

**SEMINOLE COUNTY
LOCAL PLANNING AGENCY/PLANNING AND ZONING COMMISSION
AGENDA MEMORANDUM
CONT. FROM 10/03/2001**

SUBJECT: Trails Protection Ordinance

DEPARTMENT: Public Works **DIVISION:** Engineering

AUTHORIZED BY: *J. Hall* **CONTACT:** David Martin, P.E. **EXT.** 5610
Jerry McCollum, P.E., County Engineer

Agenda Date 01/09/02 **Work Session** **Briefing** **Public Hearing – 7:00**

MOTION/RECOMMENDATION:

Approve the Trails Protection Ordinance.

BACKGROUND:

Attached is the proposed "Final" version of the Trails Protection Ordinance along with a copy of an underlined/strikethrough version comparing this ordinance to the previous ordinance approved by the Planning and Zoning Commission. With this ordinance in place, the County will have the ability to better oversee and protect the County's Trail System by establishing an approval process for trail crossings, shared uses and encroachments.

The proposed ordinance is a coordinated work effort that has been reviewed extensively by the Trails and Greenways Advisory Committee, the Development Advisory Board, representatives for private property owners along trail corridors and concerned citizens. The vast majority of all input received from the aforementioned groups has been incorporated into the proposed ordinance.

- Attachments: Trails Protection Ordinance
- "Final" Version
 - Underlined/Strikethrough Version

DR#
Parcel ID#
P&Z#
Amendment#

AN ORDINANCE AMENDING THE SEMINOLE COUNTY CODE; PROVIDING FOR THE ADOPTION OF AN ORDINANCE TITLED "THE SEMINOLE COUNTY TRAILS PROTECTION ORDINANCE"; PROVIDING FOR STANDARDS AND PROCEDURES FOR THE PERMITTING, CONSTRUCTION AND MAINTENANCE OF TRAIL CROSSINGS AND OTHER USES; PROVIDING FOR A TITLE; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FOR AUTHORITY; PROVIDING FOR DEFINITIONS; PROVIDING FOR APPLICABILITY; PROVIDING A GENERAL PROCEDURE; PROVIDING STANDARDS OF REVIEW; PROVIDING FOR PERMIT CONDITIONS AND OTHER INFRACTIONS; PROVIDING FOR USE OF THE PERMIT AREA; PROVIDING FOR PENALTIES FOR VIOLATION OF THE ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Seminole County has actively supported the preservation of trail corridors and the construction of a trails system throughout Seminole County; and

WHEREAS, the citizens of Seminole County have actively supported such efforts and have supported the Natural Lands 2000 "Completing the Trails Connection" referendum to further develop the County's Trails System; and

WHEREAS, the Board of County Commissioners of Seminole County finds that the Seminole County Trails System provides a safe, viable transportation alternative for bicyclists, in-line skaters, pedestrians, equestrians and other users of the trail, where applicable, in addition to providing accessible recreational opportunities; and

WHEREAS, one of the many benefits of the Seminole County Trails System is that a user may continue moving in one direction for long distances, without the necessity of frequent stopping for cross traffic, traffic control devices, construction or maintenance, thus providing increased safety and health benefits to the citizens of Seminole County and an overall better trail experience with fewer impediments; and

WHEREAS, the Seminole County Trails System, much of which has been developed from historic railway corridors, runs adjacent to existing and proposed development throughout the County; and

WHEREAS, some property owners living adjacent to railway corridors may have held no legal right to cross or make use of railway corridors; and

WHEREAS, Seminole County or the State of Florida is the successor in interest to the rights held by the railroad; and

WHEREAS, the railroad granted certain adjacent property owners license agreements providing certain property owners with the right to construct and maintain private roads and/or driveways across the track or tracks and the railway corridor for annual fees and subject to numerous limitations, including the right of the railroad to cancel the license upon thirty (30) days notice; and

WHEREAS, it is the desire of the Board of County Commissioners of Seminole County to minimize traffic flows across the Seminole County Trails System, while at the same time providing reasonable access commensurate with the zoning classification and/or the designation under the Comprehensive Land Use Plan to properties located along the trail system; and

WHEREAS, an economic impact statement has been prepared and is available for public review in accordance with the provisions of the Seminole County Home Rule Charter.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA:

Section 1. Title and Legislative Findings. This Ordinance shall be known as the "Seminole County Trails Protection Ordinance." The foregoing whereas clauses are

incorporated herein and serve as the Board of County Commissioners of Seminole County's legislative findings in support of this Ordinance.

Section 2. Purpose and Intent. The purpose and intent of this Ordinance is to provide standards and procedures for the applications, permitting, construction and maintenance of crossings and other uses within the Seminole County Trails System in order to achieve the following:

(a) Provide for a continuous regional alternative transportation and recreational network within Central Florida.

(b) Preserve the function of each trail, which is to provide a safe facility for recreation and non-motorized transportation, including but not limited to single person battery operated devices utilized by persons with disabilities.

(c) Provide for smooth, logical traffic-flow patterns.

(d) Reduce conflicts between trail and vehicular traffic.

(e) Allow for the application of safe geometric-design principles.

(f) Provide for bicyclist, pedestrian, in-line skater, equestrian and other users' safety and enjoyment, where applicable.

(g) Provide for environmental compatibility.

(h) Protect trail corridors from private encroachments and detrimental or disruptive uses.

(i) Protect the County's interest in properties owned or managed by the County that have been designated as trail corridors.

(j) Provide a mechanism for owners of private property located along the trail system to have reasonable access to enter and exit such properties.

Section 3. Authority. The County's authority to process applications for and, in some situations, approve permits for authorized activities within the Seminole County Trails System derives, in part, from the County's ownership and/or management of those corridors which form the Seminole County Trails System. The Seminole County Trails System is comprised of corridors owned by Seminole County, (i.e., Old State Road 13 (now known as the Flagler Trail)), corridors co-owned by Seminole County, (i.e., Seminole Wekiva Trail co-owned by the Florida Department of Transportation and Seminole County), and corridors owned by a State agency but managed by Seminole County, (i.e., the Cross Seminole Trail which is owned by the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, leased to the Florida Department of Environmental Protection, Office of Greenways and Trails, and subleased to, and managed by, Seminole County).

Section 4. Definitions.

(a) Application review by the County consists of review by the County Engineer, the Planning and Development Department Director, and the Library and Leisure Services Department Director, or their designees.

(b) Trail corridor refers to State or County owned, leased, or managed natural or man-made linear feature, such as a river, stream, rail-trail, canal, stormwater way, or other route for passive recreation, education and scenic purposes and for connecting active or passive recreation, park land or open spaces.

