



ORDINANCE NUMBER 05- 49

AN ORDINANCE AMENDING ORDINANCE NUMBER 04-41, AS AMENDED, THE COLLIER COUNTY LAND DEVELOPMENT CODE, WHICH INCLUDES THE COMPREHENSIVE 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 FOLOWING: CHAPTER TWO – ZONING DISTRICTS AND USES, INCLUDING SECTION 2.03.07 OVERLAY ZONING DISTRICTS, SECTION 2.03.08, RURAL FRINGE ZONING DISTRICTS; SECTION FOUR, CONFLICT AND SEVERABILITY; SECTION FIVE, INCLUSION IN THE COLLIER COUNTY LAND DEVELOPMENT CODE; AND SECTION SIX, EFFECTIVE DATE.

FILED
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CLERK OF COUNTY COMMISSIONERS
COLLIER COUNTY FLORIDA

WHEREAS, On October 30, 1991, the Collier County Board of County Commissioners (Board) adopted Ordinance No. 91-102, the original codification of the Collier County Land Development Code (hereinafter LDC), which has been subsequently re-codified by Ordinance No. 04-41, as amended; and

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

WHEREAS, On March 18, 1997, the Board adopted Resolution No. 97-177, establishing local requirements and procedures for amending the LDC; and

WHEREAS, on July 26, 2005, the Board approved a special cycle for the provisions set forth in this ordinance; and

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

WHEREAS, the Board, in a manner prescribed by law, did hold all required advertised public hearing and did take action concerning these amendments to the LDC; 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 above recitals are true and correct and are hereby incorporated by reference herein.

SECTION TWO: FINDINGS OF FACT

The Board of County Commissioners of Collier County, Florida, hereby make 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 adoption 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. 163.3161 *et seq.* Fla. Stat., and Rule 9J-5, F.A.C.
7. Section 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, and other large aspects of development permitted by such order or regulation are compatible with and further the objectives, policies, land uses, and 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 permitted 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.
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 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; prevent the overcrowding of land and avoid the undue concentration of population; facilitate the adequate and efficient provisions of transportation, water, sewage 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 A: AMENDMENTS TO SECTION 2.03.07 OVERLAY ZONING DISTRICTS

Amend the LDC as follows:

2.03.07 Overlay Zoning Districts

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D. Special Treatment Overlay "ST".

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4. Transfer of Development Rights (TDR).

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c. TDR credits from RFMU sending lands: General Provisions

i. Creation of TDR credits.

a) TDR credits are generated from **RFMU sending lands** at a rate of 1 **TDR credit** per 5 acres of RFMU Sending Land or, for those legal non-conforming **lots or parcels** of less than 5 acres that were in existence as of June 22, 1999, at a rate of 1 **TDR credit** per legal non-conforming **lot or parcel**.

b) For lots and parcels 5 acres or larger, the number of TDR credits generated shall be calculated using the following formula:

$$\# \text{ of acres} \times 0.2 = \# \text{ of TDR credits generated.}$$

Where the number of **TDR credits** thus calculated is a fractional number, the number of **TDR credits** created shall be rounded to the nearest 1/100th.

ii. Creation of TDR Bonus credits. TDR Bonus credits shall only be generated from RFMU sending land property from which TDR credits have been severed. The three types TDR Bonus credits are as follows:

a) Environmental Restoration and Maintenance Bonus credits. Environmental Restoration and Maintenance Bonus credits are generated at a rate of 1 credit for each TDR credit severed from that RFMU sending land for which a Restoration and Management Plan (RMP) has been accepted by the County. In order to be accepted, a RMP shall satisfy the following:

1) The RMP shall include a listed species management plan.

2) The RMP shall comply with the criteria set forth in 3.05.08.A. and B.

3) The RMP shall provide financial assurance, in the form of a performance surety bond or similar financial security, that the RMP shall remain in place and be performed, until the earlier of the following occurs:

a. Viable and sustainable ecological and hydrological functionality has been achieved on the property as measured by the success criteria set forth in the RMP.

b. The property is conveyed to a County, state, or federal agency as provided in b) below.

4) The RMP shall provide for the exotic vegetation removal and maintenance to be performed by an environmental contractor acceptable to the County.

b) Conveyance Bonus credits. Conveyance Bonus credits are generated at a rate of 1 credit for each TDR credit severed from that RFMU sending land that is conveyed in fee simple to a federal, state, or local government agency as a gift. Conveyance Bonus credits shall only be generated from those RFMU sending land properties on which an RMP has been accepted as provided in a) above.

c) Early Entry Bonus credits. Early Entry Bonus credits shall be generated at a rate of 1 additional credit for each TDR credit that is severed from RFMU sending land for the period from March 5, 2005, until three years after the adoption of this regulation. Early Entry Bonus credits shall cease to be generated after the termination of this early entry bonus period. However, Early Entry Bonus credits may continue to be used to increase density in RFMU and non-RFMU Receiving Lands after the termination of the Early Entry Bonus period.

