ORDINANCE NO. 04-24

AN ORDINANCE OF LEON COUNTY, FLORIDA, AMENDING CHAPTER X, ARTICLE I, OF THE CODE OF LAWS OF LEON COUNTY, SECTION 10-1, DEFINITIONS; AND, ARTICLE XI, SUBDIVISION AND SITE AND DEVELOPMENT PLAN REGULATIONS, DIVISION 5, SUBSTANTIVE STANDARDS AND CRITERIA; SECTION 10-1527, GENERAL LAYOUT DESIGN STANDARDS; PROVIDING REQUIREMENTS FOR SIDEWALK AND PEDESTRIAN FACILITIES, INCLUDING THOSE PERTAINING TO LOCATION AND CONSTRUCTION; CREATING SECTION 10-1527.1 OF THE CODE OF LAWS OF LEON COUNTY; PROVIDING CRITERIA TO QUALIFY FOR PAYMENT OF A FEE-IN-LIEU OF SIDEWALK CONSTRUCTION; ESTABLISHING A FEE IN-LIEU OF CONSTRUCTION OF SIDEWALKS; ESTABLISHING SIDEWALK TRUST FUND AREAS AND TRUST FUND ACCOUNTS FOR THESE AREAS; ESTABLISHING PROVISIONS FOR THE PAYMENT OF FEES INTO THE LEON COUNTY SIDEWALK AREA TRUST FUND ACCOUNTS AND THE USE OF ASSETS CONTAINED IN THESE ACCOUNTS; PROVIDING FOR ADMINISTRATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the requirement for developers of certain types of development to construct sidewalks is found in the 2010 Tallahassee-Leon County Comprehensive Plan ("Comprehensive Plan"), and is therefore, not subject to waiver or deviation by Leon County officials; and,

WHEREAS, neither the Comprehensive Plan nor the Leon County land development regulations, provides an option for the developer to pay a fee in-lieu of building a sidewalk, when sidewalks are required by the Comprehensive Plan and land development regulations; and,

WHEREAS, the Board of County Commissioners of Leon County recognizes the need for an option to allow developers to pay a fee in-lieu of constructing sidewalks under certain circumstances; and,

WHEREAS, the Board of County Commissioners of Leon County intends to create Sidewalk Trust Fund Areas wherein monies collected pursuant to the fee in-lieu option will be expended by Leon County to provide needed improvements to the pedestrian mobility system; and,

WHEREAS, the Board of County Commissioners of Leon County finds that the five (5) Sidewalk Trust Fund Areas created herein provide a rational nexus between the monies collected pursuant to the fee in-lieu of sidewalk construction policy and the expenditure of funds for improvements to the pedestrian mobility system within the same district.

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

Section 1. Chapter 10, Section 10-1 of the Code of Laws of Leon County, Florida, is hereby amended to read as follows:

Sec. 10-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

* * *

Pedestrian Mobility System - That system of sidewalks and other infrastructures and facilities, which, through interconnection, provides safe and convenient pedestrian access to residences, business, community facilities, and other non-residential land uses.

Sidewalk - A hard-surfaced walkway or pathway constructed of concrete, or other durable material, built to specifications of Leon County, for purposes of facilitating pedestrian access along a thoroughfare or internal to a development.

Sidewalk Area Trust Fund Account - A trust fund account established by Leon County for the express purpose of collecting fees paid in-lieu of sidewalk construction within a specified geographic *Sidewalk Trust Fund Area* and from which revenues will be obtained and used solely for purposes of improvement of the *Pedestrian Mobility System* within that specified geographic area or, in combination with revenues from additional *Sidewalk Trust Fund Areas*, for the sole purpose of improvement of *Pedestrian Mobility System* facilities extending into these multiple specified geographic areas.

Sidewalk Trust Fund Areas -The five subdivisions of Leon County corresponding to those portions of the five County Commission districts as of March 31, 2004, located within unincorporated Leon County and within the Urban Services Area.