(c) Trail refers to the paved or unpaved path on which travel is directed and permitted within the trail corridor, by non-motorized vehicles and single person battery operated devices utilized by those with disabilities.

(d) Encroachment refers to any physical structure without an appropriate permit, license, or written permission from the County Engineer, or the owners or managers of the trail corridor which crosses into a trail corridor from an adjacent property.

(e) Access refers to an approved entry, exit or crossing of the Seminole County Trails System that conforms to this Ordinance.

(f) Seminole County Trails System refers to lands owned in full or in part or managed by Seminole County and designated as a trail corridor on the *Seminole County, Florida Trails, Greenways, and Bikeways Master Plan*, as same may hereafter be amended from time to time, a copy of which is on file with the Clerk of the Board of County Commissioners of Seminole County and incorporated herein by this reference.

(g) Access Permit is a non-exclusive, conditional permit providing for the construction and maintenance of one or more accesses into or across the Seminole County Trails Corridor.

(h) ADA refers to the Americans with Disabilities Act of 1990, as amended, and accompanying regulations and requirements.

(i) Acknowledged Access refers to an access of the existing or future trail corridors which are agreed to by Seminole County, permitted, or in active use on October 1, 2001. Residential lots shall be permitted to claim as acknowledged access only one existing access per lot.

(j) Acknowledged Utilities refer to utilities located within an existing or future Trail Corridor which have been previously approved by Seminole County.

Section 5. Applicability. All persons, firms, corporations, governmental units and other entities must obtain a permit for the construction, installation, or maintenance of any use specified herein. Nothing herein shall limit Seminole County's use of the Seminole County Trails System for recreational purposes or the use thereof by the State agencies that are owners or co-owners of the Seminole County Trails System for any use which will directly benefit the trail system. To this extent, any department or division of Seminole County other than the Engineering Division or the Parks and Recreation Division must have its proposed use of the trail area approved by the County Engineer.

Section 6. General procedure. For those portions of the Seminole County Trails System owned in fee by Seminole County, or over which it has permitting authority, the permit application review and approval process shall be final upon the completion of the County's review and approval. For all other parts of the Seminole County Trails System, County and State approval is required by submittal of an application to the County Engineer to determine compliance with the policies set forth in this Ordinance, applicable management plans and the Seminole County Comprehensive Plan. If the application meets these standards, the application shall be forwarded on to the appropriate State agency for its consideration. The permit shall issue upon receipt of concurrence from the applicable state agency.

Section 7. Access Permit Application to the County Engineer.

(a) Each Access Permit Application shall be accompanied by the appropriate fee as set by Resolution of the Board of County Commissioners of Seminole County and shall be submitted to the County Engineer. Trail Access Permits shall meet the specifications and guidelines set forth in the Land Development Code of Seminole County,

the Seminole County Comprehensive Plan, the Seminole County Transportation Standards and all other applicable rules and regulations including design standards for trail crossings and use as determined by the County Engineer.

(b) Prior to approval of a permit, an applicant must provide, at the applicant's own expense, a boundary and topographic survey within the limits of the construction area to include locations within the construction area of trees of three inch (3") diameter breast height (dbh) or greater, wetland delineation, if any, and locations of any known threatened or endangered species, signed and sealed by a Professional Surveyor/Mapper and appropriate environmental specialist licensed in the State of Florida and conceptual plans of the proposed use.

(c) Applicants must attach to the Permit Application any other permits which are necessary to construct the proposed access. Any permit issued shall be conditioned on the applicant's obtaining said permits.

Section 8. Application review by the County Engineer.

(a) The County Engineer shall be responsible for administering the permitting process set forth in this Ordinance and shall make permit applications available to interested applicants.

(b) An applicant for a permit shall submit four (4) copies of an application to the County Engineer, or his or her designee. Upon receipt of the completed applications, the County Engineer shall immediately forward one (1) copy of the application to the Planning and Development Department Director, one (1) copy to the Library and Leisure Services Department Director and shall retain two (2) copies of the application for his or her review. The County Engineer, the Planning and Development

Department Director, and the Library and Leisure Services Department Director or their designees shall inspect the proposed permit area for site specific liability issues and potential impacts to natural, cultural, historic and archeological resources, and provide comments on areas of concern. The Planning and Development Department Director and the Library and Leisure Services Department Director shall, within fifteen (15) working days of receipt of the application, submit any comments in writing to the County Engineer for consideration. If the property involved is within the limits of a municipality, a copy of the application shall be forwarded to the appropriate municipality.

(c) After the County Engineer has completed the review, considering the comments of the Planning and Development Department Director and the Library and Leisure Services Department Director, and determined that the application meets the standards set forth in this Ordinance, the County Engineer shall complete a list of Trail Access Permit Conditions which shall be a part of the permit to be issued. All permits to use trail corridors that are owned or co-owned by a State Agency shall state as follows: "This permit shall not become effective until such time that the appropriate State agency has concurred in this permit consistent with the agreements governing the management of the applicable Trail. The permittee further understands that County approval of this permit does not entitle the permittee to begin construction of any access if other permits are required."

(d) The County Engineer shall prepare duplicate originals of the Trail Access Permit for execution by the applicant prior to the County Engineer's execution. Upon the applicant returning the executed originals, the County Engineer shall execute the Trail Access Permit on behalf of the County if the application meets the requirements

set forth in this Ordinance. The County Engineer shall have final County approval authority over permit applications; provided, however, that an applicant may appeal the County Engineer's denial or conditional approval of an application to the Board of County Commissioners of Seminole County within thirty (30) days of the date of the decision.

(e) Following the County Engineer's issuance of a permit relating to a trail corridor owned or co-owned by a State agency, both original copies of the permit application shall be forwarded to the appropriate State agency with a request for concurrence. If the State agency denies or wishes to modify the permit, the issuance of the permit until such time as the County and the State agency can reach an agreement. No permit will be issued until all parties agree on the terms of the permit. If approved by the State agency, the agency shall retain one original copy and forward the other original copy to the County for distribution to the applicant.

Section 9. Standards of review. The County Engineer shall apply the following standards in determining whether to grant or deny a Trail Access Permit Application:

(a) Acknowledged Access. Accesses in active use as of October 1, 2001 are exempt from the permitting provisions of this Ordinance. If a residential property contains more than one access, the County Engineer shall require the affected property owner to designate one access which shall become the acknowledged access. Any additional accesses must be permitted in accordance with this Ordinance.

