ORDINANCE NO. 09-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING CHAPTER 10 LAND DEVELOPMENT CODE, OF THE CODE OF LAWS OF LEON COUNTY; AMENDING DIVISION 3 OF ARTICLE II OF CHAPTER 10, RELATING TO STANDARDS FOR FLOOD HAZARD REDUCTION BY AMENDING SECTION 10-8.301 TO CORRECT THE INADVERTENT OMISSION FROM THE CODE OF ORDINANCE NO. 04-34 AND PROVIDING AMENDMENTS TO ORDINANCE NO. 04-34; AMENDING SECTION 10-1.101 OF ARTICLE I OF CHAPTER 10, RELATING TO DEFINITIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners (the "Board"), on October 12, 2004, adopted Ordinance No. 04-34 which amended the Code of Laws of Leon County (the "Code") at Chapter 10, Division 3 relating to Standards for Flood Hazard Prevention to create a new subsection (j) within Section 10-1736 establishing the requirement of an applicant for development to sign, notarize, and record a waiver which released the County from any and all existing and future claims for any damages arising from the floodprone condition of the property; and

WHEREAS, prior to the codification of Ordinance 04-34 as subsection (j) of Section 10-1736 in the Code, the Board adopted Ordinance No. 05-01 which inadvertently also included the creation of a new subsection (j) within Section 10-1736 and which thereafter was codified as such in the Code; and

WHEREAS, the codification of Ordinance No. 05-01 resulted in the omission from the Code of the new subsection (j) previously created by Ordinance No. 04-34; and

WHEREAS, since the adoption of Ordinance No. 04-34 and the implementation of its requirements, County staff has determined the need to amend the ordinance to provide further clarification of the terms and conditions contained therein; and

WHEREAS, in order to correct the inadvertent omission from the Code of Ordinance 04-34, and to assist in its implementation by providing a clarifying

amendment, the Board desires to adopt an ordinance modifying Chapter 10 of the Code by creating a new subsection (l) of Section 10-8.301 of Division 3 of Article II, relating to Standards for Flood Hazard Reduction, and amending Section 10-1.101 of Article I, relating to Definitions.

BE IT ORDAINED by the Board of County Commissioners of Leon County, Florida, that:

Section 1. Section 10-8.301 of Chapter 10 of the Code of Laws of Leon County, Florida, is hereby amended to add a new subsection (l), to read as follows:

DIVISION 3. STANDARDS FOR FLOOD HAZARD REDUCTION

Sec. 10-8.301. Generally.

* * *

(l) All applicants for development orders pertaining to any parcel on which a structure is currently located partially or wholly within a 100-year floodplain, or on which a structure will be constructed, erected, installed, or placed partially or wholly within a 100-year floodplain, as determined by a flood certificate prepared in accordance with Section 10-8.202 or, if exempt therefrom, as determined by the County Administrator or designee, must comply with the following requirements:

(1) The applicant must obtain from every owner of such parcel a duly executed and recorded release and waiver in a form approved by the County Administrator or designee, unless such form already encumbers the parcel, releasing and waiving any and all past, present, and future claims against the County for any damages arising from the flooding of such parcel and agreeing to not seek any relief from such flooding under the County's Flooded Property Acquisition and Management Program nor from any other such disaster relief programs funded by the County, unless such relief to the applicant is otherwise approved by the Board.

(2) If the development order includes a permit for the erection of a mobile home owned by someone other than the owner of such parcel, the applicant shall also obtain from every owner of such

mobile home a duly executed release and waiver in a form approved by the County Administrator or designee releasing and waiving any and all past, present, and future claims against the County for damages arising from the flooding of such parcel and agreeing not to seek any relief from such flooding under the County's Flooded Property Acquisition and Management Program nor from any other such disaster relief programs funded by the County, unless such relief to the applicant is otherwise approved by the Board.

(3) Even if the location of an existing or proposed structure lies outside of the 100-year floodplain, the applicant must still obtain the release and waiver if any part of a vehicular use area on the parcel is partially or wholly within the 100-year floodplain.

(4) If the County's geographical information system (GIS) contour data is used to approximate the floodplain location instead of survey data, then the release and waiver will be required if the location of an existing or proposed structure, or the access to any structure, is within 20 feet of the floodplain delineated by using the contour data, unless determined otherwise by the County Administrator or designee.

Section 2. Section 10-1.101 of Chapter 10 of the Code of Laws of Leon County, Florida, is hereby amended to delete the terms "Land owner" and "Modular unit", and to modify the terms "Manufactured home", "Mobile home", and "Owner" to read as follows:

Sec. 10-1.101. Definitions.

* * *

~~*Land owner* shall mean the owner of record of a particular parcel of real property as established in the public records of the clerk of the circuit court for the county.~~

* * *

Manufactured home~~: See "mobile home."~~ shall mean any dwelling unit constructed to the Manufactured Home Construction and Safety Standards

promulgated by the U.S. Department of Housing and Urban Development (24 CFR §3280), or as such standards may be amended, and which are built in the controlled environment of a manufacturing plant and are transported in one or more sections on a permanent chassis.

* * *

Mobile home shall mean ~~any residential unit constructed to standards promulgated by the United States Department of Housing and Urban Development~~ a manufactured home (see "manufactured home").

* * *

~~*Modular unit*: See "dwelling, manufactured."~~

* * *

Owner shall mean the person or persons holding fee simple title to a ~~particular~~ parcel, building, or structure. ~~of property.~~

* * *

Section 3. Conflicts. All ordinances or parts of ordinances in conflict with the provisions of the 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 4. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be 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 5. Effective Date. This ordinance shall have effect upon becoming law.

DONE, ADOPTED, AND PASSED by the Board of County Commissioners of Leon County, Florida, this _____ day of _____, 2009.

LEON COUNTY, FLORIDA

By:_____
Bryan Desloge, Chairman
Board of County Commissioners

ATTESTED BY:
BOB INZER, CLERK OF THE COURT
LEON COUNTY, FLORIDA

BY:_____
Bob Inzer, Clerk of Court
Leon County, Florida

APPROVED AS TO FORM:
COUNTY ATTORNEY'S OFFICE
LEON COUNTY, FLORIDA

BY:_____
Herbert W.A. Thiele, Esq.
County Attorney