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Section 2. Chapter 10, Article XI, Section 10-1527 of the Code of Laws of Leon County, Florida, is hereby amended to read as follows:

Sec. 10-1527. General layout design standards.

(a) A subdivision and every lot therein, as well as each undivided site to be developed, shall have legal access to a publicly dedicated street. Except for use with subdivisions that are to be platted, legal access shall also include licenses of way which are held by property owners, on the condition that the license holder agrees to execute a license recognition agreement with the county as a condition for the issuance of the permit. The license recognition agreement shall be in a form approved by the county attorney, and shall include covenants which shall run with the land, acknowledging the existence of a terminable license agreement as the access basis for the issuance of the permit and agreeing that the licensee shall hold the county harmless for the issuance of such permit. Each permit granted pursuant to this license provision shall only be

issued after the department has given notice of intent to issue such permit to the owners of all property that abut the license location, other than the licensor and any entity maintaining a public street adjoining the license area.

(b) ~~A subdivision shall be designed to include pedestrian ways which promote pedestrian mobility in and between residential developments; and between residential development and nearby minor and community development.~~ New development shall be designed to implement a pedestrian mobility system that facilitates access to residential development, business establishments, community facilities and non-residential land uses, and, provides safe and convenient linkage between developments and the public and private street system. The following standards shall apply to all new development, including subdivisions, undivided sites proposed to be developed, and construction of new streets:

(1) Within the Urban Services Area, new development shall be designed and constructed to facilitate pedestrian mobility in and between residential developments; between residential development and nearby businesses, recreational opportunities, and community facilities; and, to connect places of business to one another and to residential developments.

(2) Within the Urban Services Area, all new development, as well as reconstruction, expansion, and extension, as defined in Article X, Division 3, shall provide sidewalks along all public and private streets adjoining the development. The order of preference in placing the sidewalk is as follows: (a) within the public right-of-way; (b) at an alternative location parallel to the right-of-way; and (c) elsewhere on the development property, if approved by the County Engineer. For those developments where sidewalks cannot be located within the public right-of-way, the developer must provide and record in the public records of Leon County, Florida, all easements necessary to guarantee public access to the sidewalk.

(3) Within the Urban Services Area, non-residential and multifamily residential development shall provide safe and efficient sidewalk linkages between building entrances and parking areas, adjacent portions of the development, and adjacent rights-of-way. At least one accessible route in accordance with the *Florida Accessibility Code* shall connect buildings to parking areas and adjacent rights-of-way.

(4) In addition to the requirements of paragraph (2), within the Urban Services Area, both commercial and office development shall provide internal sidewalk interconnection between adjacent commercial and office development. This requirement does not apply to the following development proposals: (a) where the building entrance is located within

thirty feet of a sidewalk along an adjacent right-of-way serving both developments, (b) where the length of the common property boundary of the two adjacent developments is less than fifty feet, (c) where construction or use of the sidewalk would have an adverse impact upon a preservation area, as defined in Article X, and (d) where a sidewalk would create a safety hazard.

(5) Within the Urban Services Area, sidewalks shall be constructed on both sides of all new arterial and collector streets. Sidewalks are required on at least one side of all other new streets within residential and non-residential subdivisions.

(6) A sidewalk is not required where it will result in an obstruction to planned improvements in the area by the Board of County Commissioners or other governmental entity.

(7) Sidewalks shall be installed and constructed in accordance with the requirements and specifications of the County Engineer.

(c) No direct driveway access shall be permitted to a canopy road or, inside the Urban Services Area, to a major collector or arterial roadway from any newly created residential subdivision lot, unless a variance is granted by the county.

(d) Access points for a development shall be designed to prevent avoidable interference with traffic flow.

(e) Frontage roads when required shall separate commercial development from adjacent arterial and major connector roadways.

(f) Bicycle lanes and bicycle paths are required in conjunction with planned minor collector ~~connector~~ and above roadways to provide access in and between developments.