(b) Access Crossings. Permits may be granted to provide access for a property when there are no reasonable access alternatives other than the proposed

access. Owners of property adjacent to a designated trail corridor and on which there is a trail crossing necessary to access the property or a portion of the property who are seeking to change their land use or zoning to a more intense category than existed as of the date this Ordinance is adopted shall be required to submit plans as part of the development review process for review and discussions of crossing alternatives. The County Engineer shall not grant a Trail Access Permit to any property that has reasonable alternate access elsewhere on the boundary of the property or to property that was subdivided to eliminate access to right-of-way. Adjacent properties that each have a need for one (1) or more accesses shall be encouraged to create one (1) combined access providing joint access to, from, or across the trail..

(c) Access Structures. Applications for a permanent trail access structure or installation other than driveways, i.e., footbridges or boardwalks, may be approved if the following determinations are made:

- (1) The proposed structure will not unreasonably impede flow on the trail corridor,
- (2) The proposed structure will not have a negative impact on the public safety, welfare, or use of the trail corridor,
- (3) The proposed structure will result in only minimal removal of any trees or vegetated screening materials in the trail corridor, and
- (4) The proposed structure will not adversely impact or disturb flood prone areas.
- (5) All approved access structures must meet ADA requirements.

(d) Utilities. Public or private utilities of any kind may not be located within any designated trail corridor, but will be permitted to cross the trail as necessary to service properties where the designated trail corridor runs between the property and the utility. Utility crossings shall be underground, if practicable from an engineering and environmental standpoint. Appeals of a denial of permission to cross shall be made to the Board of County Commissioners within thirty (30) days of denial of permission by the County Engineer.

(e) Historic and Environmental Preservation. Applications may not be approved if important historic or environmental resources within the trail corridor are determined to be adversely affected by the proposed access. Applicants may be required to complete a survey of plants and wildlife including those species designated as endangered, threatened, or species of special concern pursuant to *Rules 39-27.003, 39-27.004 and 39-27.00, Florida Administrative Code*, utilizing the most current wildlife methodology guidelines published by the Florida Fish and Wildlife Conservation Commission and current information from the Florida Natural Areas Inventory. If an endangered or threatened species of special concern is determined to exist on site, then development may not proceed until the applicant obtains the necessary approvals from the appropriate jurisdictional agencies. Additionally, applicants must provide documentation from the Department of State identifying the presence of any listed historic or archaeological sites that may be adversely affected by the access. A site will be considered historic if it is so defined or listed under Florida law.

Section 10. Conditions.

(a) In addition to the conditions deemed necessary for permit approval by the County Engineer, each Trail Access Permit granted by the County Engineer shall be deemed to include the following terms and conditions:

(1) A new permit application shall be required if, in the determination of the County Engineer, there has been a change in the use of the property to which the permit provides access. These changes would include, but are not limited to, changes in zoning or land use designations controlling the property (except those initiated by governmental entities), submission of development plans to the appropriate governmental jurisdiction indicating an increase in density or intensity in the use of the property, and other similar circumstances.

(2) The term of the permit ends upon revocation of the permit by the County; on the date specified by the State, if any; or on the termination of the lease to the County by the Trustees of the Internal Improvement Fund. Permits are revocable by the County upon damage made to the trail corridor or any violation of the permit agreement resulting from use of the permit area not rectified by the permittee with four (4) weeks of notification of such damage or violation by the County. Upon the County Engineer's written notification to the permittee, a permit is subject to cancellation and automatic reversion to the County upon failure to correct the situation set forth in the written notice of damage or violation. Upon termination of a permit, unless waived by the County, the permittee shall restore, at the permittee's her own cost the permit area to a condition like or better than the condition of the permit area upon the execution date of the permit. Upon termination of the permit, all authorization granted by the permit terminates. Upon a change to a more intensive land use, zoning, or development (unless initiated by a

governmental agency), the permittee shall be required to reapply for a new permit, and said application shall address the access issues raised by the change of use of the property.

(3) Any construction shall be constructed at the cost and expense of the permittee, but in a manner and of materials as set forth in the Seminole County Land Development Code.

(4) Prior to construction of approved uses, the permittee must submit construction plans signed and sealed by a professional engineer licensed in the State of Florida to the County Engineer for approval. Plans shall include locations of trees of three inch (3") diameter breast height (dbh) or larger, wetland delineation, and locations of any threatened or endangered species, if any.

(5) The permittee shall perform all construction at such times and in such a manner as to interfere to the least possible extent with the public's use of the trail. At all times a through-route of a minimum eight-foot (8') width shall be provided for trail users. All construction pursuant to a permit shall be completed within thirty (30) days of commencement.

(6) Where Seminole County constructs improvements to an existing trail facility or a new trail facility which impacts accesses, Seminole County shall design such improvement or new facility so as to not to adversely impact the access, if practical, or to minimize the impact, if some impact is unavoidable.

(7) Prior to construction of an approved access, the permittee shall have its surveyor mark the trail boundary line with highly visible tape and County-

approved signage, at the permittee's expense, to ensure that the trail corridor is not damaged.

(b) Joint Access. If adjacent property owners agree to execute a joint construction and use document, the property owners need only pay equal shares of the appropriate trail access permit fee(s) that would have been charged for the property with the highest intensity classification. Any trail access permit application fees required by the County may be waived when three (3) or more adjacent property owners agree to share one access if the County Engineer finds and determines that the public interest is benefited thereby and that the public interest is commensurate with the granting of a fee waiver.

Section 11. Use of the Permit Area by a Permittee.

(a) Permit uses shall be limited to the specific activities approved by the County in the permit.

(b) No trimming or removal of any vegetation, excluding normal grass mowing, within the Trail Corridor shall take place prior to permit approval or execution of a maintenance agreement.

(c) The permittee is solely responsible for all costs related to design and development of the public or private road/driveway crossing. No development shall take place prior to written County approval of the development plan. The County retains the right to enter into the permit area for trail development and management purposes.

(d) The permittee shall maintain the permit area in a safe and attractive manner, acceptable to the County. The permittee is fully responsible for all costs associated with the permitted use of the area.

(e) The permittee shall save and hold harmless and indemnify the County and the State of Florida against any and all liability, claims, judgments or costs of whatsoever kind and nature for injury to or death of any person or persons and from loss or damage to any property resulting from the use, service, operation or performance of work under the terms of this permit, resulting from the negligent acts of the permittee, its contractor or invitees, or any of the employees, agents or representatives of the permittee, its contractor or invitees to the extent allowable by law.

