

ORDINANCE NO. 08-08

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 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 1 - GENERAL PROVISIONS, INCLUDING SECTION 1.08.02 DEFINITIONS; CHAPTER 2 - ZONING DISTRICTS AND USES, INCLUDING SECTION 2.03.07 OVERLAY ZONING DISTRICTS, SECTION 2.03.08 RURAL FRINGE ZONING DISTRICTS; CHAPTER 3 - RESOURCE PROTECTION, INCLUDING SECTION 3.02.03 APPLICABILITY, SECTION 3.02.05 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, SECTION 3.05.07 PRESERVATION STANDARDS; CHAPTER 4 - INCLUDING, SECTION 4.02.15 SAME - DEVELOPMENT STANDARDS IN THE SBCO DISTRICT; CHAPTER 5 - SUPPLEMENTAL STANDARDS, INCLUDING SECTION 5.06.02 PERMITTED SIGNS, SECTION 5.06.04 SIGN STANDARDS FOR SPECIFIC SITUATIONS, SECTION 5.06.05 SIGNS EXEMPT FROM THESE REGULATIONS, SECTION 5.06.06 PROHIBITED SIGNS; CHAPTER 6 - INFRASTRUCTURE IMPROVEMENTS AND ADEQUATE PUBLIC FACILITIES REQUIREMENTS INCLUDING, SECTION 6.02.01 GENERALLY, SECTION 6.02.04 DRAINAGE FACILITY LEVEL OF SERVICE REQUIREMENTS, SECTION 6.06.01 STREET SYSTEM REQUIREMENTS; CHAPTER 10 - APPLICATION, REVIEW, AND DECISION-MAKING PROCEDURES INCLUDING, SECTION 10.02.03 SUBMITTAL REQUIREMENTS FOR SITE DEVELOPMENT PLANS, SECTION 10.02.08 SUBMITTAL REQUIREMENTS FOR AMENDMENTS TO THE OFFICIAL ZONING AND LDC, SECTION 10.02.13 PLANNED UNIT DEVELOPMENT PROCEDURES; SECTION FOUR, CONFLICT AND SEVERABILITY; SECTION FIVE, PUBLICATION AS THE COLLIER COUNTY LAND DEVELOPMENT CODE; AND SECTION SIX, EFFECTIVE DATE.

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DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

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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WHEREAS, the Collier County Board of County Commissioners (Board) on June 22, 2004, adopted Ordinance No. 04-41, which repealed and superseded Ordinance No. 91-102, as amended, the Collier County Land Development Code, which had an effective date of October 18, 2004; and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 to the LDC for the calendar year 2007; 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 an advertised public hearing on January 16, 2008 and February 5, 2008 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 Section 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 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 1.08.02 DEFINITIONS

Section 1.08.02 Definitions, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

1.08.02 Definitions

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Development order: Any order, permit, determination, or action granting, denying, or granting with conditions an application for any final local development order, building permit, temporary use permit, temporary construction and development permit, sign permit, well permit, spot survey, electrical permit, plumbing permit, occupational license, boat dock permit, HVAC permit, septic tank permit, right-of-way permit, blasting permit, excavation permit, construction approval for infrastructure (including water, sewer, grading, and paving), approved development of regional impact (DRI), zoning ordinance amendment, comprehensive plan amendment, flood variance, coastal construction control line variance, vegetation removal permits, agricultural clearing permits, site development plan approval, subdivision approval (including plats, plans, variances, and amendments), rezoning, PUD amendment, conditional use (provisional use), variance, stewardship receiving area (SRA), or any other official action of Collier County having the effect of permitting development as defined in this Code.

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TDR credit: A unit representing the right to increase the density or intensity of development on a parcel, obtained through a Transfer of Development Rights. [§ 2.03.07 D.4]

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Redemption: Utilization of Rural Fringe Mixed-Use District (RFMUD) Transfer of Development Rights (TDR) credit for development purposes.

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SUBSECTION 3.B. AMENDMENTS TO SECTION 2.03.07 OVERLAY ZONING DISTRICTS

Section 2.03.07 Overlay Zoning Districts, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read 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

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- 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 redeemed ~~transferred~~ into Urban Areas, the Urban Residential Fringe, and RFMU receiving lands, as provided in ~~Sections 2.03.07.(4)(d) and (e)~~ subsections 2.03.07 4.d and e below.
- v. Prohibition on redemption transfer of fractional TDR 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 redeemed ~~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.
- vi. Prohibition on severance ~~transfer~~ of development rights.
 - a) Neither TDR credits nor TDR Early Entry Bonus credits shall be 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 be 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. Redemption ~~Transfer of TDRs development rights from RFMU sending lands into non-rfm receiving areas~~ RFMU receiving areas.

i. Redemption Transfers ~~into~~ urban areas.

- a) Maximum **density** increase. In order to encourage residential in-fill in urban areas of existing **development** outside of the Coastal High Hazard Area, a maximum of 3 residential **dwelling units** per gross acre may be requested through a rezone petition for projects qualifying under this residential infill provisions of the Future Land Use Element **density** Rating System, subject to the applicable provisions of Chapters 2 and 9 of this Code, and the following conditions:
 - i) The project is 20 acres or less in size;
 - ii) At time of **development**, the project will be served by central public water and sewer;
 - ii) The property in question has no common site **development** plan in common with **adjacent** property;
 - iv) There is no common ownership with any **adjacent parcels**; and
 - v) The **parcel** in question was not created to take advantage of the in-fill **residential density** bonus and was created prior to the adoption of this provision in the Growth Management Plan on January 10, 1989.
 - vi) Of the maximum 3 additional units, one (1) dwelling unit per acre shall be derived transferred from RFMU sending lands and redeemed at Site Plan or prior to Plat recordation.
- b) **Developments** 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 redeeming transferring that additional density derived from RFMU district Sending Lands.
- ii. Redemptions Transfers ~~into the urban residential fringe.~~ Urban Residential Fringe shall be permitted exclusively through the use of TDR credits and TDR Bonus credits derived ~~may be transferred from RFMU sending lands located within one mile of the Urban Boundary into lands designated Urban Residential Fringe 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 a maximum of 2.5 dwelling units per gross acre.
- e. Redemption Transfers ~~from RFMU sending lands~~ into RFMU receiving lands.
 - i. Maximum **density** on RFMU receiving lands when TDR **credits** are redeemed ~~transferred from RFMU sending lands.~~
 - a) The base **residential density** allowable shall be as provided in sections 2.03.08 A.2.a.(2)(a) and 2.03.08 A.2.b.(3)(a).
 - b) The density achievable through the redemption 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 severed from RFMU sending lands. Where development rights have been 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 redemption transfer of TDR credits and the generation of **TDR Bonus credits** from **RFMU sending lands**.
- i. General. Those developments 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 severance of TDR credits and the generation of Early Entry **Bonus credits** from RFMU sending lands does not require 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 developments 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 for of all **TDR severances, transfers (sales) and redemptions credit and TDR Bonus credits purchases, sales, and transfers**, as well as maintain a public central listing of TDR credits and TDR Bonus credits available for sale and along with a listing of 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.
 - a) **TDR credits** shall not be used to increase density in either non-RFMU Receiving Areas or **RFMU receiving lands** until severed from **RFMU sending lands**. **TDR credits** shall be deemed to be severed from **RFMU sending lands** at such time as a **TDR credit** Certificate is obtained from the County and recorded. **TDR credit** Certificates shall be issued only by the County and upon submission of the following:
 - i) a legal description of the property from which the RFMU **TDR credits** originated, including the total acreage;
 - ii) a title search, or other evidence sufficient to establish that, prior to the severance of the **TDR credits** from **RFMU sending lands**,

