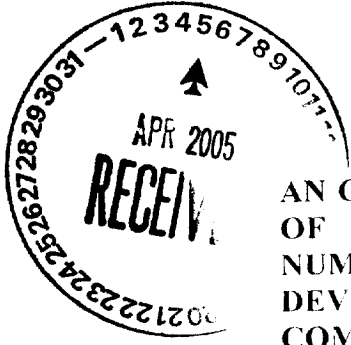


ORDINANCE NO. 05-17



AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, AMENDING ORDINANCE NUMBER 04-41, AS AMENDED, THE COLLIER COUNTY LAND DEVELOPMENT CODE, WHICH INCLUDES THE COMPREHENSIVE LAND DEVELOPMENT REGULATIONS FOR THE UNINCORPORATED AREA OF COLLIER COUNTY, FLORIDA, 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 6 - INFRASTRUCTURE IMPROVEMENTS AND ADEQUATE PUBLIC FACILITIES REQUIREMENTS, INCLUDING SEC. 6.06.02 SIDEWALK, AND BIKE LANE REQUIREMENTS; CHAPTER 10 - APPLICATION, REVIEW, AND DECISION-MAKING PROCEDURES, INCLUDING SEC. 10.02.03.B.1. FINAL SITE DEVELOPMENT PLAN PROCEDURE AND REQUIREMENTS; SECTION FOUR, CONFLICT AND SEVERABILITY; SECTION FIVE, INCLUSION IN THE COLLIER COUNTY LAND DEVELOPMENT CODE; AND SECTION SIX, EFFECTIVE DATE

2005 MAR 29 AM 8:53  
CLERK OF COUNTY COMMISSIONERS  
COLLIER COUNTY  
FLORIDA

FILED

**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the Collier County Board of County Commissioners (Board) on June 22, 2004, adopted Ordinance Number 04-41, which repealed and superceded Ordinance Number 91-102, as amended, the Collier County Land Development Code, which had an effective date of October 18, 2004; and

WHEREAS, the LDC may not be amended more than two times in each calendar year unless additional amendment cycles are approved by the Collier County Board of County Commissioners pursuant to Section 10.02.09 A. of the LDC; and

WHEREAS, on December 14, 2004, the Board, as agenda item 16.A.11, approved a Special LDC Amendment Cycle the purpose of which is an additional land development code amendment cycle to address urgent matters regarding sidewalk and bike lane issues pursuant to Chapters 6 & 10 of the Collier County Land Development Code; and

WHEREAS, on March 18, 1997, the Board of County Commissioners 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 Board of County Commissioners, in a manner prescribed by law, did hold advertised public hearings on March 8, 2005, and March 22, 2005, 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 local government comprehensive planning and land development regulation 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 County Commissioners of Collier County, Florida, hereby makes the following findings of fact:

1. Collier County, pursuant to Sec. 163.3161, *et seq.*, Fla. Stat., the Florida Local Government Comprehensive Planning and Land Development Regulations Act (hereinafter the "Act"), is required to prepare and adopt a Comprehensive Plan.

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

3. Sec. 163.3201, Fla. Stat., 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 as required by the Act.

4. Sec. 163.3194(1)(b), Fla. Stat., 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 development 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. Sec. 163.3202(3), Fla. Stat., 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 Sec. 1634.3161 *et seq.* Fla. Stat., and Rule 9J-5, F.A.C.

7. Sec. 163.3194(1)(a), Fla. Stat., 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 or portion thereof shall be consistent with such Comprehensive Plan or element or portion thereof.

8. Pursuant to Sec. 163.3194(3)(a), Fla. Stat., a development order or land development regulation shall be consistent with the Comprehensive Plan if the 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). Fla. Stat., requires 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 and may be amended twice annually. The Land Development Code adopted in Ordinance 91-102 was recodified and superceded by Ordinance 04-41.