iii. Calculation of TDR Bonus credits.

a) Environmental Restoration and Maintenance Bonus credits are calculated as follows:

TDR credits generated from property x %
property subject to an approved RMP

b) Conveyance Bonus credits are calculated as follows:

TDR credits generated from property x %
property subject to an approved RMP and
conveyed as provided in ii.b) above.

c) Early Entry Bonus credits are calculated as follows:

TDR credits generated within Early Entry
period x 1.

ii. iv Receipt of TDR credits or TDR Bonus credits from RFMU sending lands . TDR credits or TDR Bonus credits from RFMU sending lands may be transferred into Urban Areas, the Urban Residential Fringe, and RFMU receiving lands, as provided in Sections 2.03.07. (4)(d) and (e) below.

iii. v. Prohibition on transfer of fractional TDRS credits and TDR Bonus credits. While fractional TDR credits and TDR Bonus credits may be created, as provided in (ii) above, TDR credits and TDR Bonus credits may only be transferred from RFMU sending lands in increments of whole, not fractional, dwelling units . Consequently, fractional TDR credits and fractional TDR Bonus credits must be aggregated to form whole units, before they can be utilized to increase density in either non-RFMU Receiving Areas or RFMU Receiving lands.

iv. vi. Prohibition on transfer of development rights.

a) Neither TDR credits nor TDR Early Entry Bonus credits shall not be transferred generated from RFMU sending lands where a conservation easement or other similar development restriction prohibits the residential development of such property, with the exception of those TDR Early Entry Bonus credits associated with TDR credits severed from March 5, 2004, until [the effective date of this provision]. Environmental Restoration

and Maintenance Bonus credits and Conveyance Bonus credits may only be generated from those RFMU sending lands where a conservation easement or other similar development restriction on development was imposed in conjunction with the severance of TDR credits.

b) ~~Neither TDR credits nor any TDR Bonus credits shall not be transferred generated~~ from RFMU sending lands that were cleared for agricultural operations after June 19, 2002, for a period of twenty-five (25) years after such clearing occurs.

d. Transfer of development rights from RFMU sending lands to non-~~rfmu~~ RFMU receiving areas.

i. Transfers to urban areas.

* * * * *

b) Development-s which meet the residential infill conditions i) through v) above may increase the base density administratively through a Site development Plan or Plat approval by a maximum of one dwelling unit per acre by transferring that additional density from RFMU district Sending Lands.

ii. Transfers to the urban residential fringe. TDR credits and TDR Bonus credits may be transferred from RFMU sending lands located within one mile of the Urban Boundary into lands designated Urban Residential Fringe ~~at a rate of to increase density by a maximum of~~ 1.0 dwelling units per acre, allowing for a density increase from the existing allowable base density of 1.5 dwelling units per acre to 2.5 dwelling unit per gross acre.

e. Transfers from RFMU sending lands to RFMU receiving lands .

i. Maximum density on RFMU receiving lands when TDR credits are transferred from RFMU sending lands .

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b) The density achievable through the transfer of TDR credits and TDR Bonus credits into RFMU receiving lands shall be as provided for in section 2.03.08 (A)(2)(a)(2)(b)(i) outside of rural villages and sections 2.03.08 ~~(A)(2)(b)(3)(b)~~ and 2.03.08 ~~(A)(2)(b)(3)(c)(i)~~ inside of rural villages .

ii. Remainder uses after TDR credits are ~~transferred severed~~ from RFMU sending lands . Where development rights have been ~~transferred severed~~ from RFMU district Sending Lands, such lands may be retained in private ownership and may be used as set forth in section 2.03.08 A.4.b.

f. Procedures applicable to the severance and transfer of TDR credits and the generation of TDR Bonus credits from RFMU sending lands.

i. General. Those development-s that utilize such TDR credits or TDR Bonus credits are subject to all applicable permitting and approval requirements of this Code, including but not limited to those applicable to site development plans, plat approvals, PUDs, and DRIs.

a) The ~~transfer severance of~~ TDR credits and the generation of Early Entry Bonus credits from RFMU sending lands does not require the further approval of the County if the County determines that information demonstrating compliance with all of the criteria set forth in ii.a) below has been submitted. However, those development-s that utilize such TDR credits and Early Entry Bonus credits are subject to all applicable permitting and approval requirements of this Code, including but not limited to those applicable to site development plans, plat approvals, PUDs, and DRIs.

b) The generation of Environmental Restoration and Maintenance Bonus credits and Conveyance Bonus credits requires acceptance by the County of a RMP.

ii. County-maintained central TDR registry. In order to facilitate the County's monitoring and regulation of the TDR Program, the County shall serve as the central registry of all TDR credit and TDR Bonus credits purchases, sales, and transfers, as well as a central listing of TDR credits and TDR Bonus credits available for sale and purchasers seeking TDR credits or TDR Bonus credits. No TDR credit and TDR Bonus credit generated from RFMU sending lands may be utilized to increase density in any area unless the following procedures are complied with in full.