such sending lands were not subject to a conservation restriction or any other **development** restriction that prohibited residential **development**;

- iii) an executed Limitation of Development Rights Agreement legal instrument, prepared in accord with the form provided by the County, that limits the allowable uses on the property after the severance of **TDR credits** as set forth in section 2.03.08 A.4.b.; and
 - iv) a statement identifying the price, or value of other remuneration, paid to the owner of the **RFMU sending lands** from which the **TDR credits** were generated and that the value of any such remuneration is at least \$25,000 per **TDR credit**, unless such owner retains ownership of the **TDR credits** after they are severed, unless the RFMU or non-**RFMU receiving lands** on which the **TDR credits** will be redeemed utilized and the **RFMU sending lands** from which the **TDR credits** were generated are owned by the same persons or entities or affiliated persons or entities; and
 - v) a statement attesting that the **TDR credits** are not being severed from **RFMU sending lands** in violation of subsection 2.03.07(D)(4)(e)(iv)(b) D.4.c.vi.b) of this the Code.
 - vi) documented evidence that, if the property from which TDRs are being severed is subject to a mortgage, lien, or any other security interest; the mortgagee, lien holder, or holder of the security interest has consented to the recordation of the Limitation of Development Rights Agreement conservation easement required for TDR severance; transfer (sale) of TDR credit; and redemption of TDR credit.
- 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.
- 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 phase portion of the development that is the subject of the site **development** plan or **subdivision** plat; and
 - ii) ~~a TDR transaction fee sufficient to defray the expenses of the County in administering the Central TDR Registry.~~
 - d) The developer shall provide documentation of the acquisition of full ownership and control of all **TDR credits** needed for the **development** and ~~of recordation of the TDR credit certificates for all such TDR credits~~ prior to the approval of any site **development** plan, **subdivision** plat, or other final local **development** order, other than a PUD or DRI.
 - e) Each **TDR credit** shall have an individual and distinct tracking number, which shall be identified on the TDR certificate that reflects the **TDR credit**.

The county TDR Activity Log registry shall maintain an ongoing record of all TDR credits, to include database designation that categorizes all TDR credits ~~these relative to that have been~~ severance, transfer (sale) and redemption activity expended.

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

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E. Historical and Archaeological Sites "H". It is the intent of these regulations to recognize the importance and significance of the County's historical and archaeological heritage. To that end, it is the county's intent to protect, preserve, and perpetuate the County's historic and archaeological sites, districts, **structures, buildings**, and properties. Further, the BCC, finds that these regulations are necessary to protect the public interest, to halt illicit digging or excavation activities which could result in the destruction of prehistoric and historic archaeological sites, and to regulate the use of land in a manner which affords the maximum protection to historical and archaeological sites, districts, **structures, buildings**, and properties consistent with individual property rights. It is not the intent of this LDC to deny anyone the use of his property, but rather to regulate the use of such property in a manner which will ensure, to the greatest degree possible, that historic and archaeological sites, districts, **structures, buildings**, and properties are protected from damage, destruction, relocations, or exportations.

1. Areas for consideration for inclusion in areas of historical/archaeological probability shall have one (1) or more of the following characteristics:

- 4 a. The area is associated with distinctive elements of the cultural, social, ethnic, political, economic, scientific, religious, prehistoric, or architectural history that have contributed to the pattern of history in the community, the County, the State of Florida, or the nation; or
- 2 b. The area is associated with the lives of persons significant in history; or
- 3 c. The area embodies the distinctive characteristics of a type, period, method, or materials of construction that possess high artistic value, quality of design craftsmanship, or that represent an individual architect or builder's prominence or contribution to the **development** of the County, the State of Florida, or the nation; or
- 4 d. The area ~~was~~ the location of historic or prehistoric activities

including, but not limited to, habitation, religious, ceremonial, burial, or fortification during a particular period of time, which may maintain a sufficient degree of environmental integrity to reflect a significant aspect of the relationship of the site's original occupants to the environment; or

- 5 e. The area is historic or prehistoric site which has been severely disturbed but which may still allow useful and representative data to be recovered; or
- 6 f. The area has yielded or is likely to yield information on local history or prehistory; or
- 7 g. The area derives its primary significance from architectural or artistic distinction of historical importance; or
- 8 h. The area is the birthplace or grave of historical figure or is a cemetery which derives its primary significance from graves of persons of importance, from age, from distinctive design features, or from association with historic events; or
- 9 i. The area is the site of a **building** or **structure** removed from its original location which is significant for its architectural value, or is the sole surviving **structure** associated with historic period, person, or event; or
- 10 j. The area is a property primarily commemorative in intent, where design, age, tradition, or symbolic value has invested it with its own historical significance; or
- 11 k. The area is an area containing known archaeological sites that have not been assessed for significance but are likely to conform to the criteria for historical/archaeological significance or areas where there is a high likelihood that unrecorded sites of potential historical/archaeological significance are present based on prehistoric settlement patterns and existing topographic features; or
- 12 l. The area is included in the National Register of Historic Places.

