ORDINANCE NO. 13- 18

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING CHAPTER 10 OF THE CODE OF LAWS OF LEON COUNTY, FLORIDA, RELATING TO THE LAND DEVELOPMENT CODE, BY AMENDING SECTION 10-4.327, TOPOGRAPHIC ALTERATIONS.

PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, that:

SECTION 1: Section 10-4.327 of the Code of Laws of Leon County, Florida, is hereby amended as follows:

Sec. 10-4.327. Topographic alterations.

All projects involving alteration of the contour, topography, use or vegetation cover of land, shall comply with the following minimum standards:

(1) Same.

(2) *Grade change limitations.* It is the intent of this article to minimize alterations of the natural topography of land within the county.

a. The type, intensity, and structural design of each proposed development project shall be consistent with and compatible with natural pre-development topography and characteristics of the proposed site.

b. Alterations of natural topography shall not exceed the absolute minimum necessary to develop a site safely. Design criteria shall ~~will~~ emphasize site designs that fit the topography to the best extent possible , not change the topography to fit the design. Any development proposed for a site shall be appropriate to the existing natural topographical characteristics of the site, while recognizing that minimal grade changes are essential to site development.

c. ~~Unincorporated Area of the County.~~ The intent of protecting sloped areas of ten percent and greater ~~above~~ is to maintain local topography, prevent erosion, protect water quality, and maintain existing vegetation. Man-made slopes shall not be regulated. Changes to grades that will adversely impact stormwater or ecological quality through long-term erosion shall be prohibited. This provision is not intended to preclude short-term impacts normally associated with development activity. ~~Within the unincorporated area of the County, d~~Development in sloped areas of ten

percent and greater ~~above~~ shall be permitted as follows:

1. Inside the Urban Service Area:

   (a) Off-grade construction techniques shall be utilized to minimize clearing and topographic alteration, and shall provide (and clearly delineate on-site) specific clearing limits to restrict clearing and topographic alterations to the minimum area necessary for construction of the permitted facilities and reasonable construction access.

   ~~2.~~ (b) A minimum of 50% of significant (ten percent to 20 percent slope) grade areas must be left undisturbed if located adjacent to or within 100 feet of wetlands, waterbodies, watercourses, floodways, floodplains, karst features or special development zones. ~~or have an approved vegetation management plan and shall be placed so as to provide downhill buffers, protect forested areas, and buffer other conservation or preservation areas.~~ This requirement may be met by preserving 50 percent of each individual area or 50 percent of the total grade areas.

   ~~3.~~ (c) Severe grade areas (greater than 20 percent slope) shall remain undisturbed if located adjacent to or within 100 feet of wetlands, waterbodies, watercourses, floodways, floodplains, karst features or special development zones. Small areas (1/4 acre or less) of severe grade areas located within significant grades may be regulated using the criteria for significant grades.

   ~~4.~~ (d) All significant and severe grades required to be undisturbed shall be preserved in their pre-development state by conservation easement.

   ~~5. Urban service area only: All isolated significant slopes that are 0.25 acres or less in size shall not be protected. All other significant slopes may be disturbed more than 50% provided the following criteria are met:~~

   ~~(a) The disturbance is necessary to encourage urban infill in the urban core or to create new, high wage employment.~~

   ~~(b) If a non-residential site is less than or equal to three acres in size with no other preservation features present on the site.~~

   ~~(c) All residential development qualifies for the additional disturbance.~~

   ~~(d) Stormwater treatment shall be off-line retention equal to the first ½ inch of runoff with full recovery within 72 hours. If it can be demonstrated that retention is not achievable due to soil and site characteristics, wet detention, in accordance with Section 10-4.301(2)(b)(i) and FDEP regulations, will be allowed. If wet detention is not achievable due to site characteristics, the County~~

~~Administrator or designee may allow other treatment alternatives if it can be satisfactorily demonstrated that the alternative provides a pollutant removal efficiency of 80% or greater.~~

~~6.~~ (e) The county administrator or designee may allow limited exemption from these grade change limitations for approved roadway projects, provided that the permit application related to such project includes: ~~(a) A~~appropriate restrictive limits of areas as to clearing and topographic alteration~~.~~; ~~(b) A~~approved erosion and sediment control plans~~.~~; and ~~(c) A~~an evaluation of alternatives which support the allowance of an exemption.

(f) Downtown Overlay Exception. Developments within the Downtown Overlay (Section 10-282 of the City's Land Development Code) are exempt from all severe grade regulations.

2. Outside the Urban Service Area:

(a) Off-grade construction techniques shall be utilized to minimize clearing and topographic alteration, and shall provide (and clearly delineate on-site) specific clearing limits to restrict clearing and topographic alterations to the minimum area necessary for construction of the permitted facilities and reasonable construction access.

