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## 6.01.00 Protection of Wetlands and Waterbodies.

**6.01.01 Purpose and Intent.** The wetlands of Lake County are valuable natural resources which provide beneficial functions contributing to the quality of life of County residents and visitors. It is the purpose of this Section that wetlands be conserved and protected to ensure that the natural structure and functional values are maintained. The intent of this Section is no net loss of wetlands whether by functional value or extent within Lake County.

**6.01.02 Wetland Impacts and Mitigation.** The County shall reserve the right to require the protection of wetlands on site and may deny a development proposal that does not meet the standards of Section 6.01.03. If wetland mitigation is allowed, compliance with all federal and state regulations is required. If wetlands are impacted, mitigation shall be performed within the same drainage basin where the loss occurred in order to ensure no net loss of wetland functionality. Solutions that preserve or restore the natural structure and connectivity of wetlands and minimize adverse impacts to wetlands are preferred.

**6.01.03 Development in Wetlands and Waterbodies.** Development shall be directed away from the wetlands and conducted in a manner to protect the vegetation, habitat and the water storage, water quantity, water quality, and recharge functions of the wetlands to the maximum extent allowed by law.

- A. Methodology for determining wetland boundaries. All wetland boundaries shall be delineated under the provisions of Chapter 62-340, Florida Administrative Code, as ratified by the Florida Legislature in sections 373.421 and 373.4211, Florida Statute. All wetland boundaries, surveys, and delineations are subject to verification and approval by Lake County staff, State or Federal agencies with jurisdiction.
- B. Development allowed in wetlands and water bodies.
  - 1. Water dependent structures, such as, but not limited to the following, shall be allowed within wetlands:
    - a. Boat docks;
    - b. Boat ramps/launches;
    - c. Pile supported walkways;
    - d. Soil erosion control measures; and
    - e. Seawalls, as allowed in 6.01.06.

All portions of the structure that will be immersed in or touch wetlands and/or surface waters shall be constructed from materials that will not degrade water quality of the wetland and/or surface water, such as, but not limited to non-treated wood and concrete.

- 2. County, State, and Federally approved reclamation or restoration projects located on environmentally sensitive lands shall be allowed.
- C. Filling or dredging of wetlands and water bodies.
  - 1. An approval through the St. Johns River Water Management District, Southwest Florida Water Management District, the U.S. Army Corps of Engineers, or the Florida Department of Environmental Protection is required to place fill in a wetland. When the fill or dredge project is completed and approved by the appropriate state agency, the land that was filled shall be considered uplands.
  - 2. Outside the Green Swamp Area of Critical State Concern, Wekiva River Protection Area, Wekiva River Study Area, and Rural Protection Area, there shall be no dredge or fill activities in wetlands except as listed below. In those instances where dredge or fill activities are authorized, the

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applicant shall demonstrate that there is no other reasonable, practical, or economical alternative, and that the applicant can adequately mitigate for the dredge or fill activity.

- a. Water dependent activities;
  - b. As needed for access to the upland portion of a site;
  - c. As needed for internal traffic circulation and for purposes of public safety, where other alternatives do not exist;
  - d. Utility transmission and collection lines;
  - e. Pretreated storm water management if approved by the jurisdictional agency;
  - f. Mining that meets local, state and federal regulations;
  - g. Low quality wetlands on a parcel(s) proposed for development where:
    - (1) Eighty percent (80%) or more of the wetland area to be impacted contains invasive plant species; and
    - (2) Impacts do not exceed twenty-five percent (25%) of the combined low quality wetland; and
    - (3) All jurisdictional agency permits are obtained prior to commencement of development.
  - h. Isolated wetlands on a parcel(s) proposed for development where:
    - (1) A parcel(s) proposed for development consists of at least 70% uplands; and
    - (2) The entire upland area must be planned and approved for development before dredge or fill activities in isolated wetlands can take place. If the approved development is to be completed in phases, the entire upland area of the currently proposed phase must be planned and approved for development before any wetland areas within that phase or in any future phase may be impacted; and
    - (3) Impacts shall not exceed twenty-five percent (25%) of the combined isolated wetland area; and
    - (4) All jurisdictional agency permits are obtained prior to commencement of development.
      - i. Permitted man-made wetlands or man-made surface waters that:
        - (1) Were created within the last 15 years; and where
        - (2) All jurisdictional agency permits are obtained prior to commencement of development.
3. Within the Green Swamp Area of Critical State Concern, Wekiva River Protection Area, Wekiva Study Area, and Rural Protection Areas, there shall be no dredge or fill activities in wetlands except as listed below. In those instances where dredge or fill activities are authorized, the applicant must demonstrate that there is no other reasonable, practical or economical alternative, the applicant can adequately mitigate for the dredge or fill activity, and without the dredge or fill activity the property owner will be deprived of reasonable use of the property.
- a. Water dependent activities, which includes uses and structures such as docks, platforms, and pile-supported walkways or similar structures;

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- b. As needed for access to the site;
  - c. As needed for internal traffic circulation and for purposes of public safety, where other alternatives do not exist;
  - d. Utility transmission and collection lines;
  - e. Pretreated storm water management if approved by the jurisdictional agency; or
  - f. Mining that meets local, state and federal regulations.
- D. Surface and groundwater withdrawal impacts on wetlands. The County shall coordinate with the water management districts to limit groundwater and surface water withdrawals which may cause adverse impacts upon natural water bodies, wetlands, and wetland-dependent ecosystems.

