

## ORDINANCE 23 – 38

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MARION COUNTY, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE (LDC) RELATED TO CONDUCTING DIVISIONS OF LAND AMONG FAMILY MEMBERS; AMENDING ARTICLE 1, DIVISION 2, DEFINITIONS; AMENDING ARTICLE 2, DIVISION 16, DIVISION OF LAND; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE LAND DEVELOPMENT CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Board of County Commissioners is authorized by general law, e.g., Section 125.01(h), Florida Statutes, to establish, coordinate, and enforce zoning and such business regulations as are necessary for the protection of the public; and

**WHEREAS**, the Board of County Commissioners (Board) has adopted a Land Development Code (LDC) as is required by Section 163.3202, Florida Statutes; and

**WHEREAS**, Horse Farms Forever, Inc., a Florida not-for-profit corporation, submitted an LDC Amendment Application consistent with LDC Division 2.4 proposing an amendment to the LDC regarding conducting divisions of land among family members; and

**WHEREAS**, pursuant to LDC Section 2.4.3, the Land Development Regulation Commission held a duly noticed public hearing on this proposed ordinance amending the LDC on September 13, 2023; and

**WHEREAS**, pursuant to LDC Section 2.4.4, the Board of County Commissioners held duly noticed public hearings on this proposed ordinance amending the LDC on November 21, 2023 and December 5, 2023;

**NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Marion County, Florida, as follows:

Note: Deletions are shown in ~~strikeout~~ text. Additions are shown in underscore text.

**SECTION 1. AMENDMENTS TO THE LAND DEVELOPMENT CODE (LDC).** The following amendments to the LDC are hereby approved and adopted pursuant to Florida Statutes and the Marion County Land Development Code:

A. Article 1 of the Marion County Land Development Code, Administration, Division 2, Definitions, is hereby amended to reflect the attached revised definitions:

See Attachment 1 (additions shown in underline text, deletions shown in ~~strike-through text~~).

B. Article 2 of the Marion County Land Development Code, Application Types and Standard Requirements, Division 16, Division of Land, is hereby amended to reflect the attached revised revisions:

See Attachment 2 (additions shown in underline text, deletions shown in ~~strike-through text~~).

**SECTION 2. CONFLICTS.** In the event that any provision of this ordinance is in conflict with any other county ordinance, the provisions of this ordinance shall prevail to the extent of such conflict.

**SECTION 3. SEVERABILITY.** It is hereby declared to be the intent of the Board of County Commissioners of Marion County that if any section, subsection, clause, phrase, or provision of this ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining provisions of this ordinance. The Board of County Commissioners do not intend that this ordinance be held applicable in any case where its application would be unconstitutional, as a constitutionally permitted construction is intended and shall be given.

**SECTION 4. INCLUSION IN COUNTY CODE.** It is the intent of the Board of County Commissioners of Marion County, Florida, and it hereby provided that the provisions of this ordinance be incorporated into the Marion County Code of Ordinances, specifically, the Land Development Code, and that the sections of this ordinance may be re-numbered or re-lettered to accomplish such intent.

**SECTION 5. EFFECTIVE DATE.** A certified copy of this ordinance shall be filed with the Secretary of State by the Clerk within ten days after enactment by the Board of County Commissioners, and shall take effect upon such filing as provided in Section 125.66(2)(b), Florida Statutes.

**DULY ADOPTED** this 19<sup>th</sup> day of December, 2023.

BOARD OF COUNTY COMMISSIONERS  
MARION COUNTY, FLORIDA

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MICHELLE STONE, CHAIRMAN

ATTEST:

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GREGORY C. HARRELL  
CLERK OF CIRCUIT COURT

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

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MATTHEW G. MINTER  
COUNTY ATTORNEY

# ATTACHMENT 1

## Companion Definition Changes

**RURAL AREA.** Lands located outside the Urban Growth Boundary (UGB) as designated by the Comprehensive Plan Future Land Use Map Series Map 1 *Marion County 204535 Future Land Use Map* excluding those lands bearing an Urban Area land use designation as specified in Comprehensive Plan Future Land Use Element ~~Appendix A,~~ Table ~~A2-1;~~ Summary of Future Land Use Designations Classifications and Standards.

