

**ORDINANCE
2007-06**

AN ORDINANCE AMENDING CHAPTER 4 OF
THE WALTON COUNTY LAND DEVELOPMENT
CODE BY AMENDING SECTION 4.01.03,
RESTRICTIONS ON DEVELOPMENT; PROVIDING
FOR INTENT AND PURPOSE; ENFORCEMENT
AND PENALTIES; INTERPRETATION,
AUTHORITY; SEVERABILITY; AND EFFECTIVE
DATE.

WHEREAS, the Legislature of the State of Florida has, in Chapter 125, F.S., delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizens; and

WHEREAS, Sections 163.3201 and 163.3202, Florida Statutes, require local governments to implement the provisions of their comprehensive plans through the adoption of land development regulations; and

WHEREAS, Walton County has adopted a Land Development Code in accordance with these statutes to ensure the County's orderly growth and development; and

WHEREAS, Walton County, to ensure the County's continued orderly growth and development, finds it prudent to amend its Land Development Code to respond to the changing needs and conditions within said county; and

WHEREAS, Walton County believes that allowing the transfer of full density from wetlands to uplands where development is not impacting the wetlands furthers the goals, objectives, and policies of the Walton County Comprehensive Plan;

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF WALTON COUNTY that Walton County Land Development Code be amended, as follows:

Section 1. Section 4.01.03 "Restrictions on Development" is hereby amended as follows:

A. Within Primary Wetland Protection Zones.

1. Dredge and fill activities shall be prohibited, except where demonstrated to be necessary to the public interest, and the applicant has demonstrated that such activity will not negatively impact estuarine water quality, oyster beds, natural functions, or endangered species habitat. Receipt of a permit from the U.S. Army Corps of Engineers and/or the Department of Environmental Protection and/or the Northwest Florida Water Management District authorizing all proposed dredge and fill activities in this Zone shall constitute demonstration of compliance with these standards for the purposes of this section.

2. All new development or redevelopment shall be designed to avoid, to the maximum extent possible, impacts on wetlands. Where impacts cannot be avoided, impacts shall be minimized and shall be mitigated by wetland compensation or wetland enhancement. Wetland impacts, where unavoidable and where properly mitigated, as determined by state and federal agencies having jurisdiction, shall be permitted for:
 - a. Access to the site.
 - b. Internal traffic circulation, where other alternatives do not exist, or for purposes of public safety.
 - c. Utility transmission and collection lines.
 - d. Pre-treated stormwater management.
 - e. Preventing all beneficial use of the property from being precluded. If a site is such that all beneficial use of the property is precluded due to wetland restrictions, i.e. there is no buildable upland area, then the parcel shall be allowed to develop at a gross density of one residential dwelling unit per 20 acres. No parcel shall be created which consists entirely of wetlands, unless accompanied by a deed restriction which prohibits future development on the parcel.
 3. Commercial and industrial development shall not be located within wetlands.
 4. Notwithstanding any of the density values established in Chapter II, lands that are within this Zone shall have a gross density of not more than one unit per 20 acres unless a density transfer is allowable under the provisions of subsection C below.
- B. Within Secondary Wetland Protection Zones.
- No development shall be located within this Zone, with the limited exception of minimal boardwalks, public access facilities and/or landward portions of docks which are otherwise permitted within the Primary Wetland Protection Zone described above or which are exempted from permitting by the U.S. Army Corps of Engineers, the Florida Department of Environmental Protection and/or the Northwest Florida Water Management District under the same applicable regulations. Within this Zone, clearing of native vegetation shall be limited to 25 percent of the total area within the Zone on that site.
- C. Density Transfer Within Both Wetland Protection Zones. In order to encourage the location of development landward of the boundaries of both of these Zones, the County hereby authorizes a transfer of allocated density from areas in the Zones to adjacent uplands, subject to the following conditions:
1. If buildable upland is available, development shall locate on the non-wetland portions of a development site and residential densities shall be transferred on-site from wetland areas to contiguous non-wetland areas within the same development subject to the following:
 - a. If buildable uplands are available on-site, but the development will cause or result in a disturbance of the wetland, residential densities may be transferred on-site from the impacted wetland areas to non-wetland areas based on the maximum wetland density of one dwelling unit per ten acres and residential densities may be transferred on-site from the non-impacted wetland areas to non-wetland areas at the density of the underlying land use category or