**6.01.04 Development near Wetlands and Waterbodies.** If any wetlands are present on a property proposed for development, the County shall require that a wetland survey and delineation be conducted, in accordance with 6.01.03.A, above.

A. Setbacks.

- 1. Principal structures, structures, buildings, and impervious surface, excluding water dependent structures, shall be located at least (50) feet from the ordinary high water line, mean high water line, or jurisdictional wetland line, whichever is further landward. Exceptions to this requirement are listed below:
  - a. Additions to a residence may be allowed, if the addition:
    - (1) Does not extend beyond the existing permitted footprint of the residence; or
    - (2) Meets the required 50-foot setback from the ordinary high water line, mean high water line, or jurisdictional wetland line.
  - b. Development approved prior to September 22, 2011 with a wetland setback of less than 50 feet shall be allowed to maintain the approved setback and shall not be considered nonconforming; this includes approved variances, waivers, average setbacks and plats.
  - c. Upland lots with a developable area of either less than 30 feet in width or less than 30 feet in depth, as measured landward from the jurisdictional wetland line provided:
    - (1) The lot is a developable Lot of Record, or the lot was legally created through a development order prior to March 2, 1993; and
    - (2) The maximum developable area shall be limited to 30 feet in width or depth; and
    - (3) In no case shall the jurisdictional wetland line setback be less than 20 feet; and
    - (4) The first one inch (1") of storm water runoff shall be captured on site; and
    - (5) Development must be constructed as far landward on the lot as possible.
  - d. Average setback determination on lots that front on a canal. On lots that cannot meet the 50 foot setback requirement and front on a canal an average setback meeting the following requirements shall be allowed:
    - (1) The two closest principal structures or dwelling units on the same side of the canal shall be used for the average setback determination.
    - (2) The applicant shall provide written permission from each owner of the structure or dwelling unit to allow the measurement at the site.

- e. A variance to the setback requirements listed above, as provided in Chapter 14.
- 2. Septic tank drain field systems. Septic tank drain fields shall be set back 100 feet from the mean high water line or the jurisdictional wetland line, whichever is further landward. Administrative adjustments may be granted as follows:
  - a. Development on lots legally created on or before March 2, 1993, and all Lots of Record that cannot meet the 100-foot setback from the mean high water lines of lakes and wetlands, or the jurisdictional wetland line for placement of the drain field, if the lot would otherwise be deemed unbuildable;
  - b. Such adjustment may be granted to allow the placement of the septic tank drain field as far landward as possible, to have the least impact on surface waters and wetlands;
  - c. All setbacks shall be consistent with state law; and
  - d. Any on-site wastewater system approved with an administrative adjustment shall be an advanced treatment systems or alternative system designed to remove nutrients from the effluent.
- B. Buffers around wetlands on new development sites for non-agriculture uses. To minimize erosion, stabilize the shoreline, protect water quality, preserve fish and wildlife habitat, and also to preserve the aesthetic values of the natural watercourse and wetlands areas, an upland buffer shall be required on new development sites for non-agricultural uses as provided below.

Native vegetation within buffers shall be preserved. Buffers without native vegetation shall be re-vegetated with indigenous habitat to protect the quality of the adjacent isolated wetland, wetland system, river or stream.

- 1. Standard Buffers. A 50 foot wide natural buffer shall be provided adjacent to all isolated or non-isolated wetlands, and rivers/streams; all buffers shall be shown on plats, site plans, and construction plans associated with plats and site plans, and identified as an upland buffer.
- 2. Variable Buffers, outside of the Green Swamp Area of Critical State Concern. Where more extensive buffering is necessary to protect higher quality wetlands, or where the required buffer makes a lot unbuildable, the County may allow a variable upland buffer, as provided below:

Wetland System	Minimum (feet)	Average (feet)
Isolated	15	50
Non-isolated	25	50
Rivers/Streams	50	100

- 3. Variable buffers within the Green Swamp Area of Critical State Concern. For properties located within the Green Swamp Area of Critical State Concern, variable buffers may be allowed as follows:

>Wetland System	Minimum (feet)	Average (feet)
Isolated	25	75
Non-isolated	25	75
Rivers/Streams	50	100

- 4. Existing development. Developments approved prior to September 22, 2011 with an upland buffer of less than 50 feet shall be allowed to maintain the buffer width as approved in the

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prescribed ordinance or development order and shall not be considered nonconforming; this includes any type of approved variance or waiver.