(b) A minimum of 50% of significant (ten percent to 20 percent slope) grade areas must be left undisturbed or have an approved vegetation management plan and shall be placed so as to provide downhill buffers, protect forested areas, and buffer other conservation or preservation areas. This requirement may be met by preserving 50 percent of each individual area or 50 percent of the total grade areas.

(c) Severe grade areas (greater than 20 percent slope) shall remain undisturbed. Small areas (1/4 acre or less) of severe grade areas located within significant grades may be regulated using the criteria for significant grades.

(d) All significant and severe grades required to be undisturbed shall be preserved in their pre-development state by conservation easement.

(e) The county administrator or designee may allow limited exemption from these grade change limitations for approved roadway projects, provided that the permit application related to such project includes: appropriate restrictive limits of areas as to clearing and topographic alteration; approved erosion and sediment control plans; and an evaluation of alternatives which support the allowance of an exemption.

~~d. Incorporated Area of the County. Significant grade areas (natural grades between and inclusive of ten percent and twenty percent of at least ¼ acre in size). If the slope between any two adjacent one-foot interval contour lines is greater than or equal to ten percent but less than or equal to 20~~

~~percent, then a significant grade area exists and shall be regulated as set forth below. The intent of protecting significant grades is to maintain local topography and minimize erosion, maintain existing vegetation, and protect water quality. Significant grades shall be depicted on any natural features inventory required under this chapter using contour intervals of no greater than two feet. Maps shall be prepared in accordance with the minimum technical standards for topographic surveys set forth in Chapter 61G17-6, Florida Administrative Code (FAC), as it may be amended from time to time. Alternatively, the city's Geographic Information System (GIS) two-feet contour maps may be used to determine the grades until such time that site-specific topographic survey information is available. Site-specific topographic survey information shall use one-foot contour intervals and shall be provided no later than at the time the environmental impact analysis required under this chapter is submitted for review. Within the incorporated area of the County, development in sloped areas of ten percent and above shall be permitted as follows:~~

~~1. Standard. Except as provided for in subsection (a)(2)d.2. – 4. below, a minimum of 50 percent of significant grade areas shall be left undisturbed and shall be placed in a conservation easement dedicated to the city. Development activity in the conservation easement is prohibited, except that vegetation management activities that enhance the vegetation and are specifically allowed in a vegetation management plan approved by the Director of the City of Tallahassee Growth Management Department may be permitted. Examples of vegetation management activities include, but are not limited to, pruning of dead and hazardous tree limbs and control of invasive vegetation. The significant grades placed in a conservation easement shall be those significant grade areas that provide the greatest environmental benefit as determined by the Director of the City of Tallahassee Growth Management Department (i.e. provides downhill buffers, protects forested areas, buffers other protected conservation or preservation areas, or provides similar environmental benefits). In order to minimize topographic changes, development within the significant grade areas not placed in a conservation easement shall utilize off-grade construction (including stem-wall construction), use best management practices (design the building to take advantage of the natural topography, etc.), and shall limit the height of retaining walls to 15 feet. Multiple retaining walls may be allowed for terracing. The height of all retaining walls (excluding stem-walls constructed as part of a building foundation) shall not exceed 15 feet. The distance between retaining walls shall be, at a minimum, twice the height of the wall that is abutting the area and higher than the area. Any retaining wall three feet in height or greater shall require a building permit.~~

~~2. Development within the Downtown Overlay shall be exempt from the significant and severe slope requirements.~~

~~3. Offsite mitigation exception. Offsite mitigation for significant grades shall be permissible consistent with the provisions of this subsection.~~

~~A. Locations are eligible for the off-site mitigation option if:~~

~~i. The site lies south of Interstate-10 and either adjoins or is interior to Capital Circle;~~

~~ii.The site is not within a Planned Development (PD), or Planned Unit Development (PUD);~~

~~iii. The site is served by a roadway constructed to city standards and for which there is adequate roadway capacity;~~

~~iv. All other infrastructure, including water, central sewer, and electric infrastructure, is available to serve the site;~~

~~v. The significant grades do not include nor are they adjacent to previously protected preservation or conservation features on site for which off-site mitigation is not an option; and~~

~~vi. In the opinion of the Director of the City of Tallahassee Growth Management Department, the significant grades onsite are not critical for buffering or maintaining ecological integrity of preservation features or other conservation features onsite or on an adjoining parcel;~~

~~B. Demonstration of necessity for off-site mitigation.~~

~~i. The applicant shall demonstrate to the satisfaction of the Director of the City of Tallahassee Growth Management Department that the development cannot be made compatible with the significant grades on site; and~~