**URBAN AREA.** Lands located within the Urban Growth Boundary (UGB) as designated by the Comprehensive Plan Future Land Use Map Series Map 1 Marion County 204535 Future Land Use Map or those lands located in the Rural Area bearing an Urban Area land use designation as specified in Comprehensive Plan Future Land Use Element ~~Appendix A,~~ Table ~~A2-1;~~ Summary of Land Use Designations Classifications and Standards.

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### DIVISION 16. - DIVISION OF LAND

#### 2.16.1. – Applicability.

- A. General. All divisions of land into three or more lots, parcels, tracts, tiers, blocks, sites, units, or any other division of land shall be platted in accordance with applicable provisions of Ch. 177 FS and Divisions 17 and 19 of this article, unless otherwise identified as an exception in Section 2.16.1.B below.
- B. Excepted Divisions of Land:
- (1) A parent tract may be subdivided one time only into one additional tract, provided that the tract created and the remaining parent tract are in compliance with all applicable dimensional requirements and meet driveway spacing. Minimum access onto a road or street shall be 40 feet wide, meet driveway spacing requirements and may be provided by recorded deed or recorded exclusive easement. Any further division of the resulting parcels shall be platted in accordance with Ch. 177 FS and this Code, as of the adoption date.
  - (2) Creation of equal or larger parcels or lots of record:
    - (a) The combination of all or a portion of previously created parcels of record where the newly created or residual parcels are consistent with the Comprehensive Plan and comply with all applicable zoning district dimensional criteria or, where applicable, the regulations governing non-conformities.
    - (b) The combination of all or a portion of previously platted parcels of record are exempt where none of the newly created or residual parcels contain less area than the original parcels of record being combined and no streets of any kind or public right-of-way easements are created, changed or extinguished. The minimum lot dimensional criteria of the zoning code must be met.
  - (3) Boundary adjustments. Any conveyance between adjoining landowners if:
    - (a) The purpose of the conveyance is to adjust or settle the common boundary line between adjoining landowners; and
    - (b) The deed of conveyance or other legal instrument is recorded in the official records of Marion County; and
    - (c) The resulting parcel(s) conform to the applicable zoning district dimensional criteria and are consistent with the Marion County Comprehensive Plan.
  - (4) Conveyance to government. Any division of land for the purpose of conveying land to any federal, state or local government entity or agency or public utility, provided such conveyance is accepted by the grantee by an instrument recorded in the public records of Marion County.
  - (5) Division by order of court. Any division of land by order of a court of competent jurisdiction. Implementation of the division shall require compliance with the procedures of this section. Any action which would circumvent or otherwise avoid the purposes or provisions of this section, i.e. the subdivision regulations will not be considered conforming unless a waiver from these provisions is granted.
  - (6) Corrective instrument. Any conveyance for the purpose of correcting an error made in the language used in an original conveyance.

