

ORDINANCE NO. 2012-06

AN ORDINANCE OF FLAGLER COUNTY, FLORIDA ESTABLISHING THE MARINELAND ACRES SPECIAL STORMWATER OVERLAY AREA; SETTING FORTH THE REQUIREMENTS FOR DEVELOPMENT WITHIN THE MARINELAND ACRES SPECIAL STORMWATER OVERLAY AREA BY AMENDING ARTICLE III OF THE FLAGLER COUNTY LAND DEVELOPMENT CODE; CREATING SECTION 3.06.13, ADOPTING SINGLE FAMILY RESIDENTIAL DWELLING SITE PLAN AND DRAINAGE REQUIREMENTS FOR THE MARINELAND ACRES SPECIAL STORMWATER OVERLAY AREA; PROVIDING FOR SUPPLEMENTAL DEVELOPMENT STANDARDS; PROVIDING FOR PENALTIES; PROVIDING FOR RELATIONSHIP TO OTHER REQUIREMENTS; AMENDING SECTION 3.08.02. TO PROVIDE ADDITIONAL DEFINITIONS RELATED TO THE OVERLAY AREA; PROVIDING FOR VESTING; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, comprehensive drainage systems do not exist in many historic barrier island subdivisions, specifically most of the area bounded by A1A Highway, Malacompra Canal, Washington Oaks State Park and the Atlantic Ocean; and

WHEREAS, the lack of a comprehensive drainage system has lead to prolonged standing water to collect under houses, in streets, in yards and caused septic systems to fail; and

WHEREAS, stormwater management is important to help control stormwater runoff in order to prevent erosion, sedimentation, flooding, vector borne diseases, and pollutants/contaminants entering water bodies; and

WHEREAS, this Ordinance is intended to reduce the adverse impacts of uncontrolled stormwater from future impervious areas; and

WHEREAS, approximately fifty percent of the Marineland Acres Special Stormwater Overlay Area is comprised of undeveloped single family lots; and

WHEREAS, development of these remaining lots without these overlay standards will exacerbate the existing problems; and

WHEREAS, the standards set forth in this Ordinance are proposed to provide a mechanism for mitigating the damaging effects of uncontrolled and unplanned stormwater runoff; and

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WHEREAS, the standards will seek to lessen the impacts of future development while a more comprehensive solution is developed; and

WHEREAS, tree preservation and preservation of native vegetation complement stormwater management efforts by reducing compaction of soils and limiting impervious areas; and

WHEREAS, compliance with the provisions of this Overlay Area as adopted by this Ordinance is in addition to compliance with the adopted Flagler County Land Development Code and other applicable building, fire and development codes and policies, and any other Federal, state, local administrative law, rule, regulation, or ordinance; and

WHEREAS, this Ordinance is developed to manage future stormwater drainage within the Marineland Acres Special Stormwater Overlay Area in order to maintain and enhance the public health, safety and welfare through the control of runoff volume and treatment of stormwater runoff and the protection of surface water and groundwater quality, and the control and prevention of erosion, sedimentation and flooding by providing standards for the design, construction and operation of stormwater management systems in conformance with best overall management practices. This Ordinance provides for the enforcement of the goals, objectives and policies of the Comprehensive Plan, and is intended to be consistent with the applicable policies and regulations of regional, state and Federal agencies regarding stormwater management.

NOW, THEREFORE, be it ordained by the Flagler County Board of County Commissioners that this Marineland Acres Special Stormwater Overlay Area is hereby adopted as follows:

SECTION A. FINDINGS

- 1) The above recitals are incorporated herein as Findings of Fact.
- 2) This Ordinance is consistent with the goals, objectives and policies of the Flagler County Comprehensive Plan.

SECTION B. MARINELAND ACRES SPECIAL STORMWATER OVERLAY AREA ESTABLISHED

- 1) Appendix C Land Development Code, Article III, Section 3.06.13, Marineland Acres Special Stormwater Overlay Area, is hereby created as follows:

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A. Applicability and Interpretation

1. The following are additional and supplemental requirements to the Flagler County Land Development Code that shall apply to the Marineland Acres Special Stormwater Overlay Area.
2. **Overlay Area Described:** The requirements of this Ordinance shall apply to all land located within the plats of: Marineland Acres, as recorded in Map Book 5, Pages 49-50; First Addition to Marineland Acres, Map Book 5, Pages 54-55; and Second Addition to Marineland Acres, Map Book 5, Pages 60-62, all according to the Public Records of Flagler County, Florida, together with the unrecorded Oceanside Acres subdivision, as described as follows:

A parcel of land being all of the unrecorded Plat Oceanside Acres lying in Government Sections 17 and 39, Township 10 South, Range 31 East, Flagler County, Florida, being more particularly described by a metes and bounds legal description contained in Official Records Book 375, Pages 218-230.

The sum of this area shall be referred to as the Marineland Acres Special Stormwater Overlay Area for purposes of this Ordinance.

