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ORDINANCE NO. 2009-05

AN ORDINANCE OF THE COUNTY COMMISSION OF LIBERTY COUNTY, FLORIDA, AMENDING CHAPTER 5 OF THE LIBERTY COUNTY LAND DEVELOPMENT REGULATIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Sections 163.3161 through 163.3215, Florida Statutes, the Local Government Comprehensive Planning and Land Development regulation Act, empowers and requires the Board of County Commissioners to (a) plan for the County's future development and growth; (b) adopt and amend comprehensive plans, or elements or portions thereof, to guide the future growth and development of the county and to adopt and enforce Land Development Regulations; and

WHEREAS, Chapter 125, Florida Statutes empowers the Board of County Commissioners of Liberty County to prepare and enforce Land Development Regulations for the development of the County; and

Whereas the Board of County Commissioners for Liberty County, Florida, has determined that the Liberty County Land Development Regulations as written do not meet the growth needs of Liberty County and should be amended,

WHEREAS, in exercise of its authority the Board of County Commissioners of Liberty County, Florida, has determined it necessary and desirable to amend the Land Development Regulations to encourage the most appropriate use of land, water and resources, consistent with the public interest; and deal effectively with future issues that may result from the use and development of land within Liberty County.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COMMISSION OF LIBERTY COUNTY, FLORIDA, that:

SECTION I. Chapter 5 of the Liberty County Land Development Regulations are hereby amended to read as follows:

LAND DEVELOPMENT REGULATIONS

CHAPTER 5

Section 5.1

Purpose; Jurisdiction; Comprehensive Plan and Violation

(D) Violation. Where a violation of the Subdivision Regulations has been brought to the attention of the Board of County Commissioners, said Board, upon being made aware of said violation and verification of same, shall file in the office of the Clerk of Circuit Court, in the Official Record Books, an instrument in recordable form setting for the legal description of said property which was divided or sold in violation of the Subdivision Regulations, and stating that no building permit shall be issued for construction upon said premises, said instrument to be executed in the name of the Board of County Commissioners of Liberty County, Florida, by the Chairman and attested by the Clerk.

1. Within the unincorporated parts of the County, no subdivision shall be made, platted, or recorded unless such subdivision meets all the requirements of these Regulations and has been approved in accordance with the procedures herein.
2. It shall be unlawful for anyone who is the owner or agent of the owner of any land to transfer, sell, agree to sell, or negotiate to sell such land by reference to, exhibition of, or other use of a plat of a subdivision of such land without having submitted a plan and plat of such subdivision for approval as required by these regulations and without having recorded the approved subdivision plat as required. If such unlawful use be made of a plat before it is properly approved and recorded, the owner or agent of the owner of such land shall be deemed guilty of a misdemeanor and shall be punishable as provided by law. The Board may, through action by the County Attorney, enjoin such transfer, sale, or agreement. Failure to comply with the provisions of this section shall not impair the title of land so transferred or affect the validity of the title conveyed. However, a purchaser of land sold in violation of this section shall be entitled, within one year from the date of purchase thereof, to bring an appropriate action to avoid such sale or to bring action against the seller for any damages which he suffers as a result of the seller's unlawful act, or both.
3. No building permit, electrical permit, septic tank permit, or any other permit or license which may be required by the County shall be issued for any lots in a subdivision until appropriate approval is granted by the Board under the procedures of these Regulations. In particular, no certificate of occupancy may be granted until a plat has been recorded with the County.
4. Any owner or agent of the owner who falsely represents to any prospective purchaser of real estate that roads, community water systems, central sewage systems, storm water management systems, or any other sort of public

improvement whatsoever will be built, constructed, or maintained by the County shall be deemed guilty of a misdemeanor of the second degree as defined by Chapter 775.082 and 775.083 of the Florida Statutes.

5. If the subdivider has agreed to provide certain required public improvements by the time of final plat approval and the County's inspectors find that such public improvements have not been made or are inadequate or unsatisfactory, the Board shall withhold final plat approval.
6. If final plat approval has been granted and the required public improvements are to be completed under the performance bond and the County's inspectors find that such public improvements have not been made or are inadequate or unsatisfactory, then the Board may enforce the performance bond by resort to legal and equitable remedies. The Board shall make it a priority to apply the monies received from any such settlement toward the actual provision of such public improvements.
7. Any person who shall sell any lot, offer to sell any lot, or construct, open, or dedicate any road, sanitary sewer, storm sewer, or water main, or drainage structure without having first complied with the provisions of these Regulations, or otherwise violate these Regulations, shall be punishable by a fine not to exceed \$500.00, or by imprisonment in the County Jail for a period not to exceed sixty days, or by both such fine and imprisonment. Each day that the violation continues shall constitute a separate violation.