- b. If buildable uplands are available on-site and the development will not cause or result in any disturbance of the wetland, residential densities may be transferred on-site from the wetland areas to the non-wetland areas at ~~the lesser density of one dwelling unit per acre~~ or at the density of the underlying land use category ~~density if the underlying land use density is less than one dwelling unit per acre~~. This provision shall apply only when no disturbance of the wetland will occur through the proposed development or redevelopment.
- 2. For the purposes of this on-site density transfer provision, platting of lots partially within a wetland shall not be construed as having disturbed the wetland so long as that portion of the lot within the wetland does not include any fill, construction, improvement, or other development, and a restriction is placed upon the plat to prohibit such future actions within the wetland; ~~and~~
- 3. For purposes of this code, disturbance of wetlands shall be any alteration or material change to the primary wetland zone, including but not limited to, dredging or filling.
 - a. All such on-site density transfers shall:
 - 1. Be contiguous to property under the same ownership or control;
 - 2. ~~Only be permitted within a subdivision platted and~~ Developed in accordance with the County's Land Development Code.
- 4. Not result in lot sizes, ~~or areas per dwelling unit~~, that are less than ~~65 percent of that required by the County's Land Development Code~~ 5,000 square feet for single family residential lots unless the lot is within a planned unit development approved in accordance with the Walton County Comprehensive Plan and Land Development Code. The minimum lot ~~or area~~ size shall not include the wetland area; and
- 5. ~~Be noted on the face of the final plat as a restrictive covenant enforceable by the Board of County Commissioners~~ The General Notes section of the plat, or site plan when platting is not required, shall include a note providing that the wetland preservation area shall remain intact, uncleared, and undisturbed in accordance with the approved development order for the development.

Section 2. All remaining provisions of Chapter 4 of the Walton County Land Development Code are reaffirmed in their entirety.

Section 3. Intent and Purpose. The purpose of the creation of a wetlands protection zone is to preserve the value and function of existing wetland systems in the County as animal and plant habitat, as natural flood storage area and as buffers between surface water bodies and activities on adjacent uplands. The County's intent in creation of the wetlands protection zone in this section is to create zones which cover defined wetland areas where no development will be allowed and zones adjacent to those defined wetland areas where development will be allowed under specified regulatory controls. It is not the intention of the County to duplicate the form or function of existing state and federal wetlands regulatory programs. Rather, it is the intention of the County to utilize land use controls which are unique to local government authority to supplement these programs.

Section 4. Enforcement and Penalties.

Enforcement shall be pursuant to Chapters 12 and 14 of the Walton County Land Development Code and Chapter 163, Florida Statutes.

Section 5. Repeal of Conflicting Provisions.

All ordinances or parts of ordinances that are not consistent with or that conflict with the provisions of this ordinance are hereby repealed; provided that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

Section 6. Authority.

This ordinance is adopted pursuant to the authority granted counties in Chapter 125, Florida Statutes.

Section 7. Severability.

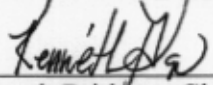
Should any word, phrase, sentence, or section of this ordinance be held by a court of competent jurisdiction to be illegal, void, unenforceable, or unconstitutional then such shall be severed from this ordinance and the remainder of the ordinance shall remain in full force and effect.

Section 8. Effective Date.

This ordinance shall take effect as provided by law.

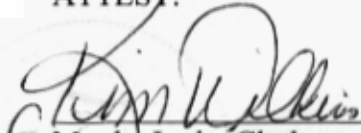
ADOPTED in an advertised public hearing of the Board of County Commissioners this 11th day of June, 2007.

WALTON COUNTY BOARD OF
COUNTY COMMISSIONERS



Kenneth Pridden, Chair

ATTEST:



Martha Ingle, Clerk