* * * * *

b) TDR Bonus credits shall not be used to increase density in either non-RFMU receiving areas or RFMU receiving lands until a TDR credit certificate reflecting the TDR Bonus credits is obtained from the County and recorded.

1) Early Entry Bonus credits. All TDR credit certificates issued by the County for the period from the effective date of this provision until three years after such effective date shall include one Early Entry Bonus credit or fractional Early Entry Bonus credit or each TDR credit or fractional TDR credit reflected on the TDR credit certificate. Where TDR credits were severed from March 5, 2004, until the effective date of this provision, the County shall, upon receipt of a copy of the TDR credit certificate reflecting those previously severed TDR credits, issue a TDR credit certificate entitling Early Entry Bonus credits equal in number to the previously severed TDR credits.

2) Environmental Restoration and Maintenance Bonus credit. A TDR certificate reflecting Environmental Restoration and Maintenance Bonus credits shall not be issued until the County has accepted a RMP for the sending lands from which the Environmental Restoration and Maintenance Bonus credit is being generated. Any sending lands from which TDR credits have been severed may also be used for mitigation programs and associated mitigation activities and uses in conjunction with any county, state or federal permitting. Where the Environmental Restoration and Maintenance Credit is applied for sending lands that are also being used (title or easement) for mitigation for permits or approvals from the U. S. Army Corps of Engineers, U. S. Fish and Wildlife Service, Florida Department of Environmental Protection, Florida Fish and Wildlife Conservation Commission, or the South Florida Water Management District, the County shall accept as the RMP for the sending mitigation lands, the restoration and/or maintenance requirements of permits issued by any of the foregoing governmental agencies for said lands.

3) Conveyance Bonus credit. A TDR certificate reflecting Conveyance Bonus credits shall not be issued until the County has accepted a RMP for the Sending Lands from which the Conveyance Bonus credit is being generated and such sending lands have been conveyed, in fee simple, to a County, state, or federal government agency.

b) c) A PUD or DRI utilizing TDR credits or TDR Bonus credits may be conditionally approved, but no subsequent application for site development plan or subdivision plat within the PUD or DRI shall be approved, until the developer submits the following:

i) documentation that the developer has acquired all **TDR credits and TDR Bonus credits** needed for that portion of the **development** that is the subject of the site **development plan or subdivision plat**; and

* * * * *

e) ~~d~~) The developer shall provide documentation of the acquisition of full ownership and control of all **TDR credits and TDR Bonus credits** needed for the **development** and of recordation of the **TDR credit and TDR Bonus credit** Certificates for all such **TDR credits and TDR Bonus credits** prior to the approval of any site **development plan, subdivision plat, or other final local development order**, other than a PUD or DRI.

~~d~~) ~~e~~) Each **TDR credit** shall have an individual and distinct tracking number, which shall be identified on the TDR Certificate that reflects the ~~severance of the TDR credit from RFMU Sending Land~~. The County TDR Registry shall maintain a record of all **TDR credits**, to include a designation of those that have been expended.

f) Each TDR Bonus credit shall have an individual and distinct tracking number, which shall be identified on the TDR Certificate and which shall identify the specific TDR credit associated with the TDR Bonus credit. The County TDR Registry shall maintain a record of all TDR Bonus credits, to include a designation of those that have been expended.

g) The County bears no responsibility to provide notice to any person or entity holding a lien or other security interest in Sending Lands that TDR credits have been severed from the property or that an application for such severance has been filed.

g. Proportional utilization of **TDR credits and TDR Bonus credits**. Upon the issuance of approval of a site **development plan or subdivision plat** that is part of a PUD or DRI, **TDR credits and TDR Bonus credits** shall be deemed to be expended at a rate proportional to percentage of the PUD or DRI's approved gross **density** that is derived through **TDR credits and TDR Bonus credits**. All PUDs and DRIs utilizing **TDR credits and TDR Bonus credits** shall require that the rate of **TDR credit and TDR Bonus credits** consumption be reported through the monitoring provisions of sections 10.02.12 and 10.02.07(C)(1)(b) of this Code.

SECTION THREE B:

2.03.08 Rural Fringe Zoning Districts

A. Rural Fringe Mixed-Use District (RFMU District)

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2. RFMU RECEIVING LANDS.

a. OUTSIDE RURAL VILLAGES

* * * * *

(2) ~~Maximum~~ DENSITY.

* * * * *

(b) Additional DENSITY

i. Additional Density Allowed Through the TDRS Process. Outside of **rural villages**, the maximum **density** achievable in **RFMU Receiving Lands** through the **TDR process credits and TDR Bonus Credits** is one (1) dwelling unit per acre.