2. Applicability during **development** review process; county projects; agriculture; waiver request.

- a. Applicability. Applications for a specific **development order** as described in subsection[s] 203.07 E.2.b through deemed adequate for review which have been submitted prior to the adoption of this section are not required to meet the provisions outlined in the applicable subsection. However, subsequent applications for **development orders** as described in subsection[s] 2.03.07 E.2.b. through k. shall comply with the requirements of the applicable subsection. Subsections 2.03.07 E.2.b. through k. shall become effective upon the adoption, by resolution, of the map of areas of historical/archaeological probability by the board of county commissioners.
- b. Development of regional impact (DRI). The application for development approval (ADA) for the proposed DRI shall include correspondence from the applicant to the Florida department of state, division of historic resources, indicating that the DRI is in Collier County's designated area of historical archaeological probability. The ADA shall also include an historical archaeological survey and assessment, if required by the division of historic resources. The survey and assessment is subject to review by the County Manager or designee, and recommendations shall be presented to the Collier County planning commission and the board of county

commissioners for consideration for incorporation into the local development order. The recommendations shall also be provided to the preservation board. The preservation board shall be provided the opportunity to present its recommendations to the planning commission and board of county commissioners at their public hearings.

c. *Requests for land use change.* Property under consideration for a rezone or **conditional use** which is within an area of historical/archaeological probability shall have an historical/archaeological survey and assessment prepared by a certified archaeologist to be submitted by the applicant with the land use change request application and is subject to review by the County Manager or designee. The County Manager or designee's recommendations derived from the review of a survey and assessment submitted by the applicant shall be presented to the Collier County planning commission and the board of county commissioners for consideration for incorporation into the local development order. The recommendations shall also be provided to the preservation board. The preservation board shall be provided the opportunity to present its recommendations to the planning commission and board of county commissioners at their public hearings.

d. **Building permits.** Building permits issued for new structures on property located within an area of historical/archaeological probability shall be accompanied by a notice that indicates the property is within the area of historical/ archaeological probability. The notice shall describe the potential for historical and archaeological sites, **structures**, artifacts, or **buildings**, and shall encourage the preservation of such sites, provide reference to applicable state and local laws, and provide reference regarding whom to contact in the event an historical/archaeological site, **structure**, artifact or **building** is discovered.

e. *Preliminary subdivision plat.* Submittal for a preliminary subdivision plat within an area of historical/archaeological probability but not subject to subsections b through c shall include a historical/archaeological survey and assessment prepared by a certified archaeologist. The preservation board shall review the recommendations derived from the survey and assessment and submit their recommendations to the Collier County Board of County Commissioners for consideration for incorporation into the local **development order**.

f. *Final subdivision plat or site development plan (SDP).* Submittal for a final subdivision plat, including construction documents or site development plan (SDP) within an area of historical/archaeological probability but not subject to subsections b, c, or e of this section shall include a historical/archaeological survey and assessment prepared by a certified archaeologist. The preservation board shall review the recommendations derived from the survey and assessment which shall be incorporated into the final subdivision plat and construction document.

g. *Reserved.*

h. *County projects.* County-sponsored projects, which are located within an area of historical/archaeological probability shall have an historical/archaeological survey and assessment prepared by a certified archaeologist. The county shall comply with all recommendations outlined in

the historical/archaeological survey and assessment. A copy of the historical/ archaeological survey and assessment shall be provided to the preservation board members.

i. Agricultural lands. Owners of agricultural land within an area of historical/ archaeological probability filing a notice of commencement application for active agricultural production shall be notified in writing by development services staff that the land is in an area of historical/archaeological probability and that an historical/archaeological survey and assessment prepared by certified archaeologist is required. The County Manager or designee shall not issue a notice of commencement until the historical/archaeological survey and assessment has been completed. The property owner shall adhere to all recommendations provided by the historical/archaeological survey and assessment.

j. Waiver request. Properties located within an area of historical/archaeological probability with low potential for historical/archaeological sites may petition the County Manager or designee to waive the requirement for an historical/archaeological survey and assessment. The waiver application shall be in a form provided by the community development services division. The County Manager or designee shall review and act upon the waiver request within five working days of receiving the application. The waiver request shall adequately demonstrate that the area has low potential for historical/archaeological sites. Justification shall include, but not be limited to, an aerial photograph interpretation, a description of historical and existing land uses, and an analysis of land cover, land formation, and vegetation. The County Manager or designee may deny a waiver, grant the waiver, or grant the waiver with conditions. He shall be authorized to require examination of the site by an accredited archaeologist where deemed appropriate. The applicant shall bear the cost of such an evaluation by an independent accredited archaeologist. The decision of the County Manager or designee regarding the waiver request shall be provided to the applicant in writing. In the event of a denial of the waiver request, written notice shall be provided stating the reasons for such denial. Any party aggrieved by a decision of the County Manager or designee regarding a waiver request may appeal to the preservation board. Any party aggrieved by a decision of the preservation board regarding a waiver request may appeal that decision to the board of county commissioners utilizing the procedure outlined in section k.

k. Previously completed survey and assessments. A survey and assessment completed by a certified archaeologist prior to the enactment of this section which is in accordance with the survey and assessment requirements outlined in section m may at the discretion of the property owner be utilized to meet the requirements of this section. The survey and assessment shall be provided to the County Manager or designee and shall be subject to the procedure as outlined in section a through section i above.

l. Historical/archaeological survey and assessment components. Historical/archaeological surveys and assessments required by this section shall be consistent with accepted professional procedures and practices as outlined in the historic preservation compliance review program of the Florida Department of State, Division of Historical Resources; and Standards and Guidelines for

Archaeology and Historic Preservation (48 FR 44716). Subsections m and n shall become effective upon the adoption, by resolution, of the map of areas of historical/archaeological probability by the board of county commissioners.

m. Survey and assessment components. Surveys and assessments shall include at a minimum:

- i. Title page;
- ii. Table of contents;
- iii. Report, title and authors;
- iv. Statement of qualification for each author;
- v. Description of the project location in terms of geologic and physiographic features, the environment, and land use history;
- vi. Description of field and laboratory methodology;
- vii. Description of sites located:
 - a) Significance determination;
- viii. Recommendations as to further assessment work, site preservation, or mitigation;
- ix. Appendices:
 - a) Florida Master Site File forms.

n. Significance determination. A significance determination of specific sites as required by subsection m, item vii. a. of this section shall be based on National Register of Historic Places eligibility criteria, as follows:

- i. The quality or significance in American history, architecture, archaeology, engineering and culture is present in districts, sites, **buildings, structures** and projects that possess integrity of location, design, setting, materials, workmanship; and
- ii. That are associated with events that have made a significant contribution to the broad patterns of our history; or
- iii. That are associated with the lives of persons significant in our past; or
- iv. That embody the distinctive characteristics of a type, period or method of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or,
- v. That have yielded, or may be likely to yield, information important in prehistory or history; or
- vi. In addition, the importance of historical/archaeological resources to local, county, and state history or prehistory shall be considered in a significance determination.

o. Designation of historical/archaeological sites, **structures**, districts, **buildings** and properties.