3. This section shall not be construed to have the effect of repealing or replacing any existing provision of the Flagler County Code concerning the subject matter of this section, but the regulations established herein shall be supplemental and cumulative. However, in the case of direct conflict with a provision or provisions of any existing code provision, the provision that is more restrictive and imposes higher standards or requirements shall govern.
4. Unless vested pursuant to Section C, all permit applications for new single family residential dwellings and customary accessory uses, and for all applicable improvements to lots with existing single family residential dwellings that are not part of an approved and permitted master stormwater system, shall comply with the following requirements:

B. Overlay Standards

1. *Minimum pervious standards*
 - a. The minimum pervious area for each lot in the Marineland Acres Special Stormwater Overlay Area shall be 60%.

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- b. The driveway width in the public right of way or private roadway easement shall be limited to a maximum of 16 feet at the right of way/property line, and if applicable, limited to a maximum of 20 feet at the edge of the roadway.
- c. If paved, a driveway pavement joint must be installed at the front property line.
- d. Any structure that prevents or severely restricts the natural percolation of water from the surface of the ground to the water table shall be considered impervious.
- e. Pavers, stone aggregate and other paved surfaces must be factored into the stormwater design analysis and semi-impervious areas shall be considered as 75% impervious by the engineer in the drainage calculation required below.
- f. Final determinations regarding whether a surface or structure is impervious or semi-pervious shall be made by the County Development Engineer in his/her sole discretion.

2. *Drainage/stormwater requirements*

a. On-site stormwater

- i. On-site stormwater detention shall be provided for all new impervious areas. Lots shall be required to detain on site the volume of stormwater from 2.5 inches of rainfall over the new impervious area. Plans and calculations required pursuant to this ordinance shall be prepared and submitted by a professional engineer licensed in the state of Florida unless it can be demonstrated to the satisfaction of the County Development Engineer that the plans and calculations otherwise meet the requirements and standards set forth herein. Plans submitted must detail the amount of existing impervious surface located on the site including but not limited to existing structures, paved areas, parking areas, walkways, decks, swimming pools, pavers and the amount of additional impervious area proposed. Stormwater may be detained using swales, detention areas, underground cisterns, and other accepted engineering methods and best management practices as determined by the County Development Engineer.
- ii. Grading shall be provided which maintains or improves existing surface water flow patterns. Side yard swales shall be required by the County Development Engineer where appropriate to convey

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stormwater and prevent adverse impacts to adjacent properties. In such cases, a maximum allowable slope for grading of three horizontal to one vertical (3:1) shall be established. Shared swales between properties may be permitted by the County Development Engineer in his/her sole discretion.

- iii. Roof gutters are required at all locations where stormwater drains off a roof, unless and within the discretion of the County Development Engineer, a more effective method of stormwater management of roof run-off is demonstrated that does not have adverse impacts on adjacent properties. The downspouts shall be directed into the detention areas, with the locations approved by Flagler County Development Engineer. No stormwater from gutters are to be directed onto adjacent lots.
- iv. Any structure that prevents or severely restricts the natural percolation of water from the surface of the ground to the water table cannot be used as a water detention facility. This shall include, but is not limited to: swimming pools, spas, ornamental fishponds and/or parking areas, etc.

b. Off-site/roadway swale stormwater

- i. All lots are to provide additional detention areas in the public roadway rights of way and private roadway easements (Oceanside Drive), in the form of roadway swales along the front property line in accordance with the following standards; minimum 1.5 feet of depth, minimum 2 feet of bottom width, maximum 3:1 side slopes. The stormwater volume in these swales are in addition to the amount required to be detained in subsection B.2.a.i above. The roadway swales shall be aligned and connected to any adjacent roadway swales utilizing swale blocks or other discharge controls. The placement of the swale shall allow for a 24 feet vehicular travel width for the roadway within the right of way.
- ii. The Flagler County Development Engineer has the authority to modify this swale requirement. Final positioning and approval of any specific details of the swale design shall be approved by the County Development Engineer based on site specific conditions.
- iii. Swale blocks shall be placed to separate the lot detention areas from the front roadway swales. Sod or other drought-resistant vegetative

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groundcover shall be placed in all disturbed areas, no other landscaping is permitted.

3. *Maintenance*

The property owner, following issuance of a certificate of occupancy (CO), shall be responsible for maintaining the onsite stormwater detention areas and the roadside swales between the roadway and the front property line. Such maintenance shall include, but is not limited to, mowing, prevention of erosion and removal of obstructions to the flow of stormwater.

