

**WAKULLA COUNTY PLANNING AND ZONING COMMISSION  
COMPARISON OF WAKULLA COUNTY ORDINANCE NO. 06-27 AND  
PROPOSED REVISED WETLANDS AND OTHER SURFACE WATERS ORDINANCE**

<p><b>Ordinance No. 06-27</b></p> <p><b>§ 32.001. Definitions.</b> Contained definitions for the following terms: Agricultural, Agricultural Operation, Mitigation, Silviculture, and Wetlands.</p> <p>No equivalent section.</p> <p><b>§ 32.002. Findings and Statement of Intent</b> Provides findings and a statement of intent.</p> <p><b>§ 32.003. Application.</b> States that the ordinance applied to all wetlands, excluding:</p> <ol style="list-style-type: none"> <li>1. Artificially constructed-ponds, drainage ditches, and other artificially created features, except where constructed in wetlands</li> <li>2. Wetlands for which state or federal dredge and fill permits were issued prior to the adoption of the ordinance</li> <li>3. Areas excluded from local planning and zoning jurisdiction by state or federal law</li> <li>4. Bona fide agricultural and silvicultural activities</li> </ol> <p>Both the original and revised ordinance apply countywide.</p>	<p><b>Revised Ordinance (Article II of the Revised Ordinance)</b></p> <p><b>§ 1. Definitions.</b> Revises original definitions and includes definitions for numerous other terms, to promote a greater understanding of how the provisions in the ordinance function and to aid in its interpretation by staff, the Planning and Zoning Commission, the BOCC, and the Courts.</p> <p><b>§ 2. Interpretation.</b> Provides language to aid in the interpretation of commonly used terms.</p> <p><b>§ 3. General Findings.</b> Provides an expanded statement of intent and general findings, incorporating some of the original findings. The revised section also identifies several key functions and values which Wetlands serve. The revised ordinance divides the Application section of the original ordinance into two sections, one pertaining to general applicability and one pertaining to exemptions from regulation.</p> <p><b>§ 4. Application.</b> States that the ordinance applies only to activities defined as "Development" in the Wakulla County Land Development Code. This limits the application of the revised ordinance, by narrowing the focus of administration and enforcement to certain Development activities. If an activity does not meet the definition of "Development," it is not regulated.</p> <p>The revised ordinance applies not only to Wetlands, but also to other "Surface Waters" as defined in the ordinance. Wetlands are actually included in the definition of "Surface Waters" and the Comprehensive Plan speaks to protection of both Wetlands and to Surface Waters more generally.</p> <p><b>§ 11. Exemptions.</b> Provides that the following activities will be exempt from regulation, despite the fact that they may fall within the definition of "Development":</p> <ol style="list-style-type: none"> <li>1. Development conducted in "Artificially Constructed Waterbodies" not hydrologically connected to Wetlands or other Surface Waters, and other artificial features, so long as they do not intercept an Aquifer. This is a more limited exemption than the similar exemption in the original ordinance.</li> <li>2. Dredging and filling conducted under a previously issued dredge and fill permit issued by the state or federal government.</li> <li>3. Bona Fide Agricultural Activities and activities on a bona fide farm operation pursuant to the Florida Right to Farm Act, so long as such activities are conducted in accordance with implemented best management practices (BMPs). Under the Farm Act, bona fide farm operations are only exempt from local government jurisdiction if they are operating in accordance with BMPs as the BMPs provide guidelines for ensuring that natural resources are protected to the greatest extent possible.</li> </ol>
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<b>Ordinance No. 06-27</b>	<b>Revised Ordinance (Article II of the Revised Ordinance)</b>
<p>The original ordinance did not include § 5 of the revised ordinance, however, the substantive equivalents of these provisions were incorporated into other sections.</p>	<p>If these activities are not conducted in accordance with BMPs, they may be subject to penalties. The BMP requirement limits this exemption more than the similar exemption in the original ordinance.</p> <ol style="list-style-type: none"> <li>4. Vegetation maintenance and tree pruning activities conducted by electric utilities within utility easements and rights-of-way, as exempted from local government jurisdiction under the Florida Statutes. This exemption was not explicitly included in the original ordinance.</li> <li>5. Development within Wetlands or other Surface Waters which are smaller than 500 square feet in area, or in Buffers adjacent to such Wetlands or other Surface Waters. There was no similar exemption in the previous ordinance, but it is intended to reduce the enforcement burden generated from regulating activities which impact only small Wetlands or other Surface Waters.</li> <li>6. There is also an exemption which states that the requirements of the Revised Ordinance do not apply to Development occurring adjacent to springs, karst features, or sinkholes, which are governed by other policies in the Comprehensive Plan.</li> </ol>