p. In addition to the areas of historical/archaeological probability outlined in subsection 2.03.07 E.1., specific sites, districts, **structures**, **buildings**, and properties may also be designated. Such designation will be based on the following criteria:

i. Association with distinctive elements of the cultural, social, ethnic, political, economic, scientific, religious, prehistoric and architectural history that have contributed to the pattern of history in the community, Collier County, the state or the nation; or

ii. Association with the lives of persons significant in history; or

iii. Embodiment of the distinctive characteristics of a type, period, method or materials of construction, or that possess high artistic values, quality of design and craftsmanship, or that represent an individual architect or builder's prominence or contribution to the development of Collier County, Florida; or

iv. Location of historic or prehistoric activities such as habitation, religious, ceremonial, burial, fortification, etc., during a particular period of time, and may maintain a sufficient degree of environmental integrity to reflect some aspect of the relationship of the site's original occupants to the environment; or

v. An historic or prehistoric site which has been severely disturbed but which may still allow useful and representative data to be recovered; or

vi. Have yielded or are likely to yield information on local history or prehistory; or

vii. Derive their primary significance from architectural or artistic distinction of historical importance; or

viii. Is the birthplace or grave of an historical figure or is a cemetery which derives its primary significance from graves of persons of transcendent importance, from age, distinctive design features, or from association with historic events; or

ix. A **building** or **structure** removed from its location which is primarily significant for architectural value, or is the surviving **structure** most importantly associated with an historic period, person or event; or

x. A property primarily commemorative in intent if design, age, tradition or symbolic value has invested it with its own historical significance; or

xi. Are listed in the National Register of Historic Places.

q. The designation of specific sites, **structures**, **buildings**, districts, and properties may be initiated by the preservation board or by the property owner. Upon consideration of the preservation board's report, findings, and recommendations and upon consideration of the criteria and guidelines set forth in section

203.07 E , the Board of County Commissioners shall approve, by resolution, or deny a petition for historic designation. The application shall be in a form provided by the County Manager or designee. Property owners of record whose land is under consideration for designation initiated by the preservation board shall be provided two notices by certified mail return receipt requested, at least 30 days but no more than 45 days prior to any hearing regarding the historic designation by the preservation board or the board of county commissioners. The first notice shall provide all pertinent information regarding the designation and the preservation board's scheduled meeting date to consider the site. The second notice shall indicate when the board of county commissioners will consider official designation of the site. Notice of public hearing shall be advertised in a newspaper of general circulation 15 days prior to the public hearing for the Board of County Commissioners. Each designated site, district, **structure**, property or **building** shall have a data file maintained by the preservation board. The file shall contain at a minimum: site location; the historical, cultural, or archaeological significance of the site; and the specific criteria from this section qualifying the site. An official listing of all sites and properties throughout Collier County that reflect the prehistoric occupation and historical development of Collier County and its communities, including information, maps, documents and photographic evidence collected to evaluate or substantiate the designation of a particular site, **structure**, **building**, property or district shall be maintained at the Collier County Museum. The Collier County Museum shall coordinate preservation and or restoration efforts for any historical/archaeological designated **building**, **structure**, site, property, or district that is donated to or acquired by Collier County for public use.

- r. Issuance of certificates of appropriateness. A certificate of appropriateness shall be issued by the preservation board for sites designated in accordance with subsection p before issuance of permits by the county to alter, excavate, relocate, reconstruct or demolish. The certificate of appropriateness shall be issued prior to the issuance of **building**, tree removal, or demolition permits.
- s. A certificate of appropriateness shall also be issued prior to the issuance of **building** permits for new construction within an historical/archaeological district designated in accordance with subsection 2. p. to ensure harmonious architectural design and to preserve the integrity of the historical/archaeological district.
- t. The application for certificate of appropriateness shall be in a form provided by the community development services division. The completed application shall be provided to the County Manager 20 days prior to the regular monthly meeting of the preservation board who shall schedule the application for consideration at the next regularly scheduled meeting. The preservation board shall meet and act upon an application for a certificate of appropriateness within 60 days of receipt of the application from the community development services division. The preservation board shall approve the application, deny the application, or approve the application with conditions.
- u. Ordinary repairs and maintenance as defined in section 1.08.02 are not required to obtain a certificate of appropriateness.

- v. Criteria for issuance of a certificate of appropriateness shall be the U.S. Secretary of the Interior's Standards for Rehabilitation, 36 CFR 67 (1983), as amended. The community development services division shall maintain and make available to the public updated copies of the Standards for Rehabilitation.
- w. All decisions of the preservation board shall be in writing and include findings of fact. Notice of the decision shall be provided to the applicant, and to the County Manager or designee.
- x. Any party aggrieved by a decision of the preservation board may appeal the decision as outlined in subsection gg.
- y. Incentives. The following incentives may be applicable to specific sites, **structures**, districts, **buildings** and properties designated as archaeologically or historically significant pursuant to section o.
- z. Financial assistance. Historical/archaeological designated sites, districts, **structures**, **buildings**, and properties as provided in section p shall be eligible for any financial assistance set aside for historic preservation projects by the State of Florida or the federal government, provided they meet the requirements of those financial assistance programs.
- aa. Tax credits. The preservation board shall encourage and assist in the nomination of eligible income-producing properties to the National Register of Historic Places in order to make available to those property owners the investment tax credits for certified rehabilitations pursuant to the Tax Reform Act of 1986 and any other programs offered through the National Register.
- bb. **Building** code. Historical/archaeological sites, districts, **structures**, **buildings**, and properties designated pursuant to subsection o may be eligible for administrative variances or other forms of relief from applicable **building** codes as follows:
- cc. Repairs and alterations. Repairs, alterations and additions necessary for the preservation, restoration, rehabilitation or continued use of a **building** or **structure** may be made without conformance to the technical requirements of the Standard Building Code when the proposed work has been issued a certificate of appropriateness by the preservation board and approved by the County Manager or designee, pursuant to the authority granted to the County Manager or designee by other divisions or statutes and further provided that:
 - i. The restored **building** will be no more hazardous based on consideration of life, fire and sanitation safety than it was in its original condition.
 - ii. Plans and specifications are sealed by a Florida registered architect or engineer, if required by the building official.
 - iii. The County Manager or designee has required the minimum necessary correction to be made before use and occupancy which will be in the public interest of health, safety and welfare.

dd. Zoning ordinance. The County Manager or designee may, by written administrative decision, approve any variance request for any designated historical/archaeological site, district, **structure, building** and property pursuant to section q which has received a certificate of appropriateness from the preservation board for matters involving **setbacks**, lot width, depth, area requirements, land development regulations, height limitations, open space requirements, parking requirements, and other similar zoning variances not related to a change in use of the property in question. In addition, contributing projects as defined in section 1.08.02 are eligible for administrative zoning ordinance variances.

i. Before granting an administrative variance the County Manager or designee must find:

a) That the variance will be in harmony with the general appearance and character of the community.

b) That the variance will not be injurious to the area involved or otherwise detrimental to the public health, safety or welfare.

c) That the proposed work is designed and arranged on the site in a manner that minimizes visual impact on the **adjacent** properties.

