

Summary of Ordinance

The purpose of this Ordinance is to establish a temporary moratorium on new residential preliminary plat applications for six (6) months from the Effective Date, or until such earlier time as the Board of County Commissioners repeals the moratorium.

Changes are shown as follows: ~~Strikethrough~~ for deletions and Underline for additions to existing Code sections. The notation “* * *” shall mean that all preceding or subsequent text remains unchanged (excluding any renumbering or relettering that might be needed).

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ORDINANCE 2023 – ___

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LAKE COUNTY, FLORIDA; ESTABLISHING A TEMPORARY MORATORIUM ON NEW RESIDENTIAL PRELIMINARY PLAT APPLICATIONS FOR SIX (6) MONTHS IN THE UNINCORPORATED AREAS OF THE COUNTY; PROVIDING FOR EXCEPTIONS; PROVIDING FOR HARDSHIP ALTERNATIVES; PROVIDING FOR SEVERABILITY; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners (Board) has the authority under Chapter 125, Florida Statutes, and Article VIII of the Florida Constitution to protect the public health, safety, and welfare of its residents and to enact ordinances for valid governmental purposes that are not inconsistent with general or special law; and

WHEREAS, on January 24, 2023, the Board adopted Ordinance 2023-8 and Ordinance 2023-9 for the purposes of amending the Lake County Comprehensive Plan and Land Development Regulations to establish policies and regulations governing rural conservation subdivisions; and

WHEREAS, the County is actively engaged in the process of developing residential subdivision design standards to apply to subdivisions that are not being developed under the rural conservation design regulations, and anticipates that such process will take approximately six (6) months to complete; and

WHEREAS, a temporary moratorium on the acceptance of applications for preliminary plats will allow time to review, study, hold public hearings, and prepare and adopt an amendment or amendments to the Lake County Comprehensive Plan and/or Code of Ordinances to address development of residential properties; and

WHEREAS, local governments may enact moratoriums if the moratorium is intended to preserve the status quo and is rationally related to the government’s attempt to enact changes to

Ordinance 2023-__; Moratorium on New Preliminary Residential Plat Applications

1 development regulations (*WCI Communities Inc. v. City of Coral Springs*, 885 So.2d 912 (Fla. 4th
2 DCA 2004); and
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4 **WHEREAS**, Florida courts have held that permissible bases for land use restrictions
5 include concern about the effect of the proposed development on traffic, on congestion, on
6 surrounding property values, on demand for public services and on other aspects of the general
7 welfare (*WCI Communities Inc. v. City of Coral Springs*, 885 So.2d 912 (Fla. 4th DCA 2004; *see*
8 *also Corn v. City of Lauderdale Lakes*, 997 F.2d 1369, 1375 (11th Cir. 1993)); and
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10 **WHEREAS**, it is also within the power of local government to determine that a community
11 should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully
12 patrolled (*WCI Communities Inc. v. City of Coral Springs*, 885 So.2d 912 (Fla. 4th DCA 2004);
13 and
14

15 **WHEREAS**, local governments are entitled to enact moratoriums as a land-use tool to
16 promote effective planning and preserve the status quo during this change (*Tahoe-Sierra Pres.*
17 *Council, Inc. v. Tahoe Reg'l Planning Agency*, 535 U.S. 302, 337, 122 S.Ct. 1465, 152 L.Ed.2d
18 517 (2002) (holding temporary moratoria are used widely among landuse planners to preserve the
19 status quo while formulating a more permanent development strategy); and
20

21 **WHEREAS**, the Board wants to establish a temporary moratorium on the processing of
22 certain development applications within the unincorporated areas and such moratorium is
23 reasonable and necessary to accomplish the goal of revising its regulations to ensure that the
24 community is beautiful, spacious, and well-balanced during this time of high growth; and
25

26 **WHEREAS**, as of the 2020 census, the population of the State of Florida is 21,538,187
27 and the population of Lake County is 375,059 thereby making it the 17th most populated county
28 within the state out of 67 counties according to the Florida Office of Economic and Demographic
29 Research; and
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31 **WHEREAS**, in 2012 through 2022, Lake County was ranked as the fifth fastest growing
32 county out of the 67 counties within the State of Florida, thereby impacting the available
33 infrastructure including open space, park space and other amenities that residents demand enhance
34 their living experiences; and
35