(f) Permittees shall not do or permit anything to be done which purports to create a lien, encumbrance, or encroachment not identified in the permit of any nature against the Trail Corridor including, but not limited to, mortgages or construction liens against the Trail Corridor or against any interest of the County therein.

(g) Upon the County's discovery of unpermitted encroachments on a trail corridor owned or managed by the County, the adjacent property owner(s) will be notified by certified mail of the discovery and will be permitted to submit a trail access permit application within sixty (60) days of notification. If the application process is not initiated within this time frame, the County will move forward with removal of the encroachment. Costs of encroachment removal and administration of the removal process shall be borne by the encroachment owner. If the County denies the application, the applicant must remove the encroachment within thirty (30) days of the denial date. If the applicant wishes to appeal staff's decision to deny an application to the Board of County Commissioners of Seminole County, the removal period may be extended until the Board of County Commissioners of Seminole County reaches a decision.

If an encroachment is located on a trail corridor owned or co-owned by another agency, the permittee will be required to follow any additional approval process designated by that agency.

Section 12. Oversight of Trail Fund.

(a) The Public Works Department, Engineering Division is charged with the oversight of the Trail Fund. The Director of the Fiscal Services Department shall deposit the following monies into such fund:

(1) All fees collected pursuant to this Ordinance.

(2) All monies collected by the County during the development approval process in lieu of sidewalk construction on roads abutting planned trails.

(3) All monies collected by the County during the development approval process for trail construction or maintenance.

(b) The County Engineer may spend deposited monies for trail design, construction, or maintenance purposes only.

Section 13. Penalties.

(a) Violations of this Ordinance shall be prosecuted in accordance with the provisions of *Section 125.69(1), Florida Statutes (2000)*.

(b) Violations of this Ordinance are hereby declared to constitute irreparable harm, unable to be remedied at law, and therefore the County may seek injunctive relief if necessary to abate violations of this Ordinance.

(c) Where a violation of this Ordinance consists of tree damage or removal, the County may seek as a remedy that the offending party shall plant canopy trees approved by the County of four inch (4") diameter at breast height (dbh), at a distance of forty feet

(40') on center. Where a violation of this Ordinance consists of damage to or removal of the vegetative buffer, the County may seek as a remedy that the offending party shall replace the vegetative buffer with mixed native evergreen species approved by the County at a distance of five feet (5') on center.

(d) In addition to the foregoing, the dumping or discarding of trash or litter upon any part of the trail system shall constitute a violation of this ordinance, and Seminole County shall impose a fine of up to the maximum amount permissible by law. Additionally, the Board of County Commissioners may from time to time impose schedules of fines for other violations of this Ordinance.

Section 14. Codification. It is the intention of the Board of County Commissioners of Seminole County that the provisions of this Ordinance shall become and be made a part of the Seminole County Code and the word "ordinance" may be changed to "section," "article," or other appropriate word or phrase and the sections of this Ordinance may be renumbered or relettered to accomplish such intention; providing, however, that Sections 14, 15, and 16 shall not be codified.

Section 15. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, it is the intent of the Board of County Commissioners of Seminole County that the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

Section 16. Effective Date. This Ordinance shall take effect upon filing a copy of this Ordinance with the Department of State by the Clerk of the Board of County Commissioners of Seminole County.

ENACTED this ____ day of _____, 2002.

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

By: _____
DARYL McLAIN, Chairman

AN ORDINANCE AMENDING THE SEMINOLE COUNTY CODE; PROVIDING FOR THE ADOPTION OF AN ORDINANCE TITLED "THE SEMINOLE COUNTY TRAILS PROTECTION ORDINANCE"; PROVIDING FOR STANDARDS AND PROCEDURES FOR THE APPLICATION, PERMITTING, CONSTRUCTION AND MAINTENANCE OF TRAIL CROSSINGS AND OTHER USES ~~WITHIN THE SEMINOLE COUNTY TRAILS SYSTEM CORRIDORS~~; PROVIDING FOR A TITLE; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FOR AUTHORITY; PROVIDING FOR DEFINITIONS; PROVIDING FOR APPLICABILITY; PROVIDING A GENERAL PROCEDURE; PROVIDING FOR APPLICATIONS TO THE COUNTY ENGINEER; PROVIDING FOR REVIEW BY THE COUNTY ENGINEER; PROVIDING STANDARDS OF REVIEW; PROVIDING FOR PERMIT CONDITIONS AND OTHER INFRACTIONS; PROVIDING FOR USE OF THE LICENSE/PERMIT AREA; PROVIDING FOR PUBLIC WORKS DEPARTMENT, ENGINEERING DIVISION RESPONSIBILITY FOR THE TRAIL FUND; PROVIDING FOR PENALTIES FOR VIOLATION OF THE ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Seminole County has actively supported the preservation of trail corridors and the construction of a trails system throughout Seminole County; and

WHEREAS, the citizens of Seminole County have actively supported such efforts and have supported the Natural Lands 2000 "Completing the Trails Connection" referendum to further develop the County's Trails System; and

WHEREAS, the Board of County Commissioners of Seminole County finds that the Seminole County Trails System provides a safe, viable transportation alternative, ~~where applicable~~, for bicyclists, in-line skaters, pedestrians, equestrians and other users of the trail, where applicable, in addition to providing accessible recreational opportunities; and

WHEREAS, one of the many benefits of the Seminole County Trails System is that a user may continue moving in one direction for long distances, without the necessity of frequent stopping for cross traffic, traffic control devices, construction or maintenance, thus providing increased safety and health benefits to the citizens of Seminole County and an overall better trail experience with fewer impediments; and

WHEREAS, the Seminole County Trails System, much of which has been developed from historic railway corridors, runs adjacent to existing and proposed development throughout the County; and

WHEREAS, some property owners living adjacent to railway corridors may have held no legal right to cross or make use of railway corridors; and

WHEREAS, the Seminole County or the State of Florida is the successor-in-interest to the rights held by the railroad; and

WHEREAS, the railroad granted certain adjacent property owners license agreements providing certain property owners with the right to construct and maintain private roads and/or driveways across the track or tracks and the railway corridor for annual fees and subject to numerous limitations, including the right of the railroad to cancel the license upon thirty (30) days notice; and

WHEREAS, it is the desire of the Board of County Commissioners of Seminole County to ~~limit~~minimize traffic flows across the Seminole County Trails System, while at the same time recognizing the need for private property owners who possessed license agreements with the railroads to cross over the railway corridor for ingress and egress from their properties under reasonable conditions and circumstances where other access to public right-of-way does not exist providing reasonable access commensurate

with the zoning classification and/or the designation under the Comprehensive Land Use Plan to properties located along the trail system; and

WHEREAS, an economic impact statement has been prepared and is available for public review in accordance with the provisions of the Seminole County Home Rule Charter.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA:

Section 1. Title and Legislative Findings. This Ordinance shall be known as the "Seminole County Trails Protection Ordinance." The foregoing whereas clauses are incorporated herein and serve as the Board of County Commissioners of Seminole County's legislative findings in support of this Ordinance.