ii. In granting any variances, the County Manager or designee may prescribe any appropriate conditions necessary to protect and further the interest of the area and **abutting** properties, including but not limited to:

a) Landscape materials, walls and fences as required **buffering**.

b) Modifications to the orientation of points of ingress and egress.

c) Modifications of site design features.

ee. Open space. Historical/archaeological resources that are to be preserved may be utilized to satisfy required **setbacks, buffer** strips or open space up to the maximum area required by development regulations. Conservation of such historic or archaeological resources shall qualify for any open space requirements mandated by the development regulations.

ff. Density calculations. Acreage associated with historical/archaeological resources preserved within the boundaries of a project shall be included in calculating the project's permitted **density**.

gg. Appeal. Any party aggrieved by a decision or interpretation of this division made by the County Manager or the preservation board shall have the right to appeal said interpretation, decision or denial to the Board of County Commissioners by filing a written notice of appeal with the County Manager within 30 working days from the date of such decision, interpretation, or denial. The County Manager shall provide the Board of County Commissioners with a copy of said notice of appeal. The notice of appeal shall be provided to the applicant by certified mail, return receipt requested, and shall state the decision which is

being appealed, the grounds for the appeal, and a brief summary of the relief which is sought. Within 30 working days of the date of filing the appeal, or the first regular county commission meeting which is scheduled, whichever is latest in time, the Board of County Commissioners shall hear the appeal and issue a final decision. Nothing contained herein shall preclude the county commissioners from seeking additional information prior to rendering a final decision..

hh. Reserved.

ii. Discovery or accidental disturbance of historical/archaeological sites and properties during construction. If, during the course of site clearing, excavation or other construction activity, an historic or archaeological artifact, or other indicator is found, all development within the minimum area necessary to protect the discovery shall be immediately stopped and the following procedures shall be followed:

a) The County Manager or designee and code enforcement shall be contacted.

b) The County Manager or designee shall officially notify the property owner/developer of the discovery within 24 hours and shall issue a stop work order.

c) A certified archaeologist contracted by the property owner/developer shall determine whether the discovery site requires further investigation based upon the size and distribution of this site, depth of deposits, soil type, vegetation, and topography.

i) If the site requires further investigation, the certified archaeologist shall cordon off the identified area, at a point ten feet from the perimeter of the discovery site.

ii) If the discovery site does not require further investigation, construction activity may resume after authorization by a certified archaeologist.

d) The certified archaeologist shall make recommendations for the treatment of accidental discoveries based on standards outlined in the "Treatment of Archaeological Properties" in accordance with 36 CFR part 800, as amended. These recommendations shall be considered for incorporation into the applicable local development order.

e) The certified archaeologist shall expeditiously assess the cordoned-off area and determine whether it is significant based on criteria outlined in section n.

i) If the identified area is determined to be significant, an historical/ archaeological survey and assessment shall be prepared by a certified archaeologist for the entire project if one has not been completed as required by this division. The certified archaeologist's recommendations derived from his survey and assessment shall be considered for incorporation into the

- applicable local development order. If an historical/archaeological survey and assessment has been prepared in accordance with section m and section n, the recommendations shall be modified and incorporated into the local development order to reflect the additional site(s).
- ii) If the identified area is determined not to be significant, a preliminary survey of the entire project shall be conducted by a certified archaeologist. Any sites determined to be significant during the preliminary survey shall be subject to requirements in section E. Construction activity within the cordoned-off area may continue after all necessary artifacts and indicators have been recorded and upon authorization by a certified archaeologist.
 - f) The certified archaeologist shall prepare a report outlining the results of his assessment and provide a copy to the County Manager or designee. The County Manager or designee shall provide a copy of the report to the preservation board members.
 - g) Land areas in close proximity to the discovery site deemed to have historical/archaeological significance based on the criteria in section n shall be considered by the preservation board for addition to the map of areas of historical/archaeological probability.
 - ii. *Discovery of historical or archeological sites and properties during site inspection.* If, during a project review site inspection, an historic or archaeological site, significant artifact, or other indicator is found, the following procedures shall be implemented.
 - i. The project review staff shall cordon off the immediate area and contact the County Manager or designee.
 - ii. The identified area shall be further cordoned off at a point ten feet from the perimeter of the discovery site as identified by a certified archaeologist, contracted by the property owner/developer.
 - iii. The certified archaeologist shall assess the identified area and determine whether it is significant based on criteria outlined in subsection n.
 - a) If the identified area is determined to be significant, an historical/ archaeological survey and assessment for the entire project shall be prepared by a certified archaeologist if one has not been completed as required by this division. Recommendations derived from the historical/archaeological survey and assessment shall be considered for incorporation into the applicable development order. If an historical/archaeological survey and assessment has been prepared in accordance with section E, the recommendations shall be modified and

incorporated into the local development order to reflect the additional areas.

b) If the identified area is determined not to be significant, the certified archaeologist shall complete a preliminary survey of the entire site. Any areas determined to be significant during the preliminary survey shall be subject to the requirements detailed in section jj, item iii.a.

iv. Land areas in close proximity and encompassing areas deemed to have historical/archaeological significance based on criteria in subsection n shall be considered by the preservation board for addition to the map of areas of historical/archaeological probability.

v. The certified archaeologist shall prepare a report outlining the results of his assessment and provide a copy to the County Manager or designee. The County Manager or designee shall provide a copy of the report to the preservation board members.

kk. Willful disturbance of historical/archaeologically significant sites, districts, **structures, buildings**, and properties. Willful looting, pillaging, vandalizing or desecration, as defined by this division, of historical/archaeologically significant sites, districts, **structures, buildings**, and properties constitutes a violation punishable as described in subsection oo.

ll. Willful disturbance of an unmarked burial or burial site. It is a violation of section E for any person to willfully and knowingly disturb an unmarked burial or burial site, or destroy, mutilate, deface, injure or remove any burial mound, earthen or shell monument containing human skeletal remains or associated burial artifacts or other **structures** or items placed or designed for a memorial, or to disturb the contents of a tomb or grave or for any person to have knowledge that an unmarked human burial is being disturbed, vandalized, or damaged and to fail to notify the local law enforcement agency with jurisdiction in the area. Such actions may also be punishable as a felony pursuant to F.S. ch. 872, as amended.

mm. Appeals. Any party aggrieved by a decision or interpretation of this regulation made by the County Manager or the preservation board shall have the right to appeal said interpretation, decision or denial to the Board of County Commissioners by filing a written notice of appeal with the County Manager within 30 working days from the date of such decision, interpretation, or denial. The County Manager shall provide the Board of County Commissioners with a copy of said notice of appeal. The notice of appeal shall be provided to the applicant by certified mail, return receipt requested, and shall state the decision which is being appealed, the grounds for the appeal, and a brief summary of the relief which is sought. Within 30 working days of the date of filing the appeal, or the first regular county commission meeting which is scheduled, whichever is latest in time, the Board of County Commissioners shall hear the appeal and issue a final decision. Nothing contained herein shall preclude the county commissioners from seeking additional information prior to rendering a final decision.

nn. Jurisdiction. Section E shall apply to all unincorporated areas of Collier County, Florida.

oo. Penalties. A violation of the provisions of section E shall constitute a misdemeanor and shall be prosecuted in the name of the state in the county court by the prosecuting attorney, and upon conviction shall be punishable by civil or criminal penalties including a fine of not more than \$500.00 per violation per day for each day the violation continues or whatever reasonable amount as a judge may feel appropriate and including a requirement that any work or development performed contrary to section E must be removed and the property returned to its condition at commencement of said action. The Board of County Commissioners shall have the power to collaterally enforce the provisions of section E by appropriate judicial writ or proceeding notwithstanding any prosecution as a misdemeanor.