(g) The following apply to easements:

(1) Off-road utility easements shall be at least 20 feet wide. Off-road utility easements may be reduced, if approved by the county engineer or the utility provider, to minimum of 15 feet in width if it can be adequately demonstrated by the applicant that such width is sufficient for the effective operation and maintenance of said utility(ies). The county shall develop criteria to be utilized by the engineer of record in determining whether or not to allow an off-road utility easement width of less than 20 feet.

(2) Drainage easements shall conform substantially to the 100-year floodplain

of watercourses, waterbodies and wetlands and shall be of sufficient width for construction and maintenance, unless a broader conservation easement is more appropriate.

(h) The following apply to lots:

(1) No lot shall have a buildable area of less than 35 feet between the front and rear yard setback lines nor shall it be less than the required minimum width and depth specified in article X, or subsequent land development regulations which supersede same. Depth and width of lots subdivided for nonresidential purposes shall be adequate for building area, off-street parking, and service facilities required by the type of use and development anticipated. No lot shall have a minimum frontage of less than 15 feet.

(2) There shall be no double frontage residential lots access except to provide separation of development from arterial streets or canopy roads or to overcome specific disadvantages of topography, orientation and property size.

(3) No development shall occur in areas where physical constraints or hazards exist as determined by Article VII. In such areas, density or intensity of use shall be located in adjacent areas to reflect the constraint.

(4) Flag lots are prohibited unless their use is specifically granted by a variance.

(5) No new developments shall be permitted which would allow development to occur within 100 feet of the centerline of a canopy road except for legal access (provided no alternative exists) or for health, safety or welfare of the public and only within the written approval of the Board of County Commissioners.

(6) Lot corners shall be marked with permanent monumentation by a land surveyor upon approval and recordation of the final plat.

(7) The following apply to blocks in the Urban Services Area only:

a. Residential blocks shall not be greater than 1,400 feet in length.

b. Through-block pedestrian rights-of-way or easements not less than 20 feet in width in residential blocks greater than 1,000 feet in length shall be required where necessary to provide pedestrian mobility ~~access~~ to schools, play grounds and other community facilities.

(8) Preservation of existing protected trees is encouraged and is subject to the provisions of Article VII.

(i) Private streets providing sole access to one or more lots are permissible only if all the following requirements are met:

(1) The minimum width of the right-of-way shall comply with county requirements. Additional width may be required if necessary for drainage or utilities outside the area of the driving surface or on-street parking facilities if permitted. A lesser width may be granted to protect large trees or other environmental features.

(2) Design, location, and improvement shall provide for safe intersection with public streets, safe passage of public service and emergency vehicles, and protection of adjoining property, and adequate turnaround at the end of the dead-end.

(3) Private streets shall be built to public construction standards; provided, however, that access to lots created pursuant to policy 2.1.9 of the comprehensive plan is not required to comply with this requirement.

(4) The term "private street" shall not include driveway.

(5) Agreements for the continuing common use of the private street by occupants of the property served, drainage, access easements for public service and emergency vehicles, and continuing private maintenance to keep the street in condition for safe passage of public service and emergency vehicles shall be reviewed and approved in advance by the county attorney.

(6) For private streets, the final plat and any sales documents on their face, in boldface letters, shall contain the following language: The county does not have responsibility for maintenance of the streets and drainage easements serving this property, if any, and the purchaser may be responsible for such maintenance.

(7) The land area within a private street, stormwater, conservation areas, and other such private facilities shall not be included in calculations for meeting design standards for individual lots as specified in Article X. Common ownership and maintenance of these private facilities shall be provided.

(j) Within developments created pursuant to this article, the applicant shall install, grade, and construct all new streets in accordance with the requirements and specifications of the county.

(k) ~~Sidewalks and bikeways~~ Bikeways either along streets or through a separate system of recorded easements shall be provided in residential developments created inside the Urban Services Area and approved pursuant to these regulations and shall be installed in accordance with the requirements and specifications of the county.