<p>§ 32.004. <u>Process.</u> Provided a very general process for approval of development. The initial application for development was supposed to "identify all wetland features" but it was not clear whether this "identification" was required to be a delineation or not.</p>	<p>§ 5. Development in Wetlands and Other Surface Waters and Buffers. Provides a clear prohibition on Development within Wetlands and other Surface Waters or Buffers, unless such Development is an "Allowable Use," or unless the Developer obtains a conditional use permit or a variance.</p> <p>It also establishes the two Buffers described in the Comprehensive plan. Regarding the Buffers, the revised ordinance only requires that the first Buffer be a "no touch zone" and that certain activities may be conducted in Buffer Zone Two. This is less restrictive than the original ordinance.</p> <p>§ 6. <u>Preliminary Wetlands Determination.</u> Provides a step-by-step process for identification of Wetlands, and also requires that all parcels undergo a staff-level review prior to commencing any development activity, including clearing. Developers must obtain a Wetlands and Other Surface Waters Preliminary Letter from staff, which indicates whether Wetlands and other Surface Waters are likely to exist on or within 75 feet of a parcel of property. If it appears that there probably are no such features, the Developer may continue to Develop the property without the need for any further review pursuant to the Ordinance.</p> <p>If it appears that there probably are Wetlands or other Surface Waters, on, or within 75 feet of the property, a delineation of the Wetland or other Surface Water boundaries is required for all persons submitting a subdivision plan or preliminary plat application. Property owners submitting a site plan application are only required to delineate the area that will be impacted by the Development, including construction activities.</p>

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Ordinance No. 06-27	Revised Ordinance (Article II of the Revised Ordinance)
<p><b>§ 32.005(a). Use of Wetlands - Allowable Uses.</b> The original allowable uses section allowed only a few very limited uses of Wetlands, and identified no uses allowable within the Buffers except to prevent a taking.</p> <p>In addition, the original ordinance provided little in the way of design standards pertaining to such uses (e.g., boundary fences not altering the wetland hydrology were allowable, but there were no guidelines as to how such boundary fences should be constructed).</p>	<p>Section 6 exempts from these review and delineation requirements, minor modifications to existing structures that do not increase the exterior square footage of a structure. Also, Developers who have obtained a "Formal Determination of the Landward Extent of Wetlands and Other Surface Waters" from the Florida Department of Environmental Protection or a Delineation less than 5 years old are exempt from these requirements upon submission of the Determination or Delineation.</p> <p>This provides a clear process for verification of any information submitted by the Developer, but also creates additional duties for Planning Department staff. It may be necessary or advisable for the County to consider identification of an expert to assist staff in this process if the number of applications becomes too great for staff to administer in-house.</p> <p>The "Use of Wetlands" section in the original ordinance is broken down into three distinct sections, addressing Allowable Uses, Conditional Uses, and Variances separately.</p> <p><b>§ 7. Allowable Uses.</b> The allowable use section sets out which uses are allowable within Wetlands and other Surface Waters, and which are allowed in the Buffers. Many of these uses are subject to design standards contained in Section 10 of the revised ordinance.</p> <p>In addition to those items allowed in the original ordinance, the revised ordinance also allows in Wetlands and other Surface Waters (and Buffers):</p> <ol style="list-style-type: none"> <li>1. Construction of docks and other structures used for Water Dependent Activities</li> <li>2. Construction of seawalls within an artificially created waterbody (whether or not hydrologically connected) where the seawall adjoins two existing seawalls not further than 150 feet apart</li> <li>3. Development activity for which the Developer has previously obtained a valid Development Order prior to the adoption of the Ordinance.