36 **WHEREAS**, the Board finds that a temporary moratorium will serve the public interest by
37 allowing the Board time to undertake a thorough analysis of its residential subdivision regulations,
38 including, but not limited to, the amount of perimeter buffering between subdivisions, the amount
39 of internal open space and park space available to subdivision residents and architectural
40 guidelines to ensure compatibility and the preservation of property values; and
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42 **WHEREAS**, the Board finds that a temporary moratorium will provide time for Lake
43 County staff to evaluate whether the current design regulations pertaining to subdivisions are
44 appropriate; and
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Ordinance 2023-__; Moratorium on New Preliminary Residential Plat Applications

1 **WHEREAS**, the Board finds that this Ordinance promotes, protects, and improves the
2 health, safety, and welfare of the natural resources and the citizens of Lake County, Florida.
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4 **NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of
5 Lake County, Florida, as follows:
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7 **Section 1. Legal Findings of Fact.** The foregoing recitals are hereby adopted as
8 legislative findings of the Board of County Commissioners and are ratified and confirmed as being
9 true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.
10

11 **Section 2. Purpose; Imposition of Temporary Moratorium.** The purpose of this
12 Ordinance is to allow Lake County sufficient time to review, study, hold public hearings, and
13 prepare and adopt an amendment or amendments to the Lake County Comprehensive Plan and/or
14 Code of Ordinances, relating to residential subdivision design standards. During this time period,
15 which may last for up to six (6) months, the County will not accept new applications for
16 preliminary plats. This temporary moratorium does not prohibit the following:
17

- 18 (a) Accepting new preliminary plat applications for residential subdivisions approved
19 as part of a Planned Unit Development in which residential design standards were
20 incorporated.
21
- 22 (b) Processing construction plan applications or final plat applications for residential
23 subdivisions that have already received a preliminary plat approval prior to the
24 Effective Date of this Ordinance.
25

26 **Section 3. Alleviation of Hardship.** The Board of County Commissioners recognizes
27 there may be situations in which this moratorium will create a hardship for a property owner or
28 project developer. Hardships may include, but not be limited to, contractual obligations that cannot
29 be extended which may result in significant negative financial impacts. Evidence of other types
30 of hardship may be presented to the County Manager or designee for consideration. In the event
31 of a hardship, the property owner or project developer may negotiate with the County a
32 development agreement acceptable to the Board of County Commissioners which incorporates
33 subdivision design standards mutually agreeable to both parties. Acceptable provisions will
34 include perimeter landscape buffers, architectural design standards for dwelling units, provisions
35 of open space or park space, or other amenities available to the public or subdivision residents.
36

37 **Section 4. Severability.** If any section, sentence, clause, phrase or word of this
38 Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such
39 holding or invalidity shall not affect the remaining portions of this Ordinance; and it shall be
40 construed to have been the Commissioners' intent to pass this Ordinance without such
41 unconstitutional, invalid or inoperative part therein; and the remainder of this Ordinance, after the
42 exclusion of such part or parts shall be deemed and held to be valid, as if such parts had not been
43 included herein; or if this Ordinance or any provisions thereof shall be held inapplicable to any
44 person, groups of persons, property, kind of property, circumstances or set of circumstances, such
45 holding shall not affect the applicability thereof to any other person, property or circumstances.
46

1 **Section 5. Filing with the Department of State.** The Clerk shall be and is hereby
2 directed forthwith to send an electronic copy of this Ordinance to the Secretary of State for the
3 State of Florida in accordance with Section 125.66, Florida Statutes.
4

5 **Section 6. Effective Date.** This Ordinance shall become effective as provided for by
6 law and shall remain in effect for six (6) months from the date of Enactment unless the Board of
7 County Commissioners repeals it or otherwise extends it before its expiration.
8

9 ENACTED this day of _____ day of _____, 2023.

10 FILED with the Secretary of State the ____ day of _____, 2023.

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14 ATTEST:

BOARD OF COUNTY COMMISSIONERS
LAKE COUNTY, FLORIDA

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18 _____
19 Gary J. Cooney, Clerk
20 Board of County Commissioners
21 of Lake County, Florida

Kirby Smith, Chairman

This ____ day of _____, 2023.

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24
25 Approved as to Form and Legality:

26
27
28 _____
29 Melanie Marsh, County Attorney