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(a) Provide for a continuous regional alternative transportation and recreational network within Central Florida.

(b) Preserve the function of each trail, which is to provide a safe facility for recreation and non-motorized transportation, including but not limited to single person battery operated devices utilized by persons with disabilities and recreation.

(c) Provide for smooth, logical traffic-flow patterns.

(d) Reduce conflicts between trail and vehicular traffic.

(e) Allow for the application of safe geometric-design principles.

(f) Provide for, ~~where applicable,~~ bicyclist, pedestrian, in-line skater, equestrian and other users' safety and enjoyment, where applicable.

(g) Provide for environmental compatibility.

(h) Protect trail corridors from private encroachments and ~~incompatible,~~ detrimental, or disruptive uses.

(i) Protect the County's interest in properties owned or managed by the County that have been designated as trail corridors.

(j) Provide a mechanism for owners of private property located along the trail system to have reasonable access to enter and exit such properties.

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(c) Trail refers to the paved or unpaved path on which ~~non-motorized travel~~ is directed and permitted within the trail corridor, by non-motorized vehicles and single person battery operated devices utilized by those with disabilities.

(d) Encroachment refers to any physical structure including, ~~but not limited to, walls, walkways, boardwalks, landscaping, irrigation; any physical alteration to the existing condition of a trail corridor; any other structure or alteration which is deemed an encroachment by the County Engineer; or any other structure or alteration which is located within a trail corridor without an appropriate permit, license, or written permission from the County Engineer, or the owners or managers of the trail corridor which crosses into a trail corridor from an adjacent property.~~

(e) Private driveway crossing ~~Access~~ refers to an approved entry, exit, or crossing of the Seminole County Trails System that conforms to this Ordinance.

(f) Seminole County Trails System refers to lands owned in full or in part or managed by Seminole County and designated as a Trail corridor on the *Seminole County, Florida Trails, Greenways, and Bikeways Master Plan*, as same may hereafter

be amended from time to time, a copy of which is on file with the Clerk of the Board of County Commissioners of Seminole County and incorporated herein by this reference.

(g) ~~Trail use license~~Access Permit is a non-exclusive, revocable and limited license allowing the use of part of conditional permit providing for the construction and maintenance of one or more accesses into or across the Seminole County Trails Corridor System for the purposes specified in the license.

(h) ADA refers to the Americans with Disabilities Act of 1990, as amended, and accompanying regulations and requirements.

(i) Acknowledged Access refers to an access of the existing or future trail corridors which are agreed to by Seminole County, permitted, or in active use on October 1, 2001. Residential lots shall be permitted to claim as acknowledged access only one existing access per lot.

(j) Acknowledged Utilities refer to utilities located within an existing or future Trail Corridor which have been previously approved by Seminole County.

Section 5. Applicability. All persons, firms, corporations, governmental units and other entities must obtain a ~~trail use license~~permit for the construction, installation, or maintenance of any use specified herein. Nothing herein shall limit Seminole County's use of the Seminole County Trails System for recreational purposes or the use thereof by the state agencies that are owners or co-owners of the Seminole County Trails System for any use which will directly benefit the trail system. To this extent, any department or division of Seminole County other than the Engineering Division or the Parks and Recreation Division must have its proposed use of the trail area approved by the County Engineer.

Section 6. General procedure. For those portions of the Seminole County Trails System owned in fee by Seminole County, or over which it has permitting authority, the application review and approval process shall be final upon the completion of the County's review and approval. For all other parts of the Seminole County Trails System, ~~there shall be a two (2) step process. The first step is an application review submitted~~ County and State approval is required by submittal of an application to the County Engineer to determine compliance with the policies set forth in this Ordinance, applicable management plans and the Seminole County Comprehensive Plan. If the application meets these standards, the application shall be forwarded on to the appropriate State agency for ~~final action in accordance with applicable State of Florida management plans, administrative regulations, and statutes~~ its consideration. The permit shall issue upon receipt of concurrence from the applicable state agency.

Section 7. ~~Trail Use License~~ Access Permit Application to the County Engineer.

(a) Each ~~Trail Use License~~ Access Permit Application shall be accompanied by the appropriate fee as set by Resolution of the Board of County Commissioners of Seminole County and shall be submitted to the County Engineer. ~~The application shall be on a standard form approved and designated by the County Engineer and in accordance with the procedure established by the County Engineer.~~ Trail Use Licenses Access Permits shall, ~~at a minimum,~~ meet the specifications and guidelines set forth in the Land Development Code of Seminole County, the Seminole County Comprehensive Plan, the Seminole County Transportation Standards and all other applicable rules and regulations

including County design standards for trail crossings and use as determined by the County Engineer.

~~(b) Upon receipt of an application to cross or use a portion of the Seminole County Trails System that is not owned in fee by the County, the County Engineer shall provide the applicant with a copy of the most recent State of Florida administrative rules applicable to the request.~~

~~(e)(b) Prior to approval of a licensepermit, an applicant must provide, at the applicant's own expense, a boundary and topographic survey of the licensewithin the limits of the construction area to include locations of trees of three inch (3") diameter breast height (dbh) or greater, wetland delineation, if any, and locations of any threatened or endangered species, signed and sealed by a Professional Surveyor and Mapper and appropriate environmental specialist licensed in the State of Florida and conceptual plans of the proposed use.~~

~~(d)(c) Applicants must attach to the Trail Use LicensePermit Application copies of any arborany other permits, hauling easements, or construction easements related to the license area which are necessary to construct the proposed access. Any permit issued shall be conditioned on the applicant's obtaining said permits.~~

Section 8. Application review by the County Engineer.

(a) The County Engineer shall be responsible for administering the licensepermit process set forth in this Ordinance and shall make license applications available to interested applicants.

