas.

7 1. **Wekiva River Protection Area A-1-40 Sending Area (Sending Area**
8 **#1).** Land within the Wekiva River Protection Area (WRPA), as defined
9 in the Lake County Comprehensive Plan, inside the Wekiva River
10 Hydrologic Basin Protection Zones established pursuant to the Florida
11 Statutes as depicted on the future land use map (FLUM), and not
12 vested pursuant to Section 7.00.09, Shall be allowed a maximum
13 Density of one (1) Dwelling Unit per forty (40) Net Buildable Acres.
14 However, Density may be increased to a maximum of one (1) Dwelling
15 Unit per ten (10) Net Buildable Acres if developed as a clustered Rural
16 Conservation Subdivision utilizing PUD, and provided that at least 50%
17 of the net buildable area is dedicated in perpetuity for preservation as
18 common open space through the use of a recorded and legally binding
19 instrument.

20 This area within the Wekiva River Protection Area, as shown on the
21 Future Land Use Map, is hereby designated as the Wekiva River
22 Protection Area A-1-40 Sending Area for Transfer of Development
23 Rights. Transferable Development Rights of a particular parcel shall be
24 calculated based upon the Gross Density allowable under the zoning
25 classification in existence immediately prior to March 12, 1990.

26 2. **Wekiva River Protection Area A-1-20 Sending Area (Sending Area**
27 **#2).** Land within the WRPA, as defined in the Lake County
28 Comprehensive Plan, outside the Wekiva River Hydrologic Basin
29 Protection Zones established pursuant to the Florida Statutes as
30 depicted on the future land use map (FLUM), and not vested pursuant
31 to Section 7.00.09 Shall be allowed at a maximum Density of one (1)
32 Dwelling Unit per twenty (20) Net Buildable Acres. However, Density
33 may be increased to a maximum of one (1) Dwelling Unit per five (5)
34 Net Buildable Acres if developed as a clustered Rural Conservation
35 Subdivision utilizing PUD, and provided that at least 50% of the net
36 buildable area is dedicated in perpetuity for preservation as common
37 open space through the use of a recorded and legally binding
38 instrument.

1 This area within the Wekiva River Protection Area, as shown on the
2 Future Land Use Map, is hereby designated as Wekiva River
3 Protection Area A-1-20 Sending Area for transferable Development
4 Rights. Transferable Development Rights of a particular parcel shall be
5 calculated based upon the Gross Density allowable under the zoning
6 classification in existence immediately prior March 12, 1990.

7 A. Receiving Areas.

8 1. Wekiva River Protection Area A-1-20 Receiving Area (Receiving
9 Area #1). This area is outside the Wekiva River Protection Area A-1-40
10 Sending Area, the Wekiva River Protection Area A-1-20 Sending Area
11 and the Mount Plymouth-Sorrento Receiving Area as designated on
12 Future Land Use Map. Land within the Wekiva River Protection Area
13 A-1-20 Receiving Area shall have a maximum Density of one (1)
14 Dwelling Unit per twenty (20) Net Buildable Acres. A proposed
15 subdivision may increase density to a maximum of one (1) dwelling
16 unit per five (5) net buildable acres if developed as a clustered Rural
17 Conservation Subdivision utilizing PUD, and provided that at least 50%
18 of the net buildable area is dedicated in perpetuity for preservation as
19 common open space through the use of a recorded and legally binding
20 instrument. Density may be further increased to a maximum of one (1)
21 dwelling unit per one (1) net buildable acre through the transfer of
22 development rights from Sending Area Numbers One and Two.

23 2. Wekiva River Protection Area Mt. Plymouth-Sorrento Receiving
24 Area (Receiving Area #2). Lands within the Mount Plymouth-Sorrento
25 Receiving Area, as designated on the Future Land Use Map, may be
26 Developed up to a maximum Density of five and one-half (5.5)
27 Dwelling Units per one (1) Net Buildable Acre through the purchase
28 and use of Transferable Development Rights (TDRs) from the Wekiva
29 River Protection Area A-1-40 Sending Area and the Wekiva River
30 Protection Area A-1-20 Sending Area and if the "PUD" Planned Unit
31 Development Zoning District is utilized. Any increase in Density above
32 that Permitted by the zoning classification in place immediately prior to
33 March 12, 1990, shall require the purchase and use of TDRs and shall
34 be based on net buildable acres.

