



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 2 - ZONING DISTRICTS AND USES, INCLUDING, SECTION 2.06.03 AHDB RATING SYSTEM; SECTION FOUR, CONFLICT AND SEVERABILITY; SECTION FIVE, INCLUSION IN THE COLLIER COUNTY LAND DEVELOPMENT CODE; AND SECTION SIX, EFFECTIVE DATE.

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WHEREAS, the Collier County Board of County Commissioners (Board) on June 22, 2004, adopted Ordinance No. 04-41, which repealed and superseded Ordinance No. 91-102, as amended, the Collier County Land Development Code, which had an effective date of October 18, 2004; and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, 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 Commissioners pursuant to Section 10.02.09 A. of the LDC; and

WHEREAS, this is the second amendment cycle to the LDC for the calendar year 2005; 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 Board of County Commissioners, in a manner prescribed by law, did hold advertised public hearings on February 8, February 28, 2006 and March 28, 2006 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 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 (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 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. Section 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.

4. Section 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 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), 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 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 superseded 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; 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 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 2.06.03 AHDB Rating System

Section 2.06.03 AHDB Rating System, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

2.06.03 AHDB Rating System

* * * * *

**Table A. Affordable-Workforce-Gap Housing Density Bonus
(Additional Available Dwelling Units Per Gross Acre)**

Maximum Allowable Density Bonus by Percent of Development Designated as Affordable-Workforce-Gap Housing											
<u>Product</u>	<u>Household Income (% median)</u>	10%	20%	30%	40%	50%	60%	70%	80%	90%	100%
<u>Gap</u>	<u>81-150% MI</u> * **	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>6</u>	<u>6</u>	<u>6</u>	<u>n/a</u>
<u>Workforce Income Level</u>	<u>61-80% MI</u> *	<u>4</u> <u>2</u>	<u>2</u> <u>3</u>	<u>3</u> <u>5</u>	<u>4</u> <u>8</u>	<u>5</u> <u>8</u>	<u>6</u> <u>8</u>	<u>7</u> <u>8</u>	8	8	8
<u>Low</u>	<u>51-60% MI</u>	<u>2</u> <u>3</u>	<u>3</u> <u>4</u>	<u>4</u> <u>6</u>	<u>5</u> <u>8</u>	<u>6</u> <u>8</u>	7 8	8	8	8	8
<u>Very Low</u>	<u>50% or less MI</u>	<u>3</u> <u>4</u>	<u>4</u> <u>5</u>	<u>5</u> <u>7</u>	<u>6</u> <u>8</u>	<u>7</u> <u>8</u>	8	8	8	8	8

*Owner-occupied only

**May only be used in conjunction with at least 10% at or below 80%MI

Total Allowable Density = Base Density + Affordable-Workforce-Gap Housing Density Bonus
In no event shall the maximum gross density allowed exceed 16 units per acre

* * * * *

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 Section 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 Department of State.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida, this 28th day of March, 2006.

ATTEST:
DWIGHT E. BROCK, CLERK

BOARD OF COUNTY COMMISSIONERS
OF COLLIER COUNTY, FLORIDA

By: *Chris J. Jorgensen, O.C.*
Deputy Clerk

By: *[Signature]*
FRANK HALAS, CHAIRMAN

Attest as to Chairman's
signature on)

Approved as to form and
legal sufficiency:

Marjorie M. Student-Stirling
Marjorie Student-Stirling
Assistant County Attorney

This ordinance filed with the
Secretary of State's Office the
3rd day of April, 2006
and acknowledgement of that
filing received this 10th day
of April, 2006
By: *Chris J. Jorgensen, O.C.*
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 2006-14

Which was adopted by the Board of County Commissioners on the 28th day of March, 2006, during Regular Session.

WITNESS my hand and the official seal of the Board of County Commissioners of Collier County, Florida, this 29th day of March, 2006.

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

Ann Jennejohn, O.C.

By: Ann Jennejohn,
Deputy Clerk