(b) An applicant for a license shall submit ~~three (3)~~four (4) copies of an application to the County Engineer, or his or her designee. Upon receipt of the

completed applications, the County Engineer shall immediately forward one (1) copy of the application to the Planning and Development Department Director, one (1) copy to the Library and Leisure Services Department Director and shall retain ~~one (1) copy~~two (2) copies of the application for his or her review. The County Engineer, the Planning and Development Department Director, and the Library and Leisure Services Department Director or their designees shall inspect the proposed ~~license~~permit area for site specific liability issues and potential impacts to natural, cultural, historic and archeological resources, and provide comments on areas of concern. The Planning and Development Department Director and the Library and Leisure Services Department Director shall, within ~~five (5)~~fifteen (15) working days of receipt of the application, submit any comments in writing to the County Engineer for consideration. If the property involved is within the limits of a municipality, a copy of the application shall be forwarded to the appropriate municipality.

(c) After the County Engineer has completed the review, considering the comments of the Planning and Development Department Director and the Library and Leisure Services Department Director, and determined that the application meets the standards set forth in this Ordinance, the County Engineer shall complete a ~~Trail Use License Agreement~~list of Trail Access Permit Conditions which shall be a separate ~~section~~part of the ~~Trail Use License Application~~permit to be issued. All ~~licenses~~permits to use trail corridors that are owned or co-owned by a State Agency shall state as follows: "This ~~license~~permit shall not become effective until such time that the appropriate State agency has approved this ~~license~~permit consistent with the agreements governing the management of the applicable Trail. The ~~license~~permit

further understands that County approval of this ~~license~~permit does not approve the ~~licensee's use of the Trail corridor~~entitle the permittee to begin construction of any access if other permits are required."

(d) The County Engineer shall prepare duplicate originals of the Trail Use ~~License Agreement~~Access Permit for execution by the applicant prior to the County Engineer's execution. Upon the applicant returning the executed originals, the County Engineer may execute the Trail Use License Agreement on behalf of the County if the application meets the requirements set forth in this Ordinance. The County Engineer shall have final County approval authority over license applications; provided, however, that an applicant may appeal the County Engineer's ~~decision to deny~~denial or conditional approval of an application to the Board of County Commissioners of Seminole County within thirty (30) days of the date of the ~~denial~~ decision.

(e) Following the County Engineer's execution of a ~~license~~permit relating to a ~~Trail~~ corridor owned or co-owned by a State agency, both original copies of the license application shall be forwarded to the appropriate State agency with a request for concurrence. If the State agency denies or wishes to modify the ~~license~~permit, the issuance of the ~~license~~permit will be delayed until such time as the County and the State agency can reach an agreement. No ~~license~~permit will be issued until all parties agree on the terms of the ~~license~~permit. If approved by the State agency, the agency shall retain one original copy and forward the other original copy to the County for distribution to the applicant.

Section 9. Standards of review. The County Engineer shall apply the following standards in determining whether to grant or deny a Trail Use License Access Permit Application:

(a) Acknowledged Crossings ~~Access~~. ~~The County Engineer shall consider approving a Trail Use License for the construction of a public or private road or driveway to those properties with crossings listed in the document titled "Rail Highway Crossing Inventory," dated June 29, 1995, a copy of which is on file with the Clerk of the Board of County Commissioners of Seminole County and incorporated herein by this reference. Consistent with the provisions of this subsection, the County Engineer shall consider granting, after receiving proper application and all required payments, one (1) Trail Use License for each crossing acknowledged in the inventory. Accesses in active use as of October 1, 2001 are exempt from the permitting provisions of this Ordinance. For all a residential property that has contains more than one (1) acknowledged crossing ~~access~~, the County Engineer shall not grant more than one (1) approved crossing unless the County Engineer determines that one (1) approved crossing will not provide safe and adequate access to the property. Adjacent properties that each have one (1) or more acknowledged crossings shall be encouraged to create one (1) combined crossing on the shared property line providing joint access across the trail require the affected property owner to designate one access which shall become the acknowledged access. Any additional accesses must be permitted in accordance with this Ordinance.~~

(b) Access Crossings. ~~Licenses~~ Permits may be granted to provide access for a property when there are no other reasonable access alternatives other than the proposed crossing. Owners of properties adjacent to a designated trail corridor and on

which there is a trail crossing necessary to access the property or a portion of the property who are seeking to change their land use or zoning to a more intense category than existed as of the adoption date of this Ordinance shall be required to submit plans to the County Engineer for review and discussion of crossing alternatives. Licenses shall not be granted for convenience. The County Engineer shall not grant a Trail Use License Access Permit to any property that has reasonable alternate access elsewhere on the boundary of the property or to property that was subdivided to eliminate access to right-of-way. Adjacent properties that each have a need for one (1) or more accesses shall be encouraged to create one (1) combined access providing joint access to, from, or across the trail.

(c) Access Structures. Applications for a permanent trail access structure or installation other than driveways, i.e., foot bridges or boardwalks, may be approved if the following determinations are made:

- (1) The proposed structure will not unreasonably impede traffic flow on the trail corridor,
- (2) The proposed structure will not have a negative impact on the public safety, welfare, or use of the trail corridor,
- (3) The proposed structure will not result in the only minimal removal of any trees or vegetated screening materials in the trail corridor, and
- (4) The proposed structure will not adversely impact or disturb flood prone areas.
- (5) All approved access structures must meet ADA requirements.

(d) Utilities. Public or private utilities of any kind may not be located within any designated trail corridor, but will be permitted to cross the trail as necessary to service properties where the designated trail corridor runs between the property and the utility. Utility crossings shall be underground, if practicable from an engineering and environmental standpoint. Appeals of a denial of permission to cross the trail corridor shall be made to the Board of County Commissioners within thirty (30) days of denial of permission by the County Engineer.

(e) Historic and Environmental Preservation. Applications may not be approved if important historic or environmental resources within the trail corridor are found to exist within twenty feet (20') of ~~determined to be adversely affected by the proposed use~~ access. Applicants ~~shall~~ may be required to complete a survey of plants and wildlife including those species designated as endangered, threatened, or species of special concern pursuant to *Rules 39-27.003, 39-27.004 and 39-27.00, Florida Administrative Code*, utilizing the most current wildlife methodology guidelines published by the Florida Fish and Wildlife Conservation Commission and current information from the Florida Natural Areas Inventory. If an endangered or threatened species of special concern is determined to exist on site, then development ~~shall be accomplished in a manner so as to avoid the habitat of the species and to provide appropriate habitat buffers as determined by the Florida Fish and Wildlife Conservation Commission and the Florida Natural Areas Inventory. Development shall proceed only after the boundaries of protected habitat areas sufficient to sustain viable populations of said species have been identified~~ may not proceed until the applicant obtains the necessary approvals from the appropriate jurisdictional agencies. Additionally, applicants must

provide documentation from the Department of State identifying the presence of any listed historic or archaeological sites that may exist within twenty feet (20') of the proposed use be adversely affected by the access. A site will be considered historic if it is so defined or listed pursuant to Florida law.

