

ORDINANCE NO. 2022 – 08

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, RELATING TO THE BAYSHORE GATEWAY TRIANGLE REDEVELOPMENT AREA, AMENDING ORDINANCE NUMBER 04-41, AS AMENDED, THE COLLIER COUNTY LAND DEVELOPMENT CODE, WHICH INCLUDES THE COMPREHENSIVE LAND REGULATIONS FOR THE UNINCORPORATED AREA OF COLLIER COUNTY, FLORIDA, TO ESTABLISH A LIMITED DENSITY POOL ALLOCATION FOR MULTIFAMILY PROJECTS AND MIXED USE PROJECTS 2 ACRES OR LESS; AND TO PROVIDE FOR PUBLIC REALM IMPROVEMENTS FOR PROJECTS WHICH UTILIZE THE DENSITY BONUS POOL; BY PROVIDING FOR: SECTION ONE, RECITALS; SECTION TWO, FINDINGS OF FACT; SECTION THREE, ADOPTION OF AMENDMENTS TO THE LAND DEVELOPMENT CODE, MORE SPECIFICALLY AMENDING THE FOLLOWING: CHAPTER ONE GENERAL PROVISIONS, INCLUDING SECTION 1.08.01 ABBREVIATIONS; CHAPTER 4 SITE DESIGN AND DEVELOPMENT STANDARDS, INCLUDING SECTION 4.02.16 DESIGN STANDARDS FOR DEVELOPMENT IN THE BAYSHORE GATEWAY TRIANGLE REDEVELOPMENT AREA, AND CHAPTER 10 APPLICATION, REVIEW, AND DECISION-MAKING PROCEDURES, INCLUDING SECTION 10.02.15 REQUIREMENTS FOR MIXED USE PROJECTS WITHIN THE BAYSHORE GATEWAY TRIANGLE REDEVELOPMENT AREA AND SECTION 10.03.06 PUBLIC NOTICE AND REQUIRED HEARINGS FOR LAND USE PETITIONS; SECTION FOUR, CONFLICT AND SEVERABILITY; SECTION FIVE, INCLUSION IN THE COLLIER COUNTY LAND DEVELOPMENT CODE; AND SECTION SIX, EFFECTIVE DATE. [PL20210001033]

Recitals

WHEREAS, on October 30, 1991, the Collier County Board of County Commissioners adopted Ordinance No. 91-102, the Collier County Land Development Code (hereinafter LDC), which was subsequently amended; and

WHEREAS, the Collier County Board of County Commissioners (Board) on June 22, 2004, adopted Ordinance No. 04-41, which repealed and superseded Ordinance No. 91-102, as amended, the Collier County Land Development Code, which had an effective date of October 18, 2004; and

WHEREAS, on March 18, 1997, the Board adopted Resolution 97-177 establishing local requirements and procedures for amending the LDC; and

WHEREAS, all requirements of Resolution 97-177 have been met; and

WHEREAS, the Collier County Planning Commission, sitting as the land planning agency, did hold an advertised public hearing on November 18, 2021, and reviewed the proposed amendments for consistency with the Comprehensive Plan and did recommend approval; and

WHEREAS, the Board of County Commissioners, in a manner prescribed by law, did hold an advertised public hearing on March 8, 2022, and did take action concerning these amendments to the LDC; and

WHEREAS, the subject amendments to the LDC are hereby determined by this Board to be consistent with and to implement the Collier County Growth Management Plan as required by Subsections 163.3194 (1) and 163.3202 (1), Florida Statutes; and

WHEREAS, this ordinance is adopted in compliance with and pursuant to the Community Planning Act (F.S. § 163.3161 *et seq.*), and F.S. § 125.01(1)(t) and (1)(w); and

WHEREAS, this ordinance is adopted pursuant to the constitutional and home rule powers of Fla. Const. Art. VIII, § 1(g); and

WHEREAS, all applicable substantive and procedural requirements of the law have otherwise been met.

NOW, THEREFORE BE IT ORDAINED by the Board of County Commissioners of Collier County, Florida, that:

SECTION ONE: RECITALS

The foregoing Recitals are true and correct and incorporated by reference herein as if fully set forth.

SECTION TWO: FINDINGS OF FACT

The Board of Commissioners of Collier County, Florida, hereby makes the following findings of fact:

1. Collier County, pursuant to § 163.3161, *et seq.*, F.S., the Florida Community Planning Act (herein after the "Act"), is required to prepare and adopt a comprehensive plan.

2. After adoption of the Comprehensive Plan, the Act and in particular § 163.3202(1), F.S., mandates that Collier County adopt land development regulations that are consistent with and implement the adopted comprehensive plan.