5. Location. Buffers shall start landward from the mean high water line or jurisdictional wetland line, whichever is further landward.
6. Uses allowed within buffers shall be limited to:
  - a. Passive recreation activities;
  - b. Limited storm water facilities;
  - c. Water dependent structures, such as, but not limited to, fishing piers, boat ramps/launch, docks, and walkways;
  - d. Activities that protect nesting, feeding, or habitat areas for designated species, or support the propagation of other native species;
  - e. Activities that protect an archaeological or historical site;
  - f. Activities that retard or eliminate soil erosion problems;
  - g. Activities that are designed to manage exotic/nuisance vegetation in accordance with a County approved management plan; and
  - h. Wildlife monitoring stations.
- C. Conservation Easements. To the extent practicable and allowed by law and pursuant to Chapter XIV (Dedication of Real Property, Right-of-Way, and Easements), wetlands within a project shall remain undeveloped and protected in perpetuity through the use of conservation easement, or similar recorded and legally binding instrument (including plat restrictions), that runs with the land and establishes the conditions and restrictions on the use. If an easement is dedicated, it shall be dedicated to one or a combination of the following, prior to development:
  - Conservation agency such as Florida Department of Environmental Protection or St. Johns River Water Management District;
  - Non-profit conservation organization or land trust; or
  - Lake County, subject to County approval.

The easement or similar instrument shall require that wetlands and upland buffers be maintained in perpetuity in their natural and unaltered state, except for activities and uses allowed therein and removal of invasive vegetation or other actions required as a condition of the permitting agencies. To the extent practicable, wetlands shall not be included as part of any platted lot, other than a lot platted as a common area, which shall be dedicated for preservation or passive recreational use, to the extent allowed by law. This provision shall not be interpreted in a manner that would prevent or impair direct water access from properties having riparian rights.

#### **6.01.05 Removal of Shoreline Vegetation.**

- A. Removal of shoreline vegetation shall comply with State regulations, Chapters 68F-20 and 18-20, Florida Administrative Code, or their successors.
- B. In addition, the following requirements shall apply to all lakeshores and water bodies greater than ten (10) acres in size and to all rivers, streams, and springs:
  1. Clearing of native shoreline vegetation above the mean high water line (MHWL) shall be limited to 20% or 30 feet of the total linear shoreline (whichever is less). The remainder of the shoreline must remain vegetated. No wetland trees greater than four inches (4") in caliper (dimension at

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breast height) or any endangered plants may be removed from the shoreline, however, limited tree removal and relocation of endangered plants may be permitted for dock and access walkway construction, when no other option exists.

2. Clearance of nuisance or invasive plants along shorelines outside the exempt area (described above) is required for all new development and redevelopment. Such clearing shall be subject to state permitting criteria.
  3. All use of herbicides is subject to Chapter 68F-20, F.A.C., or its successors.
  4. It is permissible to have an access corridor for swimming and boating within the littoral zone up to 30 feet in width. This corridor can be kept free of aquatic vegetation below the MHWL if done by hand.
  5. The placement of sand along shorelines to create beaches is prohibited unless such sand is contained so that it cannot enter into the water body and is not placed in an adjacent wetland.
- C. Water bodies less than 10 acres in size shall be subject to these regulations if hydrologically connected to Outstanding Florida Waters, navigable water bodies, or other special waters.

**6.01.06 Erosion Control Methods for Shoreline Properties.** Planting of shoreline and aquatic vegetation is the preferred method of protecting shorelines from erosion. Where planting of shoreline and aquatic vegetation alone will not protect shoreline property from erosion and shoreline hardening is required, the following methods may be used:

- A. Non-vertical systems:
1. Riprap;
  2. Vegetated open-cell block;
  3. Geo-textile container; or
  4. Similar, non-vertical systems.
- B. Vertical systems (seawalls), provided that the following guidelines for their installation or construction in a particular location are followed:
1. New seawalls shall be allowed along the shoreline of canals.
  2. New seawalls shall not be permitted along springs, lakes, rivers and streams, unless there is no reasonable alternative to a seawall for the protection of shorelines, or when there are existing seawalls on both sides of the neighboring properties.
  3. Existing seawalls may be repaired or replaced.

Erosion from upland runoff shall be controlled. The use of berm or swale systems for properties along all springs, lakes, rivers or streams may be used to control erosion from upland runoff. Plans and calculations shall be submitted with the zoning permit application, and the plans and calculations shall demonstrate that the proposed berm or swale system will capture at least the first one (1) inch of storm water runoff.

(Ord. No. 2013-69, § 3, 12-17-13; Ord. No. 2014-25, § 2, 6-10-14)

Editor's note(s)—Ord. No. 2013-69, § 3, adopted December 17, 2013, repealed and replaced § 6.01.00 in its entirety. Former § 6.01.00 pertained to wetlands protection and was derived from original Code.