</li> <li>4. Renewal and repair of certain previously constructed structures.</li> </ol> <p>The only "allowable use" not included is "refuge for native wildlife" as that would not comprise "Development" regulated under the ordinance.</p> <p>In addition to the above uses and those allowed under the original ordinance, the following additional uses are allowed in both Buffers:</p> <ol style="list-style-type: none"> <li>1. Access for utilities to serve upland areas with only a minimal impact to the Buffers.</li> <li>2. Continuous uses of the property in existence prior to the effective date of the ordinance (grandfathering clause).</li> </ol> <p>A Developer may also establish a yard which extends into Buffer Zone Two up to a specified amount, if there are not sufficient uplands to do so without impeding on the Buffers.</p>

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<b>Ordinance No. 06-27</b>	<b>Revised Ordinance (Article II of the Revised Ordinance)</b>
<p><u>§ 32.005(b)(1). Use of Wetlands - Conditional Uses.</u> Provided that the Planning and Zoning Commission may grant a conditional use permit for:</p> <ol style="list-style-type: none"> <li>1. The construction and maintenance of roads, streets, and other access ways and utility rights of way if essential to uplands.</li> <li>2. Docks and other similar structures necessary for water dependent activities, including boat ramps.</li> <li>3. Wetland restoration, fire suppression, and habitat management.</li> </ol> <p>Again, no design standards were provided as to how such activities should be conducted.</p> <p>This paragraph also encouraged conservation easements and clustering.</p> <p>Provided that these activities may require mitigation, but did not state under what circumstances or the manner in which mitigation should be required.</p> <p><u>§32.005(b)(2). Use of Wetlands - Variances.</u> Provided that the BOCC could grant a variance for the "reasonable use of property in extraordinary circumstances" by super majority vote.</p> <p>Did not identify what use is "reasonable" and what circumstances qualify as "extraordinary".</p>	<p>These uses may be approved by staff pursuant to the traditional development permit application process, if a development permit is required pursuant to other provisions of the LDC.</p> <p><u>§ 8. Conditional Uses.</u> Conditional uses under the revised ordinance are approved by the Planning and Zoning Commission, and may be granted for the following purposes:</p> <ol style="list-style-type: none"> <li>1. Wetlands Restoration and habitat management (not fire suppression - unclear as to what that encompasses)</li> <li>2. Stormwater management facilities in Buffer Zone Two only.</li> <li>3. Docks and similar structures not meeting the design standards (P&amp;Z may provide alternative standards and conditions).</li> <li>4. Boundary fences not meeting the design standards (P&amp;Z may provide alternative standards and conditions).</li> <li>5. Construction of Boat Ramps consistent with the design standards.</li> <li>6. Removal of Exotic Invasive Species in a manner not meeting the design standards (P&amp;Z may provide alternative standards and conditions, but likely will have to be approved by DEP or Water Management District).</li> <li>7. Shoreline Armoring including seawalls not qualifying as an allowable use, except that they may not be constructed along the shoreline of geographically isolated wetlands.</li> <li>8. Driveways consistent with the design standards, constructed where no upland alternative exists consistent with the design standards.</li> </ol> <p>This section also outlines in detail the process by which conditional uses are approved under this ordinance and requires a mitigation plan meeting the requirements set forth in the ordinance.</p> <p><u>§ 9. Variances.</u> Authorizes the BOCC to grant variances, but does not require a super majority vote as follows:</p> <ol style="list-style-type: none"> <li>1. Specifically implements provisions from the Comprehensive Plan authorizing a variance for Development of residential or non-residential properties within Buffer Zone Two if a failure to do so will constitute a taking. The taking standard provided is the judicial standard for partial regulatory takings.</li> <li>2. New roads or utilities in Wetlands or other Surface Waters or Buffers.</li> <li>3. Boat Ramps not meeting the design standards.</li> <li>4. A reduction or modification of the minimum buildable area requirement set out under the design standards section.</li> </ol> <p>This section is more consistent with the Comprehensive Plan than the original ordinance and may be "more restrictive" than the original ordinance to the extent that it only allows a variance for the purposes listed in the ordinance. However, a variance may be easier to obtain as there is no super</p>