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ii. Additional DENSITY Allowed Through Other Density Bonuses. Once ~~the maximum~~ a DENSITY of one (1) unit per acre is achieved through the use of TDRs credits and TDR Bonus credits, additional DENSITY may be achieved as follows:

* * * * *

(3) Allowable Uses

(a) Uses Permitted as of Right. The following uses are permitted as of right, or as **uses accessory to permitted uses**:

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xi. Golf courses or driving ranges, subject to the following standards:

a) The minimum density shall be as follows:

i) For golf course projects ~~utilizing density blending Provisions set forth in the density Rating System of the FLUE~~: one (1) dwelling unit per five (5) gross acres.

ii) For golf course projects not utilizing density blending Provisions set forth in the Density Rating System of the FLUE, including free standing golf courses: ~~the minimum density shall be one (1) dwelling unit per five(5) gross acres, and one additional dwelling unit~~ one TDR credit or TDR Bonus credit shall be required per five (5) gross acres for the land area utilized as part of the golf course, including the clubhouse area, rough, fairways, greens, and lakes, but excluding any area dedicated as conservation, which is non-irrigated and retained in a natural state. ~~The additional required density for such golf course development shall be achieved by acquiring TDRs from Sending Lands. A TDR credit or TDR Bonus credit used to entitle golf course acreage may not also be used to entitle a residential dwelling unit.~~

b) Golf courses shall be designed, constructed, and managed in accordance with the best management practices of Audubon International's Gold Signature Program. The project shall demonstrate that the Principles for Resource Management required by the Gold Signature Program (Site Specific Assessment, Habitat Sensitivity, Native and Naturalized Plants and Natural Landscaping, Water Conservation, Waste Management, Energy Conservation & Renewable Energy Sources, Transportation, Greenspace and Corridors, Agriculture, and BUILDING Design) have been incorporated into the golf course's design and operational procedures.

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xii. ~~Public and private schools, subject to the following criteria:~~ educational plants and ancillary plants.

a) ~~Site area and school size shall be subject to the General EDUCATIONAL FACILITIES Report submitted annually by the Collier County School Board to the Board of County Commissioners.~~

b) ~~The Site must comply with the STATE REQUIREMENTS FOR EDUCATIONAL FACILITIES adopted by the State Board of Education.~~

c) ~~The site shall be subject to all applicable State or Federal regulations.~~

xiii. OIL AND GAS EXPLORATION, subject to applicable state and federal drilling permits and Collier County non-environmental site DEVELOPMENT plan review procedures. Directional-drilling and/or previously cleared or disturbed areas shall be utilized in order to minimize impacts to native habitats, where determined to be practicable. This requirement shall be deemed satisfied upon issuance of a state permit in compliance with the criteria established in Chapter 62C-25 through 62C-30, F.A.C., as those rules existed on _____, 2005 [*the effective date of this provision*], regardless of whether the activity occurs within the Big Cypress Watershed, as defined in Rule 62C-30.001(2), F.A.C. All applicable Collier County ~~oil and gas~~ environmental permitting requirements shall be considered satisfied by evidence of the issuance of all applicable federal and/or state oil and gas permits for proposed oil and gas activities in Collier County, so long as the state permits comply with the requirements of Chapter 62C-25 through 62C-30, F.A.C. For those areas of Collier County outside the boundary of the Big Cypress Watershed, the APPLICANT shall be responsible for convening the Big Cypress Swamp Advisory Committee as set forth in Section 377.42, F.S., to assure compliance with Chapter 62C-25 through 62C-30, F.A.C., even if outside the defined Big Cypress Watershed. All oil and gas access roads shall be constructed and protected from unauthorized uses according to the standards established in Rule 62C-30.005(2)(a)(1) through (12), F.A.C.

xiv. Park, open space, and recreational uses.

xv. Private schools.

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(c) CONDITIONAL USES.

i. Oil and gas field DEVELOPMENT and production, subject to applicable state and federal field DEVELOPMENT permits and Collier County non-environmental site DEVELOPMENT plan review procedures. Directional-drilling and/or previously cleared or disturbed areas shall be utilized in order to minimize impacts to native habitats, where determined to be practicable. This requirement shall be deemed satisfied upon issuance of a state permit in compliance with the criteria established in Chapter 62C-25 through 62C-30, F.A.C., as those rules existed on January 14, 2005, regardless of whether the activity occurs within the Big Cypress Watershed, as defined in Rule 62C-30.001(2), F.A.C. All applicable Collier County environmental permitting requirements shall be considered satisfied by evidence of the issuance of all applicable federal and/or state oil and gas permits for proposed oil and gas activities in Collier County, so long as the state permits comply with the requirements of Chapter 62C-25 through 62C-30, F.A.C. For those areas of Collier County outside the boundary of the Big Cypress Watershed, the APPLICANT shall be responsible for convening the Big Cypress Swamp Advisory Committee as set forth in Section 377.42, F.S., to assure compliance with Chapter 62C-25 through 62C-30, F.A.C., even if outside the defined Big Cypress Watershed. All oil and gas access roads shall be constructed and protected from unauthorized uses according to the standards established in Rule 62C-30.005(2)(a)(1) through (12), F.A.C.