Section 5.2**Definitions****A. General**

Terms not defined below shall have the same meaning as given in the Definitions Chapter of this Code. The following terms or words, whenever used or referred to herein, shall have the following meaning:

Street, Private: A recorded street and/or roadway, owned by the abutting property owners, or which is owned and maintained by the owner of property that uses the private street/road for access, over which there is no public right of access.

Subdivision: The division of a parcel of land, whether improved or unimproved, into three (3) or more lots or other division of land for the purpose, whether immediate or future, of transfer of ownership or, if the establishment of a new street and/or road is involved, any division of such parcel. The division of land into no more than 15 parcels, of ten (10) acres or more, exclusive of street right-of-way, not involving the establishment or change in public street lines or public street easements and which meets the definition of a Minor Subdivision, shall not be deemed to be a subdivision within the meaning subject to the plat review, approval and recording requirements of this regulation. The term includes a resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided. Minor Subdivisions must be approved by the Board of County Commissioners.

(a) **Minor Subdivision:** Any subdivision of land into less than twenty (20) fifteen (15) lots within a period of twelve (12) months of ten (10) acres or more, that does not establish, create and/or change any public roads or streets, establish, create and/or change any public right-of-way and/or utility easement. Minor Subdivisions are not subject to the plat review, approval and recording requirements of this regulation. Minor Subdivisions shall be approved by the Board of County Commissioners, after

review and recommendation by the Local Planning Agency. Minor Subdivisions shall require a to scale drawing depicting all lots, lot lines, natural resources (wetlands and floodplains) and all subdivision improvements including private streets/roadways. The drawing shall provide the name of the Minor Subdivision, the name of any public or private roadway and a certification by the applicant/developer that the subdivision meets all applicable State and Regional regulations and the requirements of the Liberty County Comprehensive Plan and this Code. After approval of the Minor Subdivision, the developer shall record the signed and certified Minor Subdivision Drawing with the Clerk of Liberty County.

(b) Major Subdivision: Any subdivision of land into twenty (20) three (3) lots or more which does not qualify as a Minor Subdivision, within a twelve (12) month period, or any subdivision of land which establishes, creates and/or changes any public roadway or streets, or which establishes, creates and/or changes any public right-of-way and/or utility easement. Major Subdivisions are subject to the plat review, approval and recording requirements of this regulation.

Section 5.4 General Requirements and Minimum Standards of Design

(A) Streets and/or Roads, Public or Private

1. The proposed street shall recognize and extend suitable existing streets, and shall make possible the future extension of streets into adjacent undeveloped land where feasible.
2. Intersections shall be as nearly at right angles as possible.
3. In residential areas "T" intersections are preferable to four-way intersections.
4. Private streets shall normally be prohibited, however, in certain instances, they may be approved when the following conditions exist:
 - (a) Only minor streets, in Minor Subdivisions, serving fifteen or fewer lots, all of which must be 10 acres or larger, may be private streets.
 - (b) Subdivisions containing private streets shall not block logical access to adjoining lands.

- (c) Private streets shall have a stabilized travel width of a minimum of nine feet per travel lane.
- (d) Private streets may be paved or unpaved, at the approval of the Board of County Commissioners.

5 4. The minimum width of right-of-way shall be sixty feet except private streets which shall have a minimum right-of-way of thirty (30) feet.

6 5. Dead end streets shall be provided with a paved turn around diameter of 80' minimum and a right-of-way diameter of at least 100'. A landscaped cut-out in the center of the turn-around is permitted. Pavement widths around the turn-around shall be consistent with the pavement width leading up to the turn-around.

7-6. All public and/or private streets (or roadways) shall be paved, except private unpaved roadways approved by the Board of County Commissioners as part of a Minor Subdivision.

8-7. The developer or subdivider shall maintain the streets for

- (a) a period 12 months from plat approval, or
- (b) until 15% of the lots have been built on.