State law reference—Penalty for ordinance violations, F.S. § 125.69.

(Ord. No. 92-73, § 2; Ord. No. 94-58, § 3, 10-21-94)

* * * * *

H. Santa Barbara Commercial Overlay District "SBCO". Special conditions for properties abutting the east side of Santa Barbara Boulevard and the west side of 55th Terrace S.W., as referenced in the Santa Barbara Commercial Subdistrict Map (Map 7) of the Golden Gate Area Master Plan. This is referenced as figure 2.03.07 H. below.

* * * * *

4. These regulations apply to properties abutting the east side of Santa Barbara Boulevard and the west side of 55th Terrace S.W., lying north of 27th Court S.W. and south of 22nd Place S.W., all in Golden Gate City, and consisting of approximately twenty-two (22) ~~eleven (11)~~ acres. These properties are identified on Map 7 of the Golden Gate Area Master Plan. Except as provided in this regulation, all other use, dimensional, and development requirements shall be as required or allowed in the underlying zoning categories.

* * * * *

N. Gateway Triangle Mixed Use Overlay District. Special conditions for the properties in and adjacent to the Gateway Triangle as referenced on GTMUD Map 1; and further identified by the designation "GTMUD" on the applicable official Collier County Zoning Atlas Map or map series.

* * * * *

5. *Gateway Triangle Mixed Use District (GTMUD) Subdistricts.*

* * * * *

c. Mixed Use Activity Center Subdistrict. Portions of the Gateway Triangle Mixed Use District coincide with Mixed Use Activity Center #16 designated in the Future Land Use Element (FLUE) of the Collier County Growth Management Plan. **Development standards** in the activity center is ~~are~~ governed by ~~requirements of~~ the underlying zoning district requirements and the mixed use activity center subdistrict requirements in the FLUE, except for site **development** standards as stated in section 4.02.35 of this Code.

* * * * *

SUBSECTION 3.C. AMENDMENTS TO SECTION 2.03.08 RURAL FRINGE ZONING DISTRICTS

Section 2.03.08 Rural Fringe Zoning Districts, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

2.03.08 Rural Fringe Zoning Districts

* * * * *

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

* * * * *

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 **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:

* * * * *

- (3) Conditional Uses. The following uses are permissible as conditional uses subject to the standards and procedures established in section 10.08.00.

- (a) Zoo, aquarium, botanical garden, or other similar uses.

* * * * *

- (h) Facilities for the collection, transfer, processing, and reduction of solid waste.

* * * * *

- ~~(i) Facilities for the collection, transfer, processing, and reduction of solid waste.~~

* * * * *

SUBSECTION 3.D. AMENDMENTS TO SECTION 3.02.03 APPLICABILITY

Section 3.02.03 Applicability, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

3.02.03 Applicability

This section shall apply to all **areas of special flood hazard** in the unincorporated area of the County, and identified by the Federal Insurance Administration in its **flood insurance rate map (FIRM)**, dated ~~June 3, 1986~~ November 17, 2005, and any revisions thereto.

SUBSECTION 3.E. AMENDMENTS TO SECTION 3.02.05 BASIS FOR ESTABLISHING AREAS OF SPECIAL FLOOD HAZARD

Section 3.02.05 Basis for Establishing the Areas of Special Flood Hazard, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

3.02.05 Basis for Establishing the Areas of Special Flood Hazard

The **areas of special flood hazard**, are identified by the Federal Insurance Administration, in a scientific and engineering report entitled "The **flood insurance study**" for the County's unincorporated area, dated June 3, 1986, with accompanying FIRM, dated ~~June 3, 1986~~ November 17, 2005. The **flood insurance study** and accompanying FIRM shall be on file and be open for public inspection in the office of the Clerk to the BCC located in Building "F", Collier County Courthouse, 3301 Tamiami Trail, East, Naples, Florida ~~33962~~ 34112.

* * * * *

SUBSECTION 3.F. AMENDMENTS TO SECTION 3.05.07 PRESERVATION STANDARDS

Section 3.05.07 Preservation Standards, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

3.05.07 Preservation Standards

All development not specifically exempted by this ordinance shall incorporate, at a minimum, the preservation standards contained within this section.

- A. General standards and criteria.
 - 1. The preservation of native vegetation shall include canopy, under-story and ground cover emphasizing the largest contiguous area possible, except as otherwise provided in section 3.05.07 H.1.e.
 - 2. Areas that fulfill the native vegetation retention standards and criteria of this Section shall be set aside as preserve areas, subject to the requirements of section 3.05.07 H. Single family residences are exempt from the requirements of section 3.05.07 H.
 - 3. Native vegetation to be retained as ~~P~~preserve areas shall be selected in such manner as to preserve the following, in descending order of priority, except to the extent that preservation is made mandatory in sections 3.05.07 F.3. and 3.05.07 G.3.c.:
 - a. Wetland or upland ~~A~~areas known to be utilized by listed species or that serve as corridors for the movement of wildlife;
 - b. Xeric Scrub, Dune and Strand, Hardwood Hammocks;
 - ~~cb.~~ Onsite wetlands having an accepted functionality WRAP score of at least 0.65 or a Uniform Wetland Mitigation Assessment Score of at least 0.7;
 - ~~de.~~ Any upland habitat that serves as a buffer to a wetland area as defined in section 3.05.07 A.3.c above;
 - ~~d.~~ ~~Listed plant and animal species habitats;~~
 - ~~e.~~ ~~Xeric Scrub;~~
 - ~~f.~~ ~~Dune and Strand, Hardwood Hammocks;~~
 - ~~eg.~~ Dry Prairie, Pine Flatwoods; and
 - ~~fh.~~ All other upland native habitats.
 - ~~i.~~ ~~Existing native vegetation located contiguous to a natural~~

reservation.