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b. RURAL VILLAGES. RURAL VILLAGES, including RURAL VILLAGES within the NBMO, may be approved within the boundaries of RFMU RECEIVING LANDS, subject to the following:

(1) Allowable Uses:

(a) All permitted uses identified in section 2.03.08-(A),(2),(a),(3)(a), when specifically identified in, and approved as part of, a RURAL VILLAGE PUD.

(b) CONDITIONAL USES 1 through 5, and 7 identified in section 2.03.08-(A),(2),(a),(3)(c), when specifically identified in, and approved as part of a RURAL VILLAGE PUD.

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vii. Civic Uses and Public Parks – Minimum of ~~15%~~ 10% of total rural village acreage.

(2) DENSITY. A RURAL VILLAGE shall have a minimum DENSITY of 2.0 units per gross acre and a maximum DENSITY of 3.0 units per gross acre, except that the minimum DENSITY within a NBMO RURAL VILLAGE shall be 1.5 units per gross acre. Those densities shall be achieved as follows:

(a) No change.

(b) Minimum DENSITY. ~~For each TDR CREDIT for use in a RURAL VILLAGE, one BONUS CREDIT shall be granted, up to the~~ The minimum gross DENSITY of in a Rural Village is 2.0 units per acre outside of the NBMO and 1.5 units per acre within the NBMO.

i. For each TDR credit used to achieve the minimum required density in a Rural Village, one Rural Village Bonus Credit shall be granted. Rural Village Bonus Credits may only be utilized in Rural Villages and shall not be available for use once the minimum required density is achieved.

ii. The minimum density shall be achieved through any combination of TDR Credits, Rural Village Bonus Credits, and TDR Bonus Credits.

(c) Maximum DENSITY. ~~A developer may achieve a~~ The maximum gross DENSITY exceeding the minimum required DENSITY, up to a maximum of allowed in a rural village is 3.0 units per acre. The maximum density shall be achieved through any of the following means, either in combination or individually:

i. TDR CREDITS;

ii. TDR Bonus Credits;

~~ii.~~ iii. An additional density bonus 0.3 units per acre for the additional preservation of native vegetation as set forth in Chapter 4;

~~iii.~~ iv. An additional density bonus of 0.3 units per acre for additional wetlands mitigation as set forth in Chapter 4; and/or

~~iv.~~ v. An additional density bonus of 0.5 units per acre for each Affordable or workforce housing unit.

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(4) Other Design Standards

(a) Transportation System Design.

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ii. Each RURAL VILLAGE shall be served by a primary binary road system that is accessible by the public. Neighborhood

Circulator, Local Residential Access and Residential Loop roads ~~may and no roads shall not~~ be gated. The primary roads system within the RURAL VILLAGE shall consist of Rural Major Collectors at a minimum and be designed to meet County standards and shall be dedicated to the public.

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xv. Required vehicular parking and loading amounts and design criteria:

a) The amount of required parking shall be demonstrated through a shared parking analysis submitted ~~with the SRA designation application~~ as part of the rural village PUD. Parking shall be determined utilizing the modal splits and parking demands for various uses recognized by the ITE, ULI or other sources or studies. The analysis shall demonstrate the number of parking spaces available to more than one use or function, recognizing the required parking will vary depending on the multiple functions or uses in close proximity which are unlikely to require the spaces at the same time.

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(6) GREENBELT. Except within the NBMO RURAL VILLAGE, a GREENBELT averaging a minimum of ~~500~~ 300 feet in width, but not less than ~~300~~ 200 feet in width at any location, shall be required at the perimeter of the RURAL VILLAGE. The GREENBELT is required to ensure a permanently undeveloped edge surrounding the RURAL VILLAGE, thereby discouraging sprawl. GREENBELTS shall conform to the following:

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(7) OPEN SPACE: Within the RURAL VILLAGE, a minimum of ~~70%~~ 40% of OPEN SPACE shall be provided, inclusive of the GREENBELT.

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3. NEUTRAL LANDS. Neutral lands have been identified for limited semi-rural residential development. Available data indicates that neutral lands have a higher ratio of native vegetation, and thus higher habitat values, than lands designated as RFMU receiving lands, but these values do not approach those of RFMU sending lands. Therefore, these lands are appropriate for limited development, if such development is directed away from existing native vegetation and habitat. Within neutral lands, the following standards shall apply:

a. ALLOWABLE USES. The following uses are permitted as of right:

(1) Uses Permitted as of Right.