9-8. Prior to final acceptance, the streets, ditches and drainage structures must be brought up to standards according to the subdivision regulations or these streets shall revert to the developer or subdivider.

10-9. All streets shall be cleared, grubbed, and graded to the full width of the right-of-way and provided with a properly prepared subgrade, base and pavement in compliance with the following minimum specifications.

11-10. All material used in the construction and paving of the streets are to be as specified in the most recent edition of the Florida Department of Transportation Standard Specifications for road and Bridge Construction.

12-11. Grading will be in accordance with the typical cross-section shown on the plat.

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13-12. The subgrade will be compacted until it is firm and unyielding and shall have a Limerock Bearing Ration (LBR) value of at least 30.

14-13. The base material shall be one of the following: Sand clay, limerock, shell or soil-cement. The base must be one foot wider (six inches each side) than the pavement surface and have a compacted thickness of six inches (6").

15-14. The pavement shall be Florida Department of Transportation type S-1 Asphaltic Concrete with a minimum compacted thickness of one and one fourth inches (1-1/4") and a minimum width of twenty feet (20').

16-15. The subdivider, in preparing the streets within the subdivision, shall also acquire the necessary right-of-way and improve said right-of-way in accordance with these regulations for sufficient access roads for adequate ingress and egress to and from the mobile home park.

17-16. All alleys shall be cleared, grubbed and graded to the full width of the right-of-way and in accordance with the typical cross-section shown on the approved preliminary plat.

18. All new subdivisions adjoining existing public roads with rights-of-way less than that specified in these Regulations shall dedicate land sufficient to meet the right-of-way requirements. The entire right-of-way shall be provided where any part of the subdivision is on both sides of the existing road, and one-half of the right-of-way as measured from the centerline shall be provided where any part of the subdivision is on only one side of a public road.

(C) Lots

1. Lots shall front on a street for at least 20'.
2. Corner lots shall be 15% wider than the minimum width planned in the subdivision in which they are located.
3. Through lots shall be avoided except where essential to provide separation of residential development from major roads or to overcome specific disadvantages of topography and orientation.
4. Side lot lines shall be substantially at right angels or radial to the street where practicable.

5. Lots containing 15,000 square feet or more shall have a minimum average lot width of 100 feet. Lots containing less than 15,000 square feet but more than 10,000 square feet shall have a minimum average width of 80 feet. Minimum lot size for single family dwelling units shall be 10,000 square feet.
6. New residential subdivisions that include wetlands and/or floodplains must cluster the development in upland areas and cannot create any new lots which do not have enough uplands for development of the footprint of all structures and public roadways plus a minimum 50 foot natural vegetated upland buffer. Any new lots which contain wetlands or floodplains must be at least 5 acres in size, with adequate uplands to accommodate all development. Upland areas are defined as lands which do not include any wetlands or floodplains. The wetlands and floodplains areas must be shown on the plat as undevelopable areas. A seventy-five (75) foot buffer of native vegetation for development shall be required adjacent to the Apalachicola River, the Ochlockonee River, Telogia Creek, and the New River. This buffer shall be measured from the ordinary high water line of these surface waters. Buffer zones shall consist of preserved native vegetation, including canopy, understory, and groundcover.
No new tracts, lots or parcels of land shall be created after adoption of this Plan which do not have enough uplands for development. If individual lots contain wetlands and/or floodplains, they must be at least 5 acres in size and must be developed in accordance with the applicable provisions of this Plan.

Section 5.5 Required Improvements

- (A) Monuments
- (B) Traffic Circulation
 - 1. Streets and/or Roads (Section 5.4(A))

SECTION II. CONFLICTS.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, except to the extent of any conflicts with the Liberty

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County Comprehensive Plan as amended, which provisions shall prevail over any parts of this ordinance which are inconsistent, either in whole or in part, with the said Comprehensive Plan.

SECTION III. SEVERABILITY.

If any word, phrase, clause, section or portion of this Ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION IV. EFFECTIVE DATE.

This Ordinance shall take effect upon its passage as provided by law.

PASSED by the Board of County Commissioners of Liberty County, Florida, on this the 6th day of October, 2009, after due public notice.

LIBERTY COUNTY BOARD OF COUNTY COMMISSIONERS


-ALBERT BUTCHER, Chairman-
Davis Stoutamire, Vice Chairman

ATTEST:


ROBERT HILL, Clerk