35 B. Transfer of Development Rights (TDRs). Development rights existing on
36 property located within the Wekiva River Protection Area A-1-40 Sending
37 Area and the Wekiva River Protection Area A-1-20 Sending Area, as
38 described in Section 7.00.08.B, above, may be transferred pursuant to the
39 procedures contained in Section 7.00.08.C.1 and 2, to the Wekiva River
40 Protection Area A-1-20 Receiving Area and Mount Plymouth-Sorrento
41 Receiving Area, in accordance with this Section. The Board may authorize

1 the transfer where such action will serve to implement the Wekiva River
2 Protection Area Goals, Objectives, and Policies of the 2030 Lake County
3 Comprehensive Plan.

4 1. Issuance of TDRs. A numbering system shall be created and followed
5 by Lake County to identify particular development rights issued and
6 transferred pursuant to this section. The Transfer of Development
7 Rights Shall be granted through the approval of a transfer permit by
8 the Board. The transfer permit shall be recognized as, collectively, the
9 approved Ordinances rezoning the Sending Area and Receiving Area
10 properties in order to state the number of development rights being
11 transferred from and remaining with the sending property, and the
12 development rights being created on the receiving property. The
13 zoning classification on the Sending Area property from which the
14 development rights are derived shall be changed to reflect the absence
15 of the rights transferred and the appropriate zoning classification. In
16 conjunction with the down zoning of the Sending property, the
17 Receiving property shall be rezoned to a planned zoning district and
18 Shall reflect the development rights received. The Ordinances
19 comprising the transfer permit may also provide for conditions of and
20 provisions for the rezoning, if any.

21 2. Approval Procedure for Transfer of Development Rights. Transfer of
22 development rights Shall be requested by the submission of rezoning
23 applications for both the Sending Area and Receiving Area properties,
24 which Shall be initiated by the property owners or their duly authorized
25 representatives at the same time. The rezoning applications Shall be
26 for the applicable zoning classification reflecting the reduction in
27 density for the Sending Area property and an increase in density for
28 the Receiving Area property. The procedures for submitting and
29 reviewing such applications are as follows:

30 a. Application for Rezoning to Transfer Development Rights.
31 Rezoning applications for the Sending Area property and the
32 Receiving Area property Shall be simultaneously filed with the Lake
33 County Planning and Community Design Division and Shall include
34 the following information:

- 35 (1) Name, address and telephone number of the applicant and the
36 applicant's agent if any;
37 (2) Legal description of the Sending property;
38 (3) Legal description of the Receiving property;

- 1 (4) Survey of Sending Area property – A survey drawn to scale of
2 not less than one (1) inch equals four hundred (400) feet
3 showing existing land uses on the Sending property and any
4 existing streets, structures, watercourses and easements
5 within or adjacent to the property together with the area to be
6 set aside as conservation for the development rights transfer.
7 The survey Shall include the legal description of the area to be
8 set aside as conservation, a north directional arrow and Shall
9 also show the gross and net acreage of the Sending property;

- 10 (5) Survey of Receiving Area property – A survey drawn to scale
11 of not less than one (1) inch equals four hundred (400) feet
12 showing existing land uses on the Receiving property and any
13 existing streets, structures, watercourses and easements
14 within or adjacent to the property. The survey Shall include a
15 north directional arrow and Shall also show the gross and net
16 acreage of the Receiving property;

- 17 (6) The zoning classification in existence on the Sending property
18 in the Sending area immediately prior to March 12, 1990;

- 19 (7) A fully executed, recordable, legally binding instrument
20 creating the development limitations on the Sending property,
21 including the number of TDRs being transferred from the
22 Sending property in the Sending Area;

- 23 (8) Evidence of title of the Sending property and Receiving
24 property; and

- 25 (9) Such fees as the Board may establish by resolution.

- 26 b. Agency Review. The County Manager or designee Shall review the
27 application for rezoning to transfer development rights pursuant to
28 this Section, and, upon a determination that the applications are
29 complete and that the transfer is authorized by this Section, Shall
30 forward said applications for rezoning to the Lake County Planning
31 and Zoning Board.

- 32 c. Lake County Planning and Zoning Board review. The Lake County
33 Planning and Zoning Board Shall review the applications for
34 rezoning and, after notice and hearing as required by the Lake
35 County Land Development Regulations and applicable law, Shall
36 make a recommendation on the applications for rezoning to the
37 Board for approval, approval with conditions or denial.

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d. Board of County Commissioners Action. The Board Shall review the applications for rezoning and the recommendations of the Lake County Planning and Zoning Board and, after notice and hearing as required by law, Shall approve, approve with conditions or deny the applications for rezoning. Such approval Shall include acceptance of a recordable, legally binding instrument creating development limitations on the Sending property and acknowledging the number of TDRs being transferred to the Receiving property. The legally binding instrument Shall be recorded together with a copy of the rezoning ordinances in the public records of Lake County.