* * * * *

(k) Golf courses or driving ranges, subject to the following standards:

i. Golf courses shall be designed, constructed, and managed in accordance with the best management practices of Audubon International's Gold Signature Program. The project shall demonstrate that the Principles for Resource Management required by the Gold Signature Program (Site Specific Assessment, Habitat Sensitivity, Native and Naturalized Plants and Natural Landscaping, Water Conservation, Waste Management, Energy Conservation & Renewable Energy Sources, Transportation, Greenspace and Corridors, Agriculture, and Building Design) have been incorporated into the golf course's design and operational procedures.

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~~(l) Public and private schools, subject to the following criteria: educational plants and ancillary plants.~~

~~i. Site area and school size shall be subject to the General EDUCATIONAL FACILITIES Report submitted annually by the Collier County School Board to the Board of County Commissioners.~~

~~ii. The Site must comply with the STATE REQUIREMENTS FOR EDUCATIONAL FACILITIES adopted by the State Board of Education.~~

~~iii. The site shall be subject to all applicable State or Federal regulations.~~

(m) OIL AND GAS EXPLORATION, subject to applicable state and federal drilling permits and Collier County non-environmental site DEVELOPMENT plan review procedures. Directional-drilling and/or previously cleared or disturbed areas shall be utilized in order to minimize impacts to native habitats, where determined to be practicable. This requirement shall be deemed satisfied upon issuance of a state permit in compliance with the criteria established in Chapter 62C-25 through 62C-30, F.A.C., as those rules existed on _____, 2005 [effective date of this provision] regardless of whether the activity occurs within the Big Cypress Watershed, as defined in Rule 62C-30.001(2), F.A.C. All applicable Collier County environmental permitting requirements shall be considered satisfied by evidence of the issuance of all applicable federal and/or state oil and gas permits for proposed oil and gas activities in Collier County, so long as the state permits comply with the requirements of Chapter 62C-25 through 62C-30, F.A.C. For those areas of Collier County outside the boundary of the Big Cypress Watershed, the APPLICANT shall be responsible for convening the Big Cypress Swamp Advisory Committee as set forth in Section 377.42, F.S., to assure compliance with Chapter 62C-25 through 62C-30, F.A.C., even if outside the defined Big Cypress Watershed. All oil and gas access roads shall be constructed and protected from unauthorized uses according to the standards established in Rule 62C-30.005(2)(a)(1) through (12), F.A.C.

n. Park, open space, and recreational uses.

o. Private schools.

(2) No change.

(3) CONDITIONAL USES. The following uses are permissible as **conditional uses** subject to the standards and procedures established in Section 10.08.00.

* * * * *

(c) Multi-family residential structures, subject to the following development standards:

(i) Building height limitation: 2 stories

(ii) Buffer: 10 foot wide landscape buffer with trees spaced no more than 30 feet on center;

(iii) Setbacks: 50% of the height of the building, but not less than 15 feet

(d) (e) Those essential services identified in sections 2.01.03 (G)(1) and (G)(3).

(e) (f) Oil and gas field DEVELOPMENT and production, subject to applicable state and federal field DEVELOPMENT permits and Collier County non-environmental site DEVELOPMENT plan review

procedures. Directional-drilling and/or previously cleared or disturbed areas shall be utilized in order to minimize impacts to native habitats, where determined to be practicable. This requirement shall be deemed satisfied upon issuance of a state permit in compliance with the criteria established in Chapter 62C-25 through 62C-30, F.A.C., as those rules existed on January 14, 2005, regardless of whether the activity occurs within the Big Cypress Watershed, as defined in Rule 62C-30.001(2), F.A.C. All applicable Collier County environmental permitting requirements shall be considered satisfied by evidence of the issuance of all applicable federal and/or state oil and gas permits for proposed oil and gas activities in Collier County, so long as the state permits comply with the requirements of Chapter 62C-25 through 62C-30, F.A.C. For those areas of Collier County outside the boundary of the Big Cypress Watershed, the APPLICANT shall be responsible for convening the Big Cypress Swamp Advisory Committee as set forth in Section 377.42, F.S., to assure compliance with Chapter 62C-25 through 62C-30, F.A.C., even if outside the defined Big Cypress Watershed. All oil and gas access roads shall be constructed and protected from unauthorized uses according to the standards established in Rule 62C-30.005(2)(a)(1) through (12), F.A.C.

- (f) (g) Earth mining and extraction and related processing.
- (g) (h) Facilities for the collection, transfer, processing, and reduction of solid waste.

