

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).

24  
25 **ORDINANCE NO. 2013- \_\_\_\_\_**

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 EFFECTICE 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           **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                    C. 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                    D. 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.

- 1                    d. Board of County Commissioners Action. The Board Shall review  
2                    the applications for rezoning and the recommendations of the Lake  
3                    County Planning and Zoning Board and, after notice and hearing as  
4                    required by law, Shall approve, approve with conditions or deny the  
5                    applications for rezoning. Such approval Shall include acceptance  
6                    of a recordable, legally binding instrument creating development  
7                    limitations on the Sending property and acknowledging the number  
8                    of TDRs being transferred to the Receiving property. The legally  
9                    binding instrument Shall be recorded together with a copy of the  
10                   rezoning ordinances in the public records of Lake County.
- 11                   3. Recordation of Transferred Development Rights. The County Manager  
12                   or Designee. The County Manager or designee Shall establish a  
13                   register which Shall include at a minimum:
- 14                   a. Numbering system for rezoning applications submitted for the  
15                   purpose of transferring development rights.
- 16                   b. Tracking system for transferred densities.
- 17                   c. Recording of the transfer on the Official Zoning Map.
- 18                   d. Any other information deemed necessary.
- 19                   4. Extinguishment of Rights.
- 20                   a. The transfer of any development rights from any given Sending  
21                   property Shall be conclusively deemed a total transfer of the  
22                   development rights for that Sending property pursuant to this  
23                   Section.
- 24                   b. Transfer of particular development rights Shall extinguish such  
25                   rights on the Sending property.
- 26                   c. The Transfer of Development Rights from a Sending property Shall  
27                   forever restrict the use of that Sending property to those uses  
28                   allowable in the A-1-40 or A-1-20 Wekiva River Protection Area  
29                   Future Land Use Category and the A-1-40, A-1-20, or CFD Zoning  
30                   District, and no other use of whatever kind or nature Shall be  
31                   permitted or constructed upon said Sending property. This  
32                   restriction shall constitute a covenant running with the land through  
33                   the use of a recorded and legally binding instrument and Shall be  
34                   binding upon descendants, heirs and assigns. In the event all  
35                   dwelling unit density rights are transferred, only those remaining  
36                   non-residential uses permitted within the applicable zoning district  
37                   Shall be permitted on the Sending property.

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

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

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

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

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