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; encourage the most appropriate use of land, water and resources, consistent with the public interest; overcome present handicaps; and deal effectively with future problems that may result from the use and development of land within the total unincorporated are 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; prevent the overcrowding of land and avoid the undue concentration of population; facilitate the adequate and efficient provision of transportation, water, sewerage schools, parks, recreational facilities, housing, and other requirements and services, conserve, develop, utilize, and protect natural resources within the jurisdiction of Collier County; and protect human, environmental, social, and economic resources; and 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**

The LDC is hereby amended as follows by underlining newly added text and provisions, and by deleting existing text and provisions by ~~strike-throughs~~:

**6.06.02 Sidewalks and Bike Lane Requirements**

A. ~~Unless otherwise exempted by the regulations of this LDC, all developments~~ The developer must construct sidewalks and bike lanes, where applicable, prior to completion of construction authorized by a final subdivision plat, site improvement, or site development plan, or any substantial amendment thereto, and as described below; ~~unless otherwise exempted from the subdivision regulations of this LDC.~~

1. ~~Sidewalks and bike lanes, where required~~ applicable, must be constructed contiguous within to public and private roadways rights-of-ways or easements, which are adjacent to and internal to the site, in conformance with the following criteria: as follows:

- 1. ~~Bike lanes must be provided on both sides of collector and arterial streets.~~
- 2. ~~Sidewalks six (6) feet in width must be provided on both sides of collector and arterial streets.~~
- 3. ~~Sidewalks five (5) feet in width must be provided on both sides of local streets.~~

Typical Cross Section	walks – Both sides <sup>1 2 3 4</sup>		Bike Lanes – Both sides <sup>1 2 3 4</sup>
	6 Feet wide	5 feet wide	
Arterials and collectors	X		X
Local/Internal Accessway		X	

<sup>1</sup> - except that only required on one side (closest to the development) where right-of-way is adjacent to, but not within, the subject development and except as set forth below in this section.

<sup>2</sup> - unless otherwise determined by the County Manager, or designee, that the existing ROW cross-section is physically constrained or construction would result in unsafe conditions.

<sup>3</sup> - except that for residential development projects where 75% or more of that project's land area has been approved as of [the effective date of this ordinance] for site development plans or final subdivision plats with sidewalks or bike lanes that are only required on one side of the ROW, then all applications for subsequent site development plans or final subdivision plat may be approved with sidewalks or bike lanes on only one side of the ROW.

<sup>4</sup> - for development projects seeking approval of a final subdivision plat or site development plan of 25 or fewer dwelling units where those units front on a ROW that terminates in a cul-de-sac, then sidewalks or bike lanes will only be required on one side of the ROW and not around the circumference of the cul-de-sac.

2. 4. ~~For multi-family site development and site improvement projects, within all conventional zoning districts RT, RMF 6, RMF 12, and RMF 16 and all multi-family residential components of PUD districts;~~

a. ~~sidewalks, five feet in width, must be provided on both sides of local streets~~ within a dedicated public or private right-of-way or roadway easement other internal access way. Where there is no public or private right-of-way or internal access way proposed within a development, or roadway easement, sidewalks must be constructed in accordance with Code standards contained herein to connect from each on-site residential building(s) to a sidewalk within an adjacent private or public roadright-of-

~~way or, if no sidewalk exists therein, to must connect to the edge of the adjacent paved road within the right-of-way line in accordance with Code standards contained herein.~~

~~b. Alternative sidewalk designs that are determined by the County Manager, or designee, to be at least equivalent in function to that which would otherwise be required and would serve each dwelling unit, may be approved. Should a two-directional shared use pathway be utilized proposed as an alternative design, then the minimum paved width of the pathway must not be less than ten feet.~~

~~3. 5. All sidewalks and bike lanes along public and private roadways must also be constructed in accordance with design specifications identified in sub-section E., below 4.03.05 and 5.05.08 of this LDC.~~

~~4. 6. All bicycle lanes must also have signage and be marked in accordance with the latest edition of the U.S.D.O.T.F.H.W.A. Manual on Uniform Traffic Control Devices.~~

~~B. All Ddevelopments providing required to provide interconnections to existing and future developments pursuant to the density rating system section of the GMP must dedicate include sufficient right-of-way or easement for all required to accommodate the roadway, sidewalks and bike lanes, where required. Bike lanes and sidewalks must be constructed concurrently with the required roadway interconnection.~~