3. Section 163.3201, F.S., provides that it is the intent of the Act that the adoption and enforcement by Collier County of land development regulations for the total unincorporated area shall be based on, be related to, and be a means of implementation for, the adopted comprehensive plan.

4. Section 163.3194(1)(b), F.S., requires that all land development regulations enacted or amended by Collier County be consistent with the adopted comprehensive plan, or element or portion thereof, and any land regulations existing at the time of adoption which are not consistent with the adopted comprehensive plan, or element or portion thereof, shall be amended so as to be consistent.

5. Section 163.3202(3), F.S., states that the Act shall be construed to encourage the use of innovative land development regulations.

6. On January 10, 1989, Collier County adopted the Collier County Growth Management Plan (hereinafter the "Growth Management Plan" or "GMP") as its comprehensive plan pursuant to the requirements of § 163.3161 *et seq.*, F.S.

7. Section 163.3194(1)(a), F.S., mandates that after a comprehensive plan, or element or portion thereof, has been adopted in conformity with the Act, all development undertaken by, and all actions taken in regard to development orders by, governmental agencies in regard to land covered by such comprehensive plan or element shall be consistent with such comprehensive plan or element as adopted.

8. Pursuant to § 163.3194(3)(a), F.S., a development order or land development regulation shall be consistent with the comprehensive plan if the land uses, densities or intensities, and other aspects of development are compatible with, and further the objectives, policies, land uses, densities, or intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government.

9. Section 163.3194(3)(b), F.S., states that a development approved or undertaken by a local government shall be consistent with the comprehensive plan if the land uses, densities or intensities, capacity or size, timing, and other aspects of development are compatible with, and further the objectives, policies, land uses, densities, or intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government.

10. On October 30, 1991, Collier County adopted the Collier County Land Development Code, which became effective on November 13, 1991. The Land Development

Code adopted in Ordinance 91-102 was recodified and superseded by Ordinance 04-41 as amended.

11. Collier County finds that the Land Development Code is intended and necessary to preserve and enhance the present advantages that exist in Collier County; to encourage the most appropriate use of land, water and resources consistent with the public interest; to overcome present handicaps; and to deal effectively with future problems that may result from the use and development of land within the total unincorporated area of Collier County and it is intended that this Land Development Code preserve, promote, protect and improve the public health, safety, comfort, good order, appearance, convenience and general welfare of Collier County; to prevent the overcrowding of land and avoid the undue concentration of population; to facilitate the adequate and efficient provision of transportation, water, sewerage, schools, parks, recreational facilities, housing and other requirements and services; to conserve, develop, utilize and protect natural resources within the jurisdiction of Collier County; to protect human, environmental, social and economic resources; and to maintain through orderly growth and development, the character and stability of present and future land uses and development in Collier County.

12. It is the intent of the Board of County Commissioners of Collier County to implement the Land Development Code in accordance with the provisions of the Collier County Comprehensive Plan, Chapter 125, Fla. Stat., and Chapter 163, Fla. Stat., and through these amendments to the Code.

SECTION THREE: ADOPTION OF AMENDMENTS TO THE LAND DEVELOPMENT CODE

* * * * *

SUBSECTION 3.A. AMENDMENTS TO SECTION 1.08.01 ABBREVIATIONS

Section 1.08.01, Abbreviations, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

1.08.01 Abbreviations

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ICBSD	Immokalee Central Business Subdistrict
<u>LDBPA</u>	<u>Limited Density Bonus Pool Allocation</u>
LDC	Collier County Land Development Code

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SUBSECTION 3.B. AMENDMENTS TO SECTION 4.02.16 DESIGN STANDARDS FOR DEVELOPMENT IN THE BAYSHORE GATEWAY TRIANGLE REDEVELOPMENT AREA

Section 4.02.16 Design Standards for Development in the Bayshore Gateway Triangle Redevelopment Area, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

4.02.16 Design Standards for Development in the Bayshore Gateway Triangle Redevelopment Area

* * * * *

- C. Additional Standards for Specific Uses. Certain uses may be established, constructed, continued, and/or expanded provided they meet certain mitigating standards specific to their design and/or operation. These conditions ensure compatibility between land uses and building types and minimize adverse impacts to surrounding properties.

10. Limited Density Bonus Pool Allocation (LDBPA) for multi-family or mixed use developments on two contiguous acres or less.