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<p><u>§ 32.006. Design standards.</u> Included very limited design standards, and other than requiring best management practices for erosion control in construction, provided no standards for actual construction or activities allowed in the ordinance.</p>	<p><u>§ 10. Design Standards.</u> Instead of the prohibition on the inclusion of Wetlands in lots smaller than 2 acres in size platted after the ordinance takes effect, this ordinance sets out a minimum buildable area requirement equal to the minimum width and depth requirements for the smallest conforming lot sizes outside of all setbacks and buffers for lots that contain Wetlands or other Surface Waters.</p>
<p>This section required that lots platted after it took effect and smaller than 2 acres in size be exclusive of wetlands, it established the buffers, it required that wetlands within new developments be placed in a conservation easement, and expressly subjected Wakulla County to the requirements of the ordinance.</p>	<p>This section also allows, rather than mandates, conservation easements and provides detailed design standards for most of the structures or features that may be constructed or permissible activities under the ordinance either as an allowable use or a conditional use, including standards for landscaping and yard maintenance activities which may take place in Buffer Zone Two.</p> <p>The express statement that the County is subject to the ordinance is included under the Administration and Enforcement section of the revised ordinance.</p>
<p>No equivalent section in original ordinance.</p>	<p><u>§ 12. Mitigation.</u> Outlines the required components for a mitigation plan under the ordinance, including the types of mitigation that may be approved, the method for calculating the required amount of mitigation, ongoing monitoring requirements, and means of determining whether a plan is successful.</p> <p>Having a detailed process provides clarity to staff, the Planning and Zoning Commission, and the BOCC in considering the approval of a conditional use permit or variance, and also puts Developers on notice as to what is required in a mitigation plan.</p>
<p><u>§ 32.007. Administration and Enforcement.</u> Provided that administration and enforcement were the responsibility of the Planning Director and the County Administrator, it required reporting to other agencies if violations were jurisdictional to other agencies, and provided that determination of violations would be the work of the Code Enforcement Board.</p>	<p><u>§ 13. Administration and Enforcement.</u> Clarifies that administration of the ordinance is the responsibility of the County Administrator and the Planning Department, and that enforcement and prosecution of cases is the responsibility of the Code Enforcement Board and the Code Enforcement Officer. Specifically authorizes the Planning Director to designate additional staff as code inspectors to assist with investigating potential violations under the ordinance.</p> <p>Allows the County to enforce the ordinance through any other means authorized by law other than the Code Enforcement Board.</p>

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<p><b>Ordinance No. 06-27</b></p> <p><u>§ 32.008. Penalties.</u>          Provided that generally the Code Enforcement Board would have authority to levy fines and require restoration and mitigation. It also stated the maximum fines for violations if orders of the Board were not followed.</p>	<p><b>Revised Ordinance (Article II of the Revised Ordinance)</b></p> <p><u>§ 14. Penalties.</u>          This section defines what a single violation of the ordinance is (alteration of up to 5,000 square feet of Wetlands or other Surface Waters or Buffers), and states that alterations to an area larger than 5,000 sq. ft. are additional violations.</p> <p>Requires that if the Code Enforcement Board finds a violation exists, they issue an Order requiring a property owner to enter into a "Corrective Action Plan" which identifies the actions necessary to correct the violation, which may include, but are not limited to, mitigation, restoration, and obtaining necessary Development approvals. It also provides the maximum monetary fine that may be imposed if the owner fails to enter into a Corrective Action Plan within the required time frame.</p> <p>Detailed requirements are provided for Corrective Action Plans, similar to those provided for Mitigation plans.</p>
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