4. Preservation areas shall be interconnected within the site and to adjoining off-site preservation areas or wildlife corridors.
5. To the greatest extent possible, native vegetation, in quantities and types set forth in section 4.06.00, shall be incorporated into landscape designs in order to promote the preservation of native plant communities and to encourage water conservation.

* * * * *

SUBSECTION 3.G. AMENDMENTS TO SECTION 4.02.15 SAME--DEVELOPMENT IN THE SBCO DISTRICT

Section 4.02.15 Same--Development in the SBCO District, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

4.02.15 Same--Development in the SBCO District

- A. The standards described in this section shall apply to all uses in this overlay district.

* * * * *

2. Existing residential uses must cease to exist no later than seven ~~ten~~ years after the effective date of the adoption of the amended Santa Barbara Commercial Subdistrict in the Golden Gate Area Master Plan (January 11, 2005) (~~April 19, 1999~~). This does not require the removal of the residential structures if they can be, and are, converted to uses permitted in this district, within one additional year. This requirement to cease existing residential uses does not apply to ~~dwelling units which were~~ owner-occupied dwelling units as of April 19, 1999.

* * * * *

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SUBSECTION 3.H. AMENDMENTS TO SECTION 5.06.02 PERMITTED SIGNS

Section 5.06.02 Permitted Signs, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

5.06.02 Permitted Signs

- A. Signs within residential zoned districts and as applicable to residential designated portions of PUD zoned properties.

1. Development *standards*.

- a. *Maximum allowable height.* All signs within residential zoned districts and as applicable to residential designated portions of PUD zoned properties are limited to a maximum height of eight feet, or as provided within this Code. Height shall be measured from the lowest centerline grade of the nearest public or private R.O.W. or **easement** to the uppermost portion of the sign **structure**.
- b. *Minimum setback.* All signs within residential zoned districts and as applicable to residentially designated portions of PUD zoned properties shall not be located

closer than ten feet from the property line, unless otherwise noted below or as provided for in section 1.04.04 C. as determined by the county for safety and operation.

2. *Real estate signs.* The following signs classified as real estate signs shall be permitted in residential districts subject to the following.

- a. One ground sign with a maximum height of six feet or wall "For Sale," "For Rent," or similar sign, with a maximum of four square feet in size, per street **frontage** for each parcel, or lot less than one acre in size. Said sign shall be located no closer than ten feet from any adjacent residentially used property and may be placed up to the property line abutting a right-of-way, provided it is a minimum of ten feet from the edge of pavement. (No building permit required.)
- b. One ground sign with a maximum height of eight feet or wall "For Sale," "For Rent," or similar sign, with a maximum of 12 square feet in size, per street **frontage** for each parcel, or lot one to ten acres in size. (No **building** permit required.)
- c. One pole sign with a maximum height of 15 feet or wall "For Sale," "For Rent," or similar sign, with a maximum of 64 square feet in size, per street **frontage** for each parcel or lot in excess of ten acres in size. (Building permit required.)
- d. Real estate signs shall not be located closer than ten feet from any property line. In the case of undeveloped **parcels** where the existing vegetation may not allow the location of the sign ten feet from the property line, the County Manager or his designee may allow a reduction in the amount of the required setback however, in no case shall said sign be located closer than five feet from any property line unless authorized by the board of zoning appeals through the variance process.
- e. Real estate signs shall be removed when an applicable temporary use permit has expired, or within seven days of any of the following conditions: ownership has changed; the property is no longer for sale; rent or lease; or, the model home is no longer being used as a model home.
- f. A sign advertising that a property has been sold or leased shall not be displayed for more than 14 days after it is erected.

3. Temporary Open House Signs.

- a. Off-premises open house signs.
 - i. Signs may only be displayed on supervised open house days, between the hours of 10:00 a.m. and 5:00 p.m. No flags, pennants, balloons, or other attention type devices may be used with such signs and they shall not be lighted or illuminated in any manner.
 - ii. One sign may be placed in the public right-of-way abutting the subject property no closer than 10 feet from the edge of the road. (No building or right-of-way permit required.)
 - iii. Two signs may be placed within the public right-of-way providing direction to a supervised open

house that is available for immediate viewing and examination by prospective buyers, renters, and/or lessees. Such **signs** shall be located no closer than 100 feet from another **sign** providing direction. (No **building** or **right-of-way** permit required.)

iv. **Signs** shall not exceed 4 square feet in copy area and 4 feet in height; however, any such **sign** placed at an intersection may not exceed 29 inches in height as per section 6.05.05 of this Code.

v. **Signs** may be placed in the **right-of-way** no closer than 10 feet from the edge of the road and shall not interfere with the visibility of pedestrians or motorists. Additionally, **signs** shall not be located within any median.

vi. Each **sign** must bear the name of the real estate brokerage firm, or the property owner's name if by owner, and the local telephone number where they can be contacted.

vii. **Sign Removal, Retrieval, and Disposal.** Off-premises open house **signs** shall be prohibited except as specified above. Any such **sign** found to be in violation of this section shall be removed by the County Manager or designee. All such removed **signs** are subject to disposal by the County. This section shall not inhibit nor prevent any other enforcement actions that may be deemed appropriate.

3 4. *Model home signs.* One on-premises sign for model homes, approved in conjunction with a temporary use permit in any zoning district not to exceed 8 feet in height and 32 square feet in size. Model home sign copy shall be limited to the model name, builder's name, name and address, phone number, price, logo, and model home. Model home signs shall not be illuminated in any manner. (No **building** permit required.)

4 5. *Construction signs.* All supports for such signs shall be securely built, constructed, and erected and shall be located on the site under construction, subject to the following:

- a. One ground sign with a maximum height of six feet or wall sign, with a maximum of four square feet in size, may be used as a construction sign by the general contractor of the development or as a permit board, within each **front yard** for each parcel less than one acre in size. (No building permit required.)
- b. One ground sign with a maximum height of eight feet or wall sign, with a maximum of 12 square feet in size, may be used as a construction sign by the general contractor of the development or as a permit board, within each **front yard** for each parcel one to ten acres in size. (No building permit required.)
- c. One pole sign with a maximum height of 15 feet or wall sign, with a maximum of 64 square feet in size, may be used as a construction sign by the general contractor of the development or as a permit board, within each **front yard** for each parcel in excess of ten acres in size.
- d. One ground or wall sign, with a maximum of four square feet in size, may be used as a construction sign by each contractor, lending institution, or other similar company involved with the development, regardless of parcel size. (No building permit required.)