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Section 3. Chapter 10, Article XI, Division 5 of the Code of Laws of Leon County, Florida, is hereby amended to create a new Section 10-1527.1, to read as follows:

Sec. 10-1527.1. Fee-in-lieu of sidewalk construction.

(a) The Development Review Committee is authorized to determine that the construction of a sidewalk required by section 10-1527(b)(2) and (5) is inappropriate or unnecessary, under the following circumstances, and require the developer to pay into the applicable Sidewalk Area Trust Fund, a fee-in-lieu of providing sidewalks.

(b) In order to approve payment of a fee-in-lieu of sidewalk construction, the developer shall submit a formal request with sufficient documentation to the Development Review Committee, which shall determine that one or more of the following criteria has been met:

(1) The location of the sidewalk would likely create a significant safety hazard; or

(2) Construction or subsequent use of the sidewalk would have an adverse impact upon a preservation area, as defined in Article X; or

(3) Construction of the sidewalk has already been scheduled by its inclusion in the approved Transportation Improvement Plan, the approved Capital Budget, a state- or federally-funded project, or a development agreement executed pursuant to Chapter 163.3221, Florida Statutes.

(c) In those instances where the Development Review Committee authorizes payment of a fee in-lieu of sidewalk construction, the following provisions shall apply:

(1) the developer shall pay a fee in-lieu to the Sidewalk Area Trust Fund Account, applicable based upon project location, prior to receiving final approval for the development;

(2) the fee shall be adopted by resolution of the Board of County Commissioners.

(d) Appropriation of fees paid in-lieu of sidewalk construction. To facilitate the equitable and efficient expenditure of fee revenues for the exclusive purpose of improvements to the pedestrian mobility system within the area of affected development projects, there are hereby established the following Leon County Sidewalk Trust Fund Areas:

Trust Fund Area 1: That portion of County Commission District 1, not including that area within the corporate limits of any municipality, located within the Urban Services Area, as of July 31, 2004;

Trust Fund Area 2: That portion of County Commission District 2, not including that area within the corporate limits of any municipality, located within the Urban Services Area, as of July 31, 2004;

Trust Fund Area 3: That portion of County Commission District 3, not including that area within the corporate limits of any municipality, located within the Urban Services Area, as of July 31, 2004;

Trust Fund Area 4: That portion of County Commission District 4, not including that area within the corporate limits of any municipality, located within the Urban Services Area, as of July 31, 2004; and,

Trust Fund Area 5: That portion of County Commission District 5, not including that area within the corporate limits of any municipality, located within the Urban Services Area, as of July 31, 2004.

Fees collected pursuant to this section shall be held in an account for that Trust Fund Area in which the affected development project is located; shall be expended only for the purpose of improvements to the pedestrian mobility system within that Trust Fund Area; and, may not be combined with the assets of any other Trust Fund Area account, except when used for improvements to the pedestrian mobility system facilities extending into two or more Trust Fund Areas, in which case only those assets necessary for the improvements may be combined. Any fees paid in-lieu of sidewalk construction associated with an individual development project not expended within a period of seven years from the date of collection shall be refunded to the payer.

(e) The Directors of the Growth Management Division and Leon County Public Works Department or his designee shall be authorized to administer and provide interpretations regarding the implementation and administration of this Section.

Section 4. **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 said Comprehensive Plan.

Section 5. **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 as a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion of the Ordinance.

Section 6. **Effective Date.** This Ordinance shall become effective as provided by law.

DULY PASSED AND ADOPTED BY the Board of County Commissioners of Leon County, Florida this 21st day of September, 2004.

LEON COUNTY, FLORIDA

BY: _____
JANE G. SAULS, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS

ATTEST:
BOB INZER, CLERK OF THE COURT

BY: _____
CLERK

APPROVED AS TO FORM
COUNTY ATTORNEY'S OFFICE

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