Section 10. Conditions.

(a) In addition to the conditions deemed necessary for ~~license~~permit approval by the County Engineer, each Trail Use ~~License~~Access Permit granted by the County Engineer shall be deemed to include the following terms and conditions:

(1) ~~Licenses confer upon the licensee a non-exclusive, revocable and limited license. Execution of a license does not convey to the licensee any title, right or interest in or to the license area. Privileges granted under a license are nontransferable and may not be sold or otherwise conveyed. However, in the event of a transfer of ownership of the property to which the license provides access, the County may only deny a license to the subsequent owner upon application by the subsequent owner.~~A new permit application shall be required if, in the determination of the County Engineer, there has been a change in the use of the property to which the ~~license~~permit provides access. These changes would include, but are not limited to, changes in the zoning or land use categories controlling the property (except those initiated by governmental entities), submission of development plans to the appropriate governmental jurisdiction indicating an increase in density or intensity in the use of the property, and other similar circumstances.

~~(2) Licensees understand and agree that the license and privileges are granted to the extent of the County's right, title and interest, if any, in the land to be~~

~~entered upon and used by the licensee. The licensee will at all times, assume any and all risk of and indemnify, defend, and save harmless the County from and against any and all losses, damages, costs and expenses arising in any manner whatsoever on account of or in any way resulting from the exercise or attempted exercise by said licensee of the aforesaid license and privileges or otherwise resulting from the acts or omissions of the licensee or its officers, employees or agents. The licensee agrees that its assumptions of risks and obligations to indemnify the County related to licensee's work or placement of any improvements shall survive the expiration date of the license. The licensee agrees to pay any and all costs, fees and expenses that the County in any way incurs relative to enforcing the terms and conditions of the license including, but not limited to, attorneys' fees and legal costs at trial, on appeal or at any administrative proceeding. The licensee understands and acknowledges that any and all payments to obtain the license only cover direct and indirect costs which the licensee's use of the trail corridor have or will generate and, further, that such payments do not encompass the fair rental value of the licensee's use or occupation of the trail corridor.~~

 (2) ~~The term of the license ends upon revocation of the license~~ permit ~~by the County; on the date specified by the State, if any; or on the termination of the lease to the County by the Trustees of the Internal Improvement Fund. or on the date the licensee ceases to be the owner of record for the real property to which the license area provides access; or on the date specified by the State, if any; or the termination date of the Trustees' lease to the County. Licenses~~Permits ~~are revocable by the County upon any changes to a more intensive land use, zoning, or development; upon discovery of damage made to the trail corridor or any violation of the license~~ permit ~~agreement~~

resulting from use of the ~~license~~permit area not rectified by ~~licensee~~the permittee within ~~two (2)~~four (4) weeks of notification of such damage or violation by the County; or upon any interference with trail users or any adverse impacts to trail safety resulting from use of the license area not immediately rectified by the licensee upon notification by the County. Upon the County Engineer's written notification to the ~~licensee~~permittee, a ~~license~~permit granted under this policy is subject to immediate cancellation and automatic ~~revocation, termination and reversion~~ to the County. The ~~licensee~~ upon ~~thirty (30) days~~ written notice to the County may ~~relinquish licenses at will~~. Upon termination of a ~~license~~permit, unless waived by the County, the ~~licensee~~permittee shall restore, at the permittee's own expense, the licensepermit area to the same a condition it was like or better than the condition of the ~~permit~~ upon area upon the execution date of the license, ~~doing so at its own cost~~. Upon termination of a ~~license~~permit, all authorization granted by the license terminates. Upon a change to a more intensive land use, zoning, or development (unless initiated by a governmental agency), the permittee shall be required to reapply for a new permit, and said application shall address the issues raised by the change of use of the property.

~~(4)(3)~~ All crossings ~~(including the usual appurtenances such as approaches, roadway, curbs, gutters, shoulders, slopes, fills and cuts)~~construction shall be constructed at the cost and expense of the ~~licensee~~permittee, but in a manner and of materials satisfactory to the County Engineer as set forth in the Seminole County Land Development Code. ~~At the discretion of the County Engineer, the licensee may make a deposit to the trail fund to affect the crossing construction simultaneously with the overall trail construction.~~

~~(5)~~(4) Prior to construction of approved uses, ~~licensee~~the permittee must submit construction plans signed and sealed by a professional engineer licensed in the State of Florida to the County Engineer for approval. Plans shall include locations of trees of three inch (3") diameter breast height (dbh) or higher, wetland delineation, and locations of any threatened or endangered species.

~~(6)~~(5) The ~~licensee~~permittee shall perform all construction at such times and in such a manner as to interfere to the least possible extent with the public's use of the trail. At all times a through-route of a minimum eight-foot (8') width shall be provided for trail users. All construction pursuant to a ~~licensee~~permit shall be completed within thirty (30) days of commencement.

~~(7)~~ The ~~licensee~~ shall construct all crossings of the same materials and to acceptable standards for vehicular crossing of the trail. The pavement of a crossing must match flush with the adjacent trail pavement and must include the typical median detail, signage and striping, as approved by the County Engineer.

~~(8)~~ The ~~licensee~~ shall furnish, place and maintain at ~~licensee's~~ sole and exclusive expense and in a manner satisfactory to the County Engineer, necessary stormwater appurtenances underneath said crossing to accommodate the drainage requirements of the crossing and/or right-of-way.

(6) Where Seminole County constructs improvements to an existing trail facility or a new trail facility which impacts access, Seminole County shall design such improvement or new facility so as not to adversely impact the access, if practical, or to minimize the impact, if some impact is unavoidable.

~~(9)(7)~~ Prior to construction of an approved ~~use~~access, the licensee~~permittee~~ shall have its ~~surveyers~~surveyor mark the trail boundary line with ~~orange~~highly visible tape and County-approved signage, at the licensee's~~permittee's~~ expense, to ensure that the trail corridor is not damaged.

(b) ~~Joint Crossing Agreements~~Access. The County Engineer shall make all reasonable attempts to limit the number of trail crossings. In making such efforts, the County Engineer shall request that adjacent property owners applying for trail use licenses execute joint use and construction agreements, in a form approved by the County Attorney's Office. These agreements shall provide for the construction and use of the crossing by both parties. If adjacent property owners agree to execute a joint construction and use document, the property owners need only pay equal shares of the appropriate fee(s) that would have been charged for the property with the highest intensity classification. Any trail access permit application fees required by the County. Fees may be waived when ~~five (5)~~three (3) or more adjacent property owners agree to share one joint use ~~crossing~~access if the County Engineer finds and determines that the public interest is benefited thereby and that the public interest benefit is commensurate with the granting of a fee waiver.