~~ii. The applicant shall demonstrate to the satisfaction of the Director of the City of Tallahassee Growth Management Department that the development cannot avoid, ameliorate, or minimize impacts to the significant grades on site.~~

~~C. Employment of the off-site mitigation option:~~

~~i. Employment of the off-site mitigation option shall preclude the use of incentives, including subsections 5-85(e) and 5-86(f)(1) of the City's Code, that reduce the percentages of the site dedicated to landscaping or urban forest preservation.~~

~~ii. An off-site mitigation plan for the development of significant grades onsite has been approved and in the opinion of the Director of the City of Tallahassee Growth Management Department provides net environmental benefits.~~

~~iii. If there exists within the same drainage basin as the site of the proposed development a mitigation bank that is managed to provide environmental services ordinarily provided by significant~~

~~grades, such as topographic diversity and the presence of vegetation communities commonly associated with significant or severe grades, then the applicant shall be directed to participate in that mitigation bank.~~

~~iv. If a mitigation bank consistent with the intent of paragraph 5-81(a)(2)d.3.C.iii. of the City's Code does not exist within the same major drainage basin as the site, the applicant shall be directed to participate in a mitigation bank located elsewhere.~~

~~v. If no mitigation banks exist consistent with the intent of paragraphs 5-81(a)(2)d.3.C.iii and 5-81(a)(2)d.3.C.iv of the City's Code, the applicant shall acquire or use a conservation easement or similar instrument to protect in perpetuity lands that are twice (two times) the area of the significant grades onsite to be mitigated and that are located within the same major drainage basin. It shall be preferred that such lands be contiguous and not fragmented.~~

~~vi. If no such property can be protected under paragraph 5-81(a)(2)d.3.C.v of the City's Code, an applicant may pay a fee in lieu. The amount shall be calculated as follows: Three hundred percent of the property appraiser's assessed value for the property, divided by the total square footage of the property, and multiplied by the number of square feet of the significant grades onsite to be mitigated. This amount shall be deposited into an account whose sole purpose is to acquire and manage lands that provide the environmental benefits associated with significant grades.~~

~~D. Any site employing the off-site mitigation option for significant grades shall comply with any applicable stormwater standards adopted to further compliance with total maximum daily loads (TMDLs) or other surface water management programs or plans adopted by local Government.~~

~~4. High wage employment exception. Development in more than 50 percent of the significant grade areas may be permitted at the discretion of the City Commission for any proposed development (no matter where it is located) that exclusively contains industrial and/or office uses that create a significant number of new high wage employment. In deciding whether to grant such an exception, the City Commission shall conduct a public hearing and may consider factors like the number of jobs that are proposed to be created, the average annual wage of the jobs that are proposed to be created in comparison to the average annual wage of Leon County, and the applicant's long-term level of commitment and ability to provide the jobs.~~

~~5. Sediment and erosion controls for properties with significant grades. Properties containing significant grade areas shall install a "heavy duty silt barrier" for sediment and erosion control. The "heavy duty silt~~

~~barrier" shall consist of a double row of type IV silt fence (as referenced in the state department of transportation's "Roadway Traffic Design Standards" and the state department of environmental regulation's "The Florida Development Manual: A Guide to Sound Land and Water Management"). One row shall be placed at the toe of the slope. The other row shall be placed ten feet beyond the toe. The silt fence placed beyond the toe shall be a silt barrier that consists of a type IV silt fence supported by "hog wire" fence. Wooden posts shall be six feet long and four inches in diameter and placed a minimum of two feet into the ground to support the "hog wire" fence. A continuous row of hay bales staked two feet on-center shall face the toe of the slope. All silt fences and hog wire fences shall be trenched and extended six inches below grade. Wooden posts shall be installed eight feet on-center on the downhill side of the trench. The Director of the City of Tallahassee Growth Management Department may approve an alternative sediment and erosion control plan if it is demonstrated by the applicant that such alternative provides a higher level of protection.~~

(3) (same)

SECTION 12. Conflicts. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict, as of the effective date of this Ordinance, except to the extent of any conflicts with the Tallahassee-Leon 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 Comprehensive Plan.

SECTION 13. Severability. If any section, subsection, sentence, clause, phrase or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 14. Effective date. This ordinance shall be effective according to law.

DULY PASSED AND ADOPTED BY the Board of County Commissioners of Leon County, Florida, this 24th day of September, 2013.

LEON COUNTY, FLORIDA

BY: _____
NICHOLAS MADDOX, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS

ATTEST:
BOB INZER, CLERK OF THE COURT
LEON COUNTY, FLORIDA

BY: John Stott, Deputy Clerk

APPROVED AS TO FORM:
LEON COUNTY ATTORNEY'S OFFICE

BY: _____
HERBERT W.A. THIELE, ESQ.
COUNTY ATTORNEY