4. *Fill standards*

- a. In all circumstances, proposed fill shall be limited to the minimum amount necessary to provide positive drainage flow and to abide by any applicable flood plain protection and/or State and local regulations. The use of non-structural fill shall be limited to two (2) feet unless it has been demonstrated through appropriate engineering analysis to the County Development Engineer that the subject fill is otherwise necessary and does not cause any adverse impacts to the structure on site or adjacent properties.
- b. For lots located in a FEMA designated V or VE Special Flood Hazard Areas and Coastal AE Zones new construction or applicable improvements shall be elevated on pilings or columns to raise the finished floor of the structure above the flood elevation. The use of fill for structural support is prohibited in these areas.
- c. For lots located in A or AE Special Flood Hazard Areas on grade Finished Floor Elevation shall be at least 12 inches above and not greater than 18 inches above the FEMA Base Flood Elevation (BFE) for structural support. Stem wall construction is encouraged to eliminate or minimize fill. In the event that stem wall construction is utilized, the volume of stormwater runoff required to be detained on the lot as calculated pursuant to subsection B.2.a.i above may be reduced 5.0 %
- d. For lots located in FEMA designated X zones on grade Finished Floor Elevation shall be filled no higher than 18 inches above the adjacent centerline elevation of the road. Stem wall construction is encouraged to eliminate or minimize fill. In the event that stem wall construction is utilized, the volume of stormwater runoff required to be detained on the lot as calculated pursuant to subsection B.2.a.i above may be reduced 5.0 %

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5. *Lot clearing*

For a vacant lot, land clearing shall not be permitted except in conjunction with the issuance of a permit to construct a single family residence on the lot.

6. *Tree Preservation Credit*

- a. The volume of stormwater runoff required to be detained on the lot as calculated pursuant to subsection B.2.a.i above may be reduced 1% for every index tree species preserved on the lot that is a minimum caliper of 3 inches dbh and for every wax myrtle preserved on the lot that is a minimum of six feet tall, 2 inches caliper, with a crown spread of five feet. Preservation of scrub species and native vegetation are highly encouraged.
- b. The maximum cumulative reduction of stormwater volume detained on site may not exceed 10% of the required volume.
- c. The credit will be determined by the County Development Engineer based upon the index trees being preserved through the issuance of a certificate of occupancy and adequate safeguards being provided for tree protection after construction.

7. *Setbacks*

- a. The minimum side yard setback shall be 10 feet from interior property lines to accommodate side yard drainage swales unless the county development engineer determines that the swale is not necessary.
- b. All accessory structures shall be set back a minimum of 10 feet from all side and rear property lines and may not be placed within any recorded easement.
- c. All impervious and semi-impervious areas shall be set back a minimum of 10 feet from all side and rear property lines.

C. Penalties and Remedies

Any person violating any provision of this overlay shall be subject to the penalties and remedies provided for in section 3.09.01. and 3.09.02. of the Land Development Code.

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2) Appendix C Land Development Code, Article III, Section 3.08.02., Specific definitions of certain terms used in this article, is hereby amended to add the following definitions related to the Overlay Area:

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Applicable Improvement(s): Any reconstruction, modification, alteration, rehabilitation, addition, or other improvement that increases the impervious area on the lot by 10% or greater whether independent or cumulative of any permits issued after the adoption of this ordinance.

* * * * *

Land clearing (Marineland Acres Special Stormwater Overlay Area): The removal of trees, vegetation, soil or mineral deposits, or root raking or the placement of fill by any means. This definition does not include normal mowing or the removal of trees or vegetation in accordance with Firewise Communities standards with tools in an area only as specifically permitted by the County Development Engineer.

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SECTION C. VESTING

Construction associated with building permits, right of way utilization permits, and other land development permits submitted to the County and/or issued prior to August 2, 2012, shall be deemed vested and shall be allowed to continue under the terms of the permit, providing the associated permit is pulled within six months of the application approval date, the associated fees are paid, the work proceeds in accordance with the permit issued on the application, and the permit remains valid.

SECTION D. CODIFICATION

It is the intent of the County Commissioners of Flagler County, Florida, and it is

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hereby ordained that the provisions of this ordinance shall become and be made a part of the Land Development Code of Flagler County, Florida; that the Sections of this ordinance may be renumbered or relettered to accomplished such intention; that the word "Ordinance" may be changed to "Section," "Article," or other appropriate word; and that the codifiers may identify this as a separate section or part of the Code as a development standard for the Marineland Acres Special Stormwater Overlay Area.

SECTION E. SEVERABILITY

If any section, sentence, phrase, word, or portion of this ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word, or portion of this ordinance not otherwise determined to be invalid, unlawful, or unconstitutional.

SECTION F. EFFECTIVE DATE

This ordinance shall take effect upon filing with the Department of State, as provided by Section 125.66, *Florida Statutes*.

**FLAGLER COUNTY
BOARD OF COUNTY COMMISSIONERS**

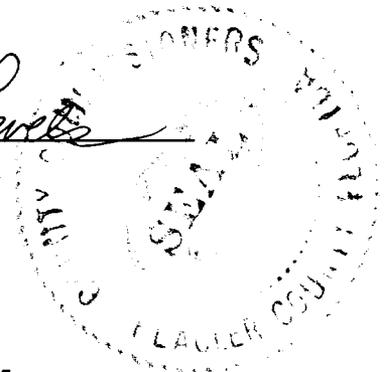
ATTEST:



Gail Wadsworth, Clerk and
Ex Officio Clerk to the Board



Barbara S. Revels, Chair



APPROVED AS TO FORM:



for Al Hadeed, County Attorney

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