Section 11. Use of the ~~license~~Permit area by a Permittee.

(a) ~~License privileges~~Permit uses shall be limited to the specific activities approved by the County in the ~~license~~permit. The licensee may make no other use of the license area and no third party has the privileges conferred upon the licensee.

(b) No trimming or removal of any vegetation, excluding normal grass mowing, within the ~~license area~~Trail Corridor shall take place prior to written

~~County permit approval or execution of a maintenance agreements. The licensee shall report to County staff, in a timely manner, any observed violations of the terms of this license, whether said violations involved the licensee, its invitees or any third party.~~

(c) ~~The licensee/permittee is solely responsible for all costs related to design and development of the public or private road/driveway crossing. The licensee should be advised that the County may revoke the license at any time with cause, and any costs incurred by the licensee are incurred solely at the licensee's risk. No development shall take place prior to written County approval of the development plan. The County retains the right to enter into the license/permit area for trail development and management purposes, and the licensee shall allow such trail development and management, as the County deems appropriate.~~

(d) ~~The licensee/permittee shall maintain the license area in a safe and attractive manner, acceptable to the County. The licensee/permittee is fully responsible for all maintenance costs associated with the licensee's use of the license/permit area. Any costs incurred by the licensee are incurred solely at the licensee's risk. The licensee shall pay trail maintenance, repair or replacement costs incurred by the County, if such costs are determined by the County to be the result of the licensee's use of the license area.~~

(e) ~~The County or its duly authorized agents, representatives or employees shall have the right at any time to inspect the works and operations of the licensee in any matter pertaining to a license.~~

(f)(e) ~~The licensee/permittee shall save and hold harmless and indemnify the County and the State of Florida against any and all liability, claims, judgments or costs~~

of whatsoever kind and nature for injury to or death of any person or persons and from loss or damage to any property resulting from the use, service, operation or performance of work under the terms of this ~~license~~permit, resulting from the negligent acts of the ~~licensee~~permittee, its contractor or invitees, or any of the employees, agents or representatives of the ~~licensee~~permittee, its contractor or invitees to the extent allowable by law.

(g) ~~Licensees~~Permittees shall not do or permit anything to be done which purports to create a lien, encumbrance, or encroachment not identified in the ~~license~~permit of any nature against the ~~license~~areaTrail Corridor including, but not limited to, mortgages or construction liens against the ~~license~~areaTrail Corridor or against any interest of the County therein.

(h) Upon the County's discovery of private encroachments on a trail corridor owned or managed by the County, the adjacent property owner(s) will be notified by certified mail of the discovery and will be permitted to submit a trail use ~~license~~access permit application within sixty (60) days of notification. If the application process is not initiated within this time frame, the County will move forward with removal of the encroachment. Costs of encroachment removal and administration of the removal process shall be borne by the encroachment owner. If the County denies the application, the applicant must remove the encroachment within thirty (30) days of the denial date. If the applicant wishes to appeal staff's decision to deny an application to the Board of County Commissioners of Seminole County, the removal period may be extended until the Board of County Commissioners of Seminole County reaches a decision. ~~If the Board of County Commissioners of Seminole County decides to uphold staff's decision to deny the~~

~~application, the applicant will have thirty (30) days from the date of the Board of County Commissioners of Seminole County's decision to remove the encroachment.~~

~~If an Eencroachments that are discovered is located on a trail corridor owned or co-owned by another agency, the permittee will be required to ~~must~~ follow an ~~any~~ additional approval process designated by that agency.~~

Section 12. Oversight of Trail Fund.

(a) The Public Works Department, Engineering Division is charged with the oversight of the Trail Fund. The Director of the Fiscal Services Department shall deposit the following monies into such fund:

(1) All fees collected pursuant to this Ordinance.

(2) All monies collected by the County during the development approval process in lieu of sidewalk construction on roads abutting planned trails.

(3) All monies collected by the County during the development approval process for trail construction or maintenance.

(b) The County Engineer may spend deposited monies for trail design, construction, or maintenance purposes only.

Section 13. Penalties.

(a) Violations of this Ordinance shall be prosecuted in accordance with the provisions of *Section 125.69(1), Florida Statutes (2000)*.

(b) Violations of this Ordinance are hereby declared to constitute irreparable harm, unable to be remedied at law, and therefore the County may seek injunctive relief if necessary to abate violations of this Ordinance.

(c) Where a violation of this Ordinance consists of tree damage or removal, the County may seek as a remedy that the offending party shall plant canopy trees approved by the County of four inch (4") diameter at breast height (dbh), at a distance of forty feet (40') on center. Where a violation of this Ordinance consists of damage to or removal of the vegetative buffer, the County may seek as a remedy that the offending party shall replace the vegetative buffer with mixed native evergreen species approved by the County at a distance of five feet (5') on center.

(d) In addition to the foregoing, the dumping or discarding of trash or litter upon any part of the trail system shall constitute a violation of this ordinance, and Seminole County shall impose a fine of up to the maximum amount permissible by law. Additionally, the Board of County Commissioners may from time to time impose schedules of fines for other violations of this Ordinance.

Section 14. Codification. It is the intention of the Board of County Commissioners of Seminole County that the provisions of this Ordinance shall become and be made a part of the Seminole County Code and the word "ordinance" may be changed to "section," "article," or other appropriate word or phrase and the sections of this Ordinance may be renumbered or relettered to accomplish such intention; providing, however, that Sections 14, 15, and 16 shall not be codified.

Section 15. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, it is the intent of the Board of County Commissioners of Seminole County that the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid

provision or application, and to this end the provisions of this Ordinance are declared severable.

Section 16. Effective Date. This Ordinance shall take effect upon filing a copy of this Ordinance with the Department of State by the Clerk of the Board of County Commissioners of Seminole County.

ENACTED this ____ day of _____, ~~2004~~2002.

**BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA**

By: _____
DICK VAN DER WEIDEDARYL McLAIN,

Chairman

HB\sb

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provision or application, and to this end the provisions of this Ordinance are declared severable.

Section 16. Effective Date. This Ordinance shall take effect upon filing a copy of this Ordinance with the Department of State by the Clerk of the Board of County Commissioners of Seminole County.

ENACTED this ____ day of _____, ~~2001~~2002.

**BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA**

By: _____
DICK VAN DER WEIDEDARYL McLAIN,

Chairman

HB\sb

07/13/01

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