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- (7) Platting of a portion of a tract. Platting of a portion of a parcel or tract under the terms and procedures of this section shall not constitute a division of that parcel or tract.
- (8) Agricultural lot splits outside of the Urban Growth Boundary:
- (a) Number of lots created under this sub-paragraph is limited to ten.
  - (b) Each proposed lot shall be a minimum of 10 acres with at least one acre of contiguous land wholly above the one percent (100-year) flood plain or wetland.
  - (c) Each proposed lot shall have an agricultural zoning.
  - (d) Any lot abutting a publicly maintained and/or dedicated road that does not conform to the right-of-way width necessary to meet the minimum design standards shall dedicate necessary right-of-way or easement based upon criteria set forth in [Article 6](#).
  - (e) Each lot not abutting a publicly maintained and/or dedicated road shall front on a paved private road or an access easement and shall meet the minimum driveway spacing requirements established in this Code.
  - (f) If an easement is utilized the following requirements shall apply:
    - 1. Easements created under this subsection shall not exceed 2,640 feet in total length.
    - 2. The easement shall be a private, non-exclusive easement for ingress and egress, allowing public use for emergency, utility and drainage purposes.
    - 3. Connect to a publicly maintained road meeting driveway spacing requirements. The easement shall be paved a minimum of 20 feet beyond the public right-of-way.
    - 4. Have a minimum width of 60 feet.
    - 5. Not obligate the County to maintain the easement.
    - 6. Have road name and other traffic signs installed in accordance with applicable County regulations.
    - 7. Flag lots are prohibited.
    - 8. Stabilized turnarounds shall be provided at a maximum spacing of 1,500 feet and at any termination.
  - (g) A County MSBU shall be established for the maintenance of the improvements created by this division prior to final approval and recordation. A waiver to this provision may only be granted by the Board upon review and recommendation by the DRC.
- (9) Ten acre tracts in the Rural Lands. Any division of land where all parcels resulting from the division contain ten acres of land or more, all parcels have 660 feet of frontage on a paved road maintained by a public entity that is not designated as an arterial roadway, shall meet minimum driveway spacing requirements and no public easements or streets are created.
- (10) Family Division. A parcel of record as of January 1, 1992 that is not located in a recognized subdivision or an Aq Lot Split, and is located in the Rural Lands may be subdivided for use of immediate family members for their primary residences. Within the Farmland Preservation ~~a~~Area, each of the new tract and the remaining parent

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tract must be at least three (3) acres in size. Within the Rural Lands outside of the Farmland Preservation ~~a~~Area each of the new tract and the remaining parent tract must be at least one (1) acre in size. In the Urban Area, only parcels of record as of January 1, 1992 which are ~~Low density~~Residential property exceeding two (2) acres in size may be divided for the use of immediate family members for their primary residences up to the maximum density of one (1) dwelling unit per gross acre. Immediate family is defined as a grandparent, parent, step-parent, adopted parent, sibling, child, step-child, adopted child, or grandchild. A parcel of record shall not be ~~allowed to be~~ divided more than three (3) times as a family division. Minimum access onto a road or street shall be a shared access that is at least forty (40) feet in width and shall be provided by recorded deed or by recorded non-exclusive easement. No subdivision and conveyance to the same family member more than once ~~every five years~~shall be permitted. No new parcel created by way of family division may be sold or offered for sale within five (5) years of the date of recording the deed transferring ownership of the new parcel to the immediate family member, except in the event of such immediate family member's death. During the five-year holding period, the immediate family member receiving the resulting family division parcel may convey ownership and interest in that resulting family division parcel to their spouse, as tenants in common with rights of survivorship, consistent with the Laws of Florida. Any subdividing of a parcel of record for the purpose of family division shall follow the waiver request process pursuant to Article 2, Division 10 of the Code.

(Ord. No. 13-20, § 2, 7-11-2013; Ord. No. 19-27, §§ 1, 2(Exh. A), 1-26-2019)

### Sec. 2.16.2. - Submittal requirements.

- A. Applicants requesting approval of division of land excepted from platting requirements above, with the exception of family divisions and agricultural lot splits, shall submit a request to the Planning/Zoning Manager along with a sketch depicting the division.
- B. Applicants requesting an agricultural lot split shall submit a DRC waiver request form including a sketch demonstrating that the proposed division meets all the requirements above.
- C. Applicants requesting a family division shall request from the Planning/Zoning Manager, on a DRC Waiver Request form provided by the Growth Services Department, an eligibility determination for such division and shall demonstrate that the proposed division is for a qualified family member. A DRC waiver request form including the affirmative eligibility determination and other submittal requirements of Section 2.10.3 shall be submitted to the Office of the County Engineer for DRC review.