- a. Purpose and Intent. The limited density bonus pool for smaller developments are to incentivize redevelopment and to promote investment in the public realm.
- b. Eligibility. Up to two additional dwelling units per acre are allowed to be allocated to a multi-family or mixed use development through an LDBPA, subject to the following requirements and procedures:
 - i. The project must comply with the dimensional and design standards of the BMUD or GTMUD as applicable.
 - ii. The development shall be within a zoning district or overlay zoning district that permits multi-family development or mixed use development.
 - iii. The property shall be limited to a maximum of two contiguous acres. An allocation request shall not be granted for property that is subdivided after the [effective date of Ordinance].
 - iv. The maximum number of additional units shall be limited to four additional units and not exceed a density increase of two additional dwelling units per acre.
 - v. Development must comply with eligibility criteria in LDC section 4.02.16 C.12.

vi. The Administrative Code shall establish the process and submittal requirements for an LBDPA application.

c. Public notice. Public notice, notice to property owners, and an advertised public hearing, is required and shall be provided in accordance with the applicable provisions of LDC section 10.03.06 R and Chapter 6 of the Administrative Code.

d. Evaluation criteria. The application shall be reviewed by the Hearing Examiner or CCPC for compliance with the following standards of approval:

i. The proposed development is consistent with the GMP.

ii. The development shall have a beneficial effect upon the neighborhood and advance a Goal, Objective, or Strategy of the adopted Bayshore Gateway Triangle Community Redevelopment Plan.

iii. Internal driveways, utilities, drainage facilities, recreation areas, building heights, yards, architectural features, vehicular parking, loading facilities, sight distances, landscaping and buffers shall be adequate for the particular use involved.

iv. Vehicular access to the project shall not be gated.

v. The petition has provided compatibility enhancements by exceeding minimum buffer requirements or incorporating streetscape enhancements.

vi. Compliance with the public realm improvement requirements in LDC section 4.02.16 C.12.

11. Density Pool Allocation for developments over two contiguous acres. LDC section 10.02.15 C. provides for the process for a development to utilize the Density Pool. In addition to those criteria, the application shall also provide for:

a. Commitment that the project shall not be gated.

b. Contribution to the public realm improvements in LDC section 4.02.16 C.12.

12. Public realm improvements. Any project that receives an allocation of Density Bonus Pool units requires an improvement or contribution to the public realm within the BGTCRA at time of SDP or Plat approval.

a. Monetary Contributions will be made to CRA for the CRA's Public Art Fund or Capital Project Fund, or County Capital Project fund for projects within the BGTCRA boundary as follows:

i. For projects that receive one to four units from the Density Bonus Pool, the amount will be three percent of the engineer's Opinion of Probable Cost of Required Improvement per LDC section

- 10.02.04.C, to be provided at time of each SDP or PPL for the project;
- ii. For projects that receive five to nine units from the Density Bonus Pool, the amount will be five percent of the engineer's Opinion of Probable Cost of Required Improvement per LDC section 10.02.04.C, to be provided at time of each SDP or PPL for the project;
 - iii. For projects that receive ten or more units from the Density Bonus Pool, the amount will be five percent of the engineer's Opinion of Probable Cost of Required Improvement per LDC section 10.02.04.C, to be provided at time of each SDP or PPL for the project, plus an additional one percent of the engineer's Opinion of Probable Cost for each increment of 10 Density Bonus Pool units allocated over nine units; for example for 20-29 Density Bonus Pool units, the calculation is five percent + one percent + one percent = seven percent; or
- b. As an alternative or offset to the monetary contribution of LDC section 4.02.16 C.12., physical improvements within the project and land or easement dedications may be made to the County or the CRA provided the improvement and/or land or easement is identified as a need in the adopted CRA Redevelopment Plan, Public Art Pilot Plan, CRA Capital Improvement Plan or County Capital Improvement Plans, and in accordance with the following:
- i. The applicant's physical contribution and/or dedication of land or easement will be approved by the CRA advisory board or CRA staff and stated in a condition of approval as part of the public hearing process required for projects seeking units from the Density Bonus Pool, as a condition of approval of the SDP or plat or in a developer's agreement.
 - ii. The value of the land or easement dedication shall be the fair market value determined by a real estate appraisal approved by the County Manager or designee. The cost of physical improvement shall be determined according to an engineer's Opinion of Probable Cost, or where no engineer's Opinion of Probable Cost is available the architect's estimate of value, which must be approved by the County Manager or designee, and
 - iii. If the value of the land or easement conveyance and the cost of the physical improvement is less than the required monetary contribution in LDC section 4.02.16 C.12.a., then the applicant will pay the difference as a monetary contribution to CRA for the CRA's Public Art Fund or Capital Project Fund, or County Capital Project fund for projects within the Bayshore Gateway Triangle Redevelopment Area boundary.
- c. Prior to the issuance of the first certificate of occupancy for the project, the applicant shall provide evidence that the required monetary contribution has been deposited within the appropriate CRA fund, the

land or public easement conveyance has been accepted by the County or CRA and recorded in the Public Records of Collier County, and/or the public realm improvement has been installed or constructed as required by developer's agreement or condition of development order approval.