~~C. Payment-in-lieu of construction, as set forth below, may be authorized or required as part of any corresponding development order or permit, at the discretion of the County manager or designee, for any or all of the following circumstances: Where~~

~~1. where planned right-of-way improvements are by the County Transportation Division scheduled in the County's capital improvements program (CIP), any governmental entity's adopted five year work program, or any developer's written commitment approved by the County would cause the removal of any sidewalk or bike lanes,~~

~~2. the cost of proposed sidewalks or bike lanes would be greater than twenty-five (25%) per cent of the development's cost of improvements as determined by the project engineer's estimate approved by the County Manager, or designee, or~~

~~3. an existing development has not been constructed with sidewalks or bike lanes and no future or connectivity of one or more of these facilities is anticipated by the Comprehensive Pathways Plan or within the Plan's current five year work program.~~

~~D. the developer, iIn lieu of construction of the required sidewalks and bike lanes, all developments approved or required to make payments-in-lieu must provide funds for the cost of sidewalks and bike lanes construction as set forth in defined by the Schedule of dDevelopment of Review and bBuilding Permit Fees adopted in the Collier County Administrative Code into a Pathway fund or identified CIP project, approved by the County Manager or designee. Such funds will be used by the County for future construction of required sidewalks and bike lanes, and system improvements to the bicycle and pedestrian network at locations as close in proximity to the subject site as is feasible, by the County. The time frame for this funding option is two years from the date of issuance of the first building permit to the date that the road construction is required to be bid. Funds provided as payments-in-lieu do not release the developer from meeting these requirements if the payment-in-lieu amount is less than what would otherwise be required to completely construct all of the required sidewalks and bike lanes. In that event, the development will continue to be obligated to pay or construct the outstanding requirements until fully paid or constructed, except that partial payments previously made will fully vest that portion paid. Any future payments-in-lieu will be applied to the developer's continuing obligation to construct sidewalks and bike lanes under the current LDC specifications.~~

~~D. E. Sidewalk and Bike Lane Design & Construction/Materials.~~

1. All **sidewalks** shall be constructed of Portland cement concrete, or paver brick in conformance with the standard **right-of-way** cross sections contained in appendix B in locations illustrated on an approved site **development plan**. ~~±~~ Concrete **sidewalks** for roads with a functional classification as an arterial or collector shall be a minimum of four-inches thick, Portland cement concrete with a 28-day compressive strength of 3,000 psi and be constructed over a compacted four-inch limerock base, or a minimum of six inches thick of such concrete which may be constructed without a limerock base but must be constructed over a compacted subgrade; roads with a functional classification as local or with no functional classification (i.e., drive- or accessways) may be constructed of a minimum of four inches of such concrete over a compacted subgrade. Expansion joints shall be one-half-inch preformed bituminous conforming to the latest edition of ASTM. Contraction joints shall be saw-cut joints with longitudinal spacing equal to the width of the walk. The saw cut depth shall equal or exceed one-fourth the concrete thickness. All workmanship materials, methods of placement, curing, forms, foundation, finishing, etc. shall be in conformance to the latest edition of FDOT Standard Specifications for Road and Bridge Construction, section 522. Paver brick, **sidewalks**, or paver brick accents in **sidewalks** must be installed over a four inch thick, compacted limerock base, except as otherwise allowed above for **sidewalks**.
2. All **bike lanes** shall be designed; and constructed, and signed in accordance with the most current "Florida Bicycle Facilities Design Standards and Guidelines" or the "Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways" (commonly known as the "Florida Greenbook") requirements.

\* \* \* \* \*

**10.02.03 Submittal Requirements for Site Development Plans**

\* \* \* \* \*

**B. Final site **development** plan procedure and requirements**

A pre-application meeting shall be conducted by the County Manager or his designee, or his/her designee, prior to the submission of any site **development** or site improvement plan for review. This meeting may be waived by the County Manager or his designee upon the request of the **applicant**.