(Ord. No. 13-20, § 2, 7-11-2013)

### Sec. 2.16.3. - Review and approval procedures.

- A. Applications seeking approval of division of land excepted from platting requirements above, with the exception of family divisions and agricultural lot splits, shall be reviewed by the Growth Services Department for compliance with this section.
- B. Family divisions and agricultural lot splits shall be reviewed through the DRC review process.

(Ord. No. 13-20, § 2, 7-11-2013)

### Sec. 2.16.4. - Completion and closeout

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- 1 A. For applications seeking approval of division of land excepted from platting requirements  
2 above, with the exception of family divisions and agricultural lot splits, the Planning/Zoning  
3 Manager shall issue a letter of approval or denial along with a reason for such denial. An  
4 approval letter will include authorization for the division of land and the land may then be  
5 conveyed and/or improved.
- 6 B. Parcels created through agricultural lot splits, ten acre tracts in the Rural Area-rural lands,  
7 or family divisions shall be monumented and shown on the required boundary survey  
8 along with the individual legal descriptions.
- 9 C. Agricultural lot splits. Prior to DRC approval, in addition to other requirements, the  
10 following shall be required:
- 11 (1) Legal descriptions, acreage and square footage of the original and proposed lots  
12 together with the legal description of any existing or proposed easements shall be  
13 shown on a boundary survey prepared by a professional surveyor and mapper  
14 registered in the State of Florida. The survey must show all structures, easements,  
15 surface water bodies, the one percent (100-year) flood plain with base elevation,  
16 wetland and amount of acreage inside and outside of the flood plain and/or wetland.
- 17 (2) Title opinion of an attorney licensed in Florida or a certificate by a licensed title  
18 company dated through the date of final approval, showing all persons or entities with  
19 an interest of record in the property, including but not limited to, the record fee owners,  
20 easement holders, and mortgage and lien holders. The report shall include the tax  
21 identification number(s) for the property and copies of all documents such as vesting  
22 deeds, existing mortgages and any other documents evidencing an interest in the  
23 property which are referenced in the title opinion.
- 24 (3) Upon approval of the agricultural lot split, at the applicant's expense, the applicant  
25 shall record the maps and documents, in the public records of Marion County, Florida  
26 and provide appropriate copies to the Office of the County Engineer.
- 27 D. Family divisions.
- 28 (1) If approved, the family members shall complete a Family Division Affidavit confirming  
29 the intent of the division for an immediate family member's primary residence. The  
30 form of the Family Division Affidavit ~~form~~ shall be approved by the Office of the County  
31 Attorney and is ~~is~~ available from the Growth Services Department. The affidavit must  
32 be completed, signed and notarized under oath by all involved by family members  
33 who include the owner and grantees, parties notarized, and recorded in the public  
34 records immediately prior to the deed transferring ownership of the new tract to the  
35 immediate family member.
- 36 (2) The Family Division Affidavit, boundary survey including location of interior  
37 improvements, the vesting deed for the parent tract, and a copy of ~~recorded the~~  
38 proposed deed transferring ownership of the ~~property~~ new tract to the immediate  
39 family member shall be provided to the Growth Services Department. The Family  
40 Division will expire two years after DRC approval unless execution and recording of  
41 the Family Division Affidavit and deed property transfer has occurred.
- 42 (3) If a family division is approved, a form approved by the Office of the County Attorney  
43 shall be recorded in the public records for all parcels involved in the family division  
44 and providing record notice of the stipulations, limitations, and requirements  
45 applicable to family divisions, including the limitations regarding subsequent family



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divisions for the same family member and the limitations on the sale of parcels created by family division.

(4) An owner may apply for a waiver of the five-year holding period based on an unreasonable hardship not created by the owner and beyond the reasonable control of the owner. Such waiver shall be heard by the County Commissioners.

(Ord. No. 13-20, § 2, 7-11-2013)