13. Expiration. All Density Bonus Pool allocations shall expire five years from the date of approval if building permits for the allocated units have not be issued. Upon expiration, the units shall revert to the Density Bonus Pool.

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SUBSECTION 3.C. AMENDMENTS TO SECTION 10.02.15 REQUIREMENTS FOR MIXED USE PROJECTS WITHIN THE BAYSHORE GATEWAY TRIANGLE REDEVELOPMENT AREA

Section 10.02.15, Requirements for Mixed Use Projects within the Bayshore Gateway Triangle Redevelopment Area, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

10.02.15 Requirements for Mixed Use Projects within the Bayshore Gateway Triangle Redevelopment Area

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- d. Parking Standards. These deviation requests shall be subject to the process and procedures of LDC section 4.05.04 F.42.

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- C. Bonus Density Pool Allocation. Under the Collier County Future Land Use Element, bonus density units are available for reallocation within the Bayshore/Gateway Triangle Redevelopment Overlay. The County Manager or designee will track the Bonus Density Pool Allocation balance as the units are used. These bonus density units may be allocated between the BMUD and GTMUD overlays, and shall only be allocated through a public hearing approval process.

To qualify for up to 12 dwelling units per acre, projects shall comply with the following criteria. This density of up to 12 dwelling units per acre is only applicable until the bonus density pool has been depleted.

* * * * *

5. For projects that do not comply with the requirements for this density increase, their density is limited to that allowed by the Density Rating System and applicable FLUE Policies.

6. Expiration. All Density Bonus Pool units shall expire five years from the date of approval if building permits for the allocated units have not be issued. Upon expiration, the units shall revert to the Density Bonus Pool.

SUBSECTION 3.D. AMENDMENTS TO SECTION 10.03.06 PUBLIC NOTICE AND REQUIRED HEARINGS FOR LAND USE PETITIONS

Sectin 10.03.06, Public Notice and Required Hearings for Land Use Petitions, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

10.03.06 – Public Notice and Required Hearings for Land Use Petitions

This section shall establish the requirements for public hearings and public notices. This section shall be read in conjunction with LDC section 10.03.05 and Chapter 8 of the Administrative Code, which further establishes the public notice procedures for land use petitions.

* * * * *

R. Site Plan with Deviations for Redevelopment, pursuant to LDC section 10.02.03 F, deviations in the GGPOD, pursuant to LDC section 4.02.26 E., and the LBDPA, pursuant to LDC section 4.02.16 C.10.

1. The following advertised public hearings are required:

- a. One Planning Commission or Hearing Examiner hearing.
- b. If heard by the Planning Commission, one BZA hearing.

2. The following notice procedures are required:

- a. Newspaper Advertisement prior to the advertised public hearing in accordance with F.S. § 125.66.
- b. Mailed Notice prior to the advertised public hearing.

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SECTION FOUR: CONFLICT AND SEVERABILITY

In the event that any provisions of this ordinance should result in an unresolved conflict with the provisions of the Land Development Code (LDC) or Growth Management Plan (GMP), the applicable provisions of the LDC or GMP shall prevail. In the event this Ordinance conflicts with any other Ordinance of Collier County or other applicable law, the more restrictive shall apply. If any phrase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

SECTION FIVE: INCLUSION IN THE COLLIER COUNTY LAND DEVELOPMENT CODE

The provisions of this Ordinance shall become and be made a part of the Land Development Code of Collier County, Florida. The sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

SECTION SIX: EFFECTIVE DATE

This Ordinance shall become effective upon filing with the Florida Department of State.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida, this 8th day of March, 2022.

ATTEST:
CRYSTAL K. KINZEL, CLERK

By: [Signature]
Attest as to Chairman's
signature only.

BOARD OF COUNTY COMMISSIONERS
OF COLLIER COUNTY, FLORIDA

By: [Signature]
William L. McDaniel, Jr., Chairman

Approved as to form and legality:

[Signature]
Heidi F. Ashton-Cicko
Managing Assistant County Attorney

04-CMD-01077/1917 (03/08/22)
21-LDS-00123/108

This ordinance filed with the
Secretary of State's Office the
11th day of March, 2022
and acknowledgement of that
filing received this 11th day
of March, 2022

By: [Signature]
Deputy Clerk



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

March 11, 2022

Ms. Martha S. Vergara, BMR & VAB Senior Deputy Clerk
Office of the Clerk of the Circuit Court
& Comptroller of Collier County
3329 Tamiami Trail E, Suite #401
Naples, Florida 34112

Dear Ms. Vergara:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Collier County Ordinance No. 2022-08, which was filed in this office on March 11, 2022.

Sincerely,

Anya Owens
Program Administrator

AO/lb