1. Site **development plan** submittal packet: The site **development** submittal packet shall include the following, if applicable:

\* \* \* \* \*

i. *Infrastructure improvement plans.* Detailed on-site and off-site infrastructure improvement plans and construction documents prepared in conformance with the design standards of Sections 10.02.04 and 10.02.05 and any current county ordinances, regulations, policies and procedures which consist of, but are not limited to, the following items:

\* \* \* \* \*

xiii. **Sidewalks and bike lanes.** For all projects required to be developed through the site development plan (SDP) process, the developer must construct **sidewalks** and **bike lanes** where applicable as described in Section 6.06.02 below.

~~Applicability: For all districts, **sidewalks**, and **bike lanes** must be constructed contiguous to public and private~~

~~roadways right of ways which are adjacent to and/or internal to the site, in conformance with the criteria described below as follows:~~

- ~~(a) Sidewalks, six feet in width must be provided on both sides of collector and arterial streets.~~
- ~~(b) Sidewalks, five feet in width, must be provided on both sides of local streets~~
- ~~(c) Bike lanes must be provided on both sides of collector and arterial streets~~

~~(d) For multi family site DEVELOPMENT and site improvement projects, districts RT, RMF 6, RMF 12, and RMF 16 and all multi family residential components of PUD districts; SIDEWALKS, five feet in width, must be provided on both sides of local STREETS within a dedicated public RIGHT OF WAY or roadway EASEMENT access road. Where there is no public RIGHT OF WAY, or roadway EASEMENT, SIDEWALKS must connect from the on-site residential BUILDINGS(s) to a SIDEWALK within a public roadway or, if no SIDEWALK exists, to the RIGHT OF WAY line in accordance with Code standards contained herein. Should a two directional shared use path be utilized, the minimum paved width must be ten feet.~~

~~(e) All sidewalks and bike lanes along public and private roadways must be constructed in accordance with design specifications identified in the Collier County Construction Standards Manual and Section 5.05.08 of this Code.~~

~~(f) Developments providing interconnections to existing and future developments pursuant to the density rating system section of the Collier County growth management plan future land use element, must include sufficient right-of way to accommodate the roadway, sidewalks, and bike lanes, where required. Bike lanes and sidewalks must be constructed concurrently with the roadway interconnection.~~

~~(g) Where planned RIGHT OF WAY improvements by the county transportation division scheduled in the capital improvements program (CIP) would cause the removal of any SIDEWALKS or BIKE LANES the developer, in lieu of construction of the required **sidewalks and bike lanes**, must provide funds for the cost of **sidewalk and bike lane** construction as defined by the schedule of **development review and building permit fees** and deposit the same into a **pathway fund**, for future construction of required **sidewalks and bike lanes**, by the county. The time frame for this funding option is two years from the date of issuance of the first **building permit** to the date that the **road construction is required to be bid**.~~

#### **SECTION FOUR: CONFLICT AND SEVERABILITY**

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 relettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

**SECTION SIX: EFFECTIVE DATES**

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

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida, this 22nd day of March, 2005.

ATTEST:  
DWIGHT E. BROCK, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF COLLIER COUNTY, FLORIDA

By: Linda A. Houtz  
Deputy Clerk  
Attest as to the truth and legal sufficiency:  
Patrick G. White  
Patrick G. White  
Assistant County Attorney

By: Fred W. Coyle  
FRED W. COYLE, CHAIRMAN

This ordinance filed with the Secretary of State's Office the 22<sup>nd</sup> day of March, 2005 and acknowledgement of that filing received this 5<sup>th</sup> day of April, 2005

By: Linda A. Houtz  
Deputy Clerk



STATE OF FLORIDA)

COUNTY OF COLLIER)

I, DWIGHT E. BROCK, Clerk of Courts in and for the Twentieth Judicial Circuit, Collier County, Florida, do hereby certify that the foregoing is a true and correct copy of:

ORDINANCE 2005-17

Which was adopted by the Board of County Commissioners on the 23rd day of March 2005, during Regular Session.

WITNESS my hand and the official seal of the Board of County Commissioners of Collier County, Florida, this 28th day of March, 2005.

DWIGHT E. BROCK  
Clerk of Courts and Clerk  
Ex-officio to Board of  
County Commissioners



By: Linda A. Houtzer  
Deputy Clerk