* * * * *

4. RFMU SENDING LANDS. No change.

a. ALLOWABLE USES WHERE TDR CREDITS HAVE NOT BEEN SEVERED

(1) Uses Permitted as of Right

* * * * *

(g) OIL AND GAS EXPLORATION, subject to applicable state and federal drilling permits and Collier County non-environmental site DEVELOPMENT plan review procedures. Directional-drilling and/or previously cleared or disturbed areas shall be utilized in order to minimize impacts to native habitats, where determined to be practicable. This requirement shall be deemed satisfied upon issuance of a state permit in compliance with the criteria established in Chapter 62C-25 through 62C-30, F.A.C., as such rules existed on 2005 [the effective date of this provision], regardless of whether the activity occurs within the Big Cypress Watershed, as defined in Rule 62C-30.001(2), F.A.C. All applicable Collier County environmental permitting requirements shall be considered satisfied by evidence of the issuance of all applicable federal and/or state oil and gas permits for proposed oil and gas activities in Collier County, so long as the state permits comply with the requirements of Chapter 62C-25 through 62C-30, F.A.C. For those areas of Collier County outside the boundary of the Big Cypress Watershed, the APPLICANT shall be responsible for convening the Big Cypress Swamp Advisory Committee as set forth in Section 377.42, F.S., to assure compliance with Chapter 62C-25 through 62C-30, F.A.C., even if outside the defined Big Cypress Watershed. All oil and gas access roads shall be constructed and protected from unauthorized uses according to the standards established in Rule 62C-30.005(2)(a)(1) through (12), F.A.C.

* * * * *

(3) CONDITIONAL USES.

* * * * *

(c) Oil and gas field DEVELOPMENT and production, subject to applicable state and federal field DEVELOPMENT permits and Collier County non-environmental site DEVELOPMENT plan review procedures. Directional-drilling and/or previously cleared or disturbed areas shall be utilized in order to minimize impacts to native habitats, where determined to be practicable. This requirement shall be deemed satisfied upon issuance of a state permit in compliance with the criteria established in Chapter 62C-25 through 62C-30, F.A.C., as those rules existed on _____, 2005 [the effective date of this provision], regardless of whether the activity occurs within the Big Cypress Watershed, as defined in Rule 62C-30.001(2), F.A.C. All applicable Collier County environmental permitting requirements shall be considered satisfied by evidence of the issuance of all applicable federal and/or state oil and gas permits for proposed oil and gas activities in Collier County, so long as the state permits comply with the requirements of Chapter 62C-25 through 62C-30, F.A.C. For those areas of Collier County outside the boundary of the Big Cypress Watershed, the APPLICANT shall be responsible for convening the Big Cypress Swamp Advisory Committee as set forth in Section 377.42, F.S., to assure compliance with Chapter 62C-25 through 62C-30, F.A.C., even if outside the defined Big Cypress Watershed. All oil and gas access roads shall be constructed and protected from unauthorized uses according to the standards established in Rule 62C-30.005(2)(a)(1) through (12), F.A.C.

* * * * *

b. USES ALLOWED WHERE TDR CREDITS HAVE BEEN SEVERED

(1) Uses Permitted as of Right

* * * * *

(h) OIL AND GAS EXPLORATION, subject to applicable state and federal drilling permits and Collier County non-environmental site DEVELOPMENT plan review procedures. Directional-drilling and/or previously cleared or disturbed areas shall be utilized in order to minimize impacts to native habitats, where determined to be practicable. This requirement shall be deemed satisfied upon issuance of a state permit in compliance with the criteria established in Chapter 62C-25 through 62C-30, F.A.C., as those rules existed on _____, 2005 [the effective date of this provision], regardless of whether the activity occurs within the Big Cypress Watershed, as defined in Rule 62C-30.001(2), F.A.C. All applicable Collier County environmental permitting requirements shall be considered satisfied by evidence of the issuance of all applicable federal and/or state oil and gas permits for proposed oil and gas activities in Collier County, so long as the state permits comply with the requirements of Chapter 62C-25 through 62C-30, F.A.C. For those areas of Collier County outside the boundary of the Big Cypress Watershed, the APPLICANT shall be responsible for convening the Big Cypress Swamp Advisory Committee as set forth in Section 377.42, F.S., to assure compliance with Chapter 62C-25 through 62C-30, F.A.C., even if outside the defined Big Cypress Watershed. All oil and gas access roads shall be constructed and protected from unauthorized uses according to the standards established in Rule 62C-30.005(2)(a)(1) through (12), F.A.C.

(i) Mitigation in conjunction with any County, state, or federal permitting.

(2) CONDITIONAL USES

* * * * *

(b) Oil and gas field DEVELOPMENT and production, subject to applicable state and federal field DEVELOPMENT permits and

Collier County non-environmental site DEVELOPMENT plan review procedures. Directional-drilling and/or previously cleared or disturbed areas shall be utilized in order to minimize impacts to native habitats, where determined to be practicable. This requirement shall be deemed satisfied upon issuance of a state permit in compliance with the criteria established in Chapter 62C-25 through 62C-30, F.A.C., as those rules existed on _____, 2005 [the effective date of this provision], regardless of whether the activity occurs within the Big Cypress Watershed, as defined in Rule 62C-30.001(2), F.A.C. All applicable Collier County environmental permitting requirements shall be considered satisfied by evidence of the issuance of all applicable federal and/or state oil and gas permits for proposed oil and gas activities in Collier County, so long as the state permits comply with the requirements of Chapter 62C-25 through 62C-30, F.A.C. For those areas of Collier County outside the boundary of the Big Cypress Watershed, the APPLICANT shall be responsible for convening the Big Cypress Swamp Advisory Committee as set forth in Section 377.42, F.S., to assure compliance with Chapter 62C-25 through 62C-30, F.A.C., even if outside the defined Big Cypress Watershed. All oil and gas access roads shall be constructed and protected from unauthorized uses according to the standards established in Rule 62C-30.005(2)(a)(1) through (12), F.A.C.