3. Recordation of Transferred Development Rights. The County Manager or designee Shall establish a register which Shall include at a minimum:

- a. Numbering system for rezoning applications submitted for the purpose of transferring development rights.
- b. Tracking system for transferred densities.
- c. Recording of the transfer on the Official Zoning Map.
- d. Any other information deemed necessary.

4. Extinguishment of Rights.

- a. The transfer of any development rights from any given Sending property Shall be conclusively deemed a total transfer of the development rights for that Sending property pursuant to this Section.
- b. Transfer of particular development rights Shall extinguish such rights on the Sending property.
- c. The Transfer of Development Rights from a Sending property Shall forever restrict the use of that Sending property to those uses allowable in the A-1-40 or A-1-20 Wekiva River Protection Area Future Land Use Category and the A-1-40, A-1-20, or CFD Zoning District, and no other use of whatever kind or nature Shall be permitted or constructed upon said Sending property. This restriction shall constitute a covenant running with the land through the use of a recorded and legally binding instrument and Shall be binding upon descendants, heirs and assigns. In the event all dwelling unit density rights are transferred, only those remaining non-residential uses permitted within the applicable zoning district Shall be permitted on the Sending property.

1 E. Reassignment of Transferred Development Rights. Where development
2 rights have been assigned to a Receiving area in accordance with the
3 requirements of this Section and where those rights have not been utilized
4 or have only been partially utilized by the transferee or assignee of those
5 rights, the unused development rights may be re-conveyed to another
6 Receiving property within a Receiving Area, provided that all terms
7 provided for and conditions required by this Section are met, and provided
8 that three (3) rezoning applications are submitted simultaneously by the
9 property owners or their duly authorized representatives: one (1) for the
10 Sending property, one (1) for the original Receiving property where the
11 transferred development rights were never utilized or were only partially
12 utilized, and one (1) for the proposed new Receiving property.

13 **Section 4. Severability.** If any section, sentence, clause or phrase or the
14 Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction,
15 then said holding shall in no way effect the validity of the remaining portion of this
16 Ordinance.

17 **Section 5. Inclusion in the Code.** It is the intent of the Board of County
18 Commissioners that the provisions of this Ordinance shall become and be made a part
19 of the Lake County Code and that the sections of this Ordinance may be renumbered or
20 relettered and the word "ordinance" may be changed to "section", "article" or such other
21 appropriate word or phrase in order to accomplish such intentions.

22 **Section 6. Filing with the Department of State.** The clerk shall be and is
23 hereby directed forthwith to send a certified copy of this Ordinance to the Secretary of
24 State for the State of Florida.

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1 **Section 7. Effective.** This Ordinance shall become effective upon filing with
2 the Secretary of the State.

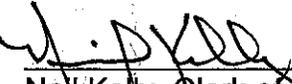
3 Enacted this 24~~th~~ day of September, 2013.

4 Filed with the Secretary of State October 3, 2013.

5 BOARD OF COUNTY COMMISSIONERS
6 OF LAKE COUNTY, FLORIDA
7

8 
9 _____
10 Leslie Campione, Chairman

11 ATTEST:

12
13 
14 _____
15 Neil Kelly, Clerk of the
16 Board of County Commissioners
17 of Lake County, Florida

18 Approved as to form and legality:

19 
20 _____
21 Sanford A. Minkoff
County Attorney

Vincent, Courtney

From: County Ordinances <CountyOrdinances@dos.myflorida.com>
Sent: Friday, October 04, 2013 9:13 AM
To: County Ordinance Submittals
Cc: County Ordinances
Subject: RE: Lake County Ordinance 2013-49
Attachments: Lake.doc

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Sent: Thursday, October 03, 2013 12:39 PM
To: County Ordinances
Cc: County Ordinance Submittals
Subject: Lake County Ordinance 2013-49

Sender Full Name:	Courtney Vincent
Sender Phone number:	352-343-9827
County Name:	Lake County
Ordinance Number:	2013-49

Courtney T. Vincent

Board Support - Senior Secretary
Office of Neil Kelly, Lake County Clerk of the Courts
315 W. Main Street
Tavares, Florida 32778
(352) 343-9827
cvincent@lakecountyclerk.org

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FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

October 3, 2013

Honorable Neil Kelly
Clerk of the Circuit Court
Lake County
550 West Main Street
P. O. Box 7800
Tavares, Florida 32778-7800

Attention: Courtney T. Vincent, Senior Secretary

Dear Mr. Kelly:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of the electronic copy of Lake County Ordinance Nos. 2013-49, which was filed in this office on October 3, 2013.

Sincerely,

Liz Cloud
Program Administrator

LC/elr

Enclosure