* * * * *

C. NORTH BELLE MEADE OVERLAY DISTRICT (NBMO)

* * * * *

5. ADDITIONAL SPECIFIC AREA PROVISIONS

a. RECEIVING LANDS

(1) DENSITY.

* * * * *

(b) This density may be increased, through **TDR credits and TDR Bonus Credits**, up to a maximum of 1 dwelling unit per gross acre.

(c) Once a DENSITY of 1 dwelling unit per gross acre is achieved through TDR CREDITS and **TDR Bonus Credits**, additional **density** may be achieved as follows:

* * * * *

(2) The earth mining operation and asphalt plant uses that currently exist within NBMO Receiving Lands may continue and may expand as follows:

(a) Until June 19, ~~2004~~ 2005, or such other date as the GMP is amended to provide, such uses may expand only into the western half of Section 21 and shall not generate truck traffic beyond average historic levels.

(b) Such mining operations and an asphalt plant may expand on Sections 21 and 28 and the western quarters of 22 and 27 as a permitted use if either of the following occurs by June 19, ~~2004~~ 2005, or such other date as the GMP is amended to provide:

- i. No change.
- ii. the mine operator commits to construct a private haul road by June 19, ~~2006~~ 2007, or such other date as the GMP is amended to provide, without the use of any public funds.

* * * * *

(3) A GREENBELT is not required for any DEVELOPMENT in NBMO Receiving Lands, whether inside or outside of a RURAL VILLAGE. However, any greenbelt that is provided in a NBMO rural village shall be included in the calculation of open space.

Words ~~struck through~~ are deleted; words underlined are added.

(4) NBMO Rural Village. No change.

(a) Density. No change.

i. The minimum required **density** shall be achieved through **TDR credits, TDR Bonus Credits, and Rural Village Bonus credits**, as provided in section 2.03.08 ~~(A), (2), (b), (3)(C)~~.

ii. Once the minimum required **density** is achieved, additional DENSITY may be achieved, up to the maximum of three (3) **dwelling units** per gross acre through any one or combination of the following:

a) TDR Credits;

b) TDR Bonus Credits:

- ~~b) c)~~ 0.3 dwelling unit per acre for each acre of native vegetation preserved on-site;
- ~~e) d)~~ 0.3 dwelling unit per acre for each acre of wetlands having a functionality value, as assessed using the South Florida Water Management District's Unified wetlands Mitigation Assessment Method, of 0.65 or greater that are preserved on-site; and/or
- ~~d) e)~~ 0.3 dwelling unit per acre for each acre of NBMO Sending Land that is within either a NRPA or a buffer area adjoining a NRPA that is dedicated to a public or private entity for conservation use.

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 or 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," "Chapter," or any other appropriate word.

SECTION SIX: EFFECTIVE DATE

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

PASSED AND DULY ADOPTED by majority vote of the Board of County Commissioners of Collier County, Florida, this 27th day of September 2005.

ATTEST:
DWIGHT E. BROCK, Clerk

Michelle Morales

Attest as to ~~Chairman's~~
signature only.

Approved as to form and
legal sufficiency.

Patrick G. White

Patrick G. White
Assistant County Attorney

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

BY: *Fred W. Coyle*
FRED W. COYLE, CHAIRMAN

This Ordinance filed with the
Secretary of State's Office the
3 day of Oct, 2005
and acknowledgement of that
filing received this 11 day
of October 2005
By *Michelle Morales*
Deputy Clerk

STATE OF FLORIDA)

COUNTY OF COLLIER)

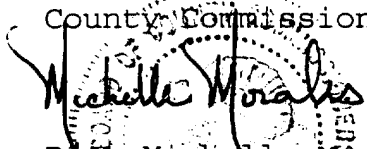
I, DWIGHT E. BROCK, Clerk of Courts in and for the Twentieth Judicial Circuit, Collier County, Florida, do hereby certify that the foregoing is a true copy of:

ORDINANCE NO. 2005-49

Which was adopted by the Board of County Commissioners on the 27th day of September, 2005, during Regular Session.

WITNESS my hand and the official seal of the Board of County Commissioners of Collier County, Florida, this 29th day Of September, 2005.

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


By: Michelle Morales,
Deputy Clerk