- e. Advertising of any kind is not permitted on construction signs.
- 5 6. *Residential directional or identification signs.* Directional or identification signs no greater than four square feet in size, and located internal to the subdivision or development may be allowed subject to the approval of the County Manager or his designee, or his designee. Such signs shall only be used to identify the location or direction of approved uses such as models or model sales centers, club house, recreational areas, etc. These signs may be clustered together to constitute a sign with a maximum area of 24 square feet and a maximum height of eight feet. Such clustered signs shall require a building permit. For signage to be located along the Golden Gate Parkway see section 2.03.07.
- 6 7. *On-premises signs within residential districts.* Two ground signs with a maximum height of eight feet or wall residential entrance or gate signs may be located at each entrance to a multi-family, single-family, mobile home or **recreational vehicle** park subject to the following requirements:
 - a. Such signs shall contain only the name of the subdivision, the insignia or motto of the development and shall not contain promotional or sales material. Said signs shall maintain a ten-foot setback from any property line unless placed on a fence or wall subject to the restriction set forth in section 5.03.02. Furthermore, bridge signs located on private bridges directly leading to private communities shall not be considered off-premise signs. Bridge signs complying with the requirements of section 5.06.02 may be substituted for ground or wall signs in residential districts.
 - b. The ground or wall signs shall not exceed a combined area of 64 square feet, and shall not exceed the height or length of the wall or gate upon which it is located.
 - c. Logos without any verbal content and similar architectural features less than ten square feet in area not containing any letters or numbers shall not be considered signs and shall be allowed throughout the development. However, should such architectural embellishments be located closer than ten feet to any sign, then it should be considered an integral part of the sign and shall be subject to the restrictions of this section.
- 7 8. *Conditional uses within the residential and agricultural districts.*
 - a. **Conditional uses** within the residential district are permitted one wall sign with a maximum of 32 square feet. Corner lots are permitted two such wall signs.
 - b. **Conditional uses** within the agricultural district in the urban area, residential and estates districts with a street **frontage** of 150 feet or more and a land area of 43,560 square feet or larger are permitted a ground sign with a maximum height of eight feet and a maximum area of 32 square feet.
 - c. Bulletin boards and identification signs for public, charitable, educational or religious institutions located on the premises of said institutions and not exceeding 12 square feet in size. (No building permit required.)
 - d. The board of county commissioners may approve additional signage as may be deemed appropriate during the conditional use approval process.

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SUBSECTION 3.I. AMENDMENTS TO SECTION 5.06.04 SIGN STANDARDS FOR SPECIFIC SITUATIONS

Section 5.06.04 Sign Standards for Specific Situations, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

5.06.04 Sign Standards for Specific Situations

* * * * *

- C. *On-premise signs.* On-premise pole **signs**, ground **signs**, projecting **signs**, wall **signs**, and mansard **signs** shall be allowed in all nonresidentially zoned districts subject to the restrictions below:

* * * * *

- 12. *Temporary signs.* A permit is required to erect a ~~The erection of any temporary sign shall require permitting as established as set forth~~ in section 10.02.06 G. unless otherwise indicated provided herein. **Applicants** for temporary **sign** permits shall pay the minimum fee established for said a temporary sign permit. Temporary **signs** shall be allowed subject to the restrictions imposed by this section and other relevant parts of this Code.

- a. *Political signs.* Political campaign **signs** and ~~posters~~ shall be permitted subject to the following requirements:

* * * * *

- vi. Political **signs** shall not be erected ~~not more than 45 calendar days prior to an election or political event, until the close date of the qualifying period as set forth in Section 99.061, Florida Statutes as it may be amended~~ and shall be removed within seven 7 calendar days after termination of candidacy due to withdrawal, elimination, or election to the office or after the election, event, or after the campaign approval or rejection of the issue has occurred. ~~been decided.~~

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SUBSECTION 3.J. AMENDMENTS TO SECTION 5.06.05 SIGNS EXEMPT FROM THESE REGULATIONS

Section 5.06.05 Signs Exempt from These Regulations, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

5.06.05 Signs Exempt from These Regulations

In addition to those **signs** identified elsewhere in this Code, the following **signs** are exempt from the permit requirements of this Code, and shall be permitted in all districts subject to the limitations set forth below:

- A. **Signs** required to be maintained or posted by law or governmental order, rule, or regulation.
- B. On-premises directional **signs**, not exceeding six square feet in area and four feet in height, intended to facilitate the movement of pedestrians and vehicles within the site upon which such **signs** are posted. On-premises directional **signs** shall be limited to two at each vehicle **access** point and a maximum of four internal to the **development**. Internal **signs** are not intended to be readily visible from the road. Directional **signs** are also subject to restrictions of section 5.06.04 C.13. of this Code.
- C. One identification **sign**, professional nameplate, or occupational **sign** for each professional office, or business establishment not to exceed two square feet in **sign** area and placed flush against a **building** face or mailbox side, and denoting only the name of the occupant and, at the occupant's election, the occupant's profession or specialty and/or the **street** address of the premise.

* * * * *

H. ~~One on-premises sign not to exceed four square feet in size. Such sign shall not be located within ten feet of any property line, right-of-way or easement.~~ Temporary open house signs (see subsection 5.06.02 A. 3.).

* * * * *

X. Littoral Shelf Planting Area signs, provided such signs do not violate section 3.05.10 A.6 of this Code.

Y. Preserve Signs, provided such signs do not violate subsection 3.05.04 G of this Code.

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SUBSECTION 3.K. AMENDMENTS TO SECTION 5.06.06 PROHIBITED SIGNS

Section 5.06.06 Prohibited Signs, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

5.06.06 Prohibited Signs

It shall be unlawful to erect, cause to be erected, maintain or cause to be maintained, any sign not expressly authorized by, or exempted from this Code. The following signs are expressly prohibited:

A. Signs which are in violation of the building code or electrical code adopted by Collier County.

* * * * *

X. Signs mounted on a vehicle, be it the roof, hood, trunk, bed, and so on, where said sign is intended to attract or may distract the attention of motorists for the purpose of advertising a business, product, service, or the like, whether or not said vehicle is parked, or driven, excluding emergency vehicles, county transit vehicles providing directional or route information, taxi cabs, and delivery vehicles, where a roof mounted sign does not exceed two square feet. This section shall not apply to magnetic type signs affixed to or signs painted on a vehicle, provided said vehicle is used in the course of operation of a business, and which are not otherwise prohibited by this Code. It shall be considered unlawful to park a vehicle and/or trailer with signs painted, mounted or affixed, on site or sites other than that at which the firm, product, or service advertised on such signs is offered.

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SUBSECTION 3.L. AMENDMENTS TO SECTION 6.02.01 GENERALLY

Section 6.02.01 Generally, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

6.02.01 Generally

A. This section is intended to implement and be consistent with the GMP, § 163.3161 et seq., F.S., and the Florida Administrative Code, by ensuring that all **development** in the County is served by adequate public facilities. This objective is accomplished by the following:

1. Establishing a management and monitoring system to evaluate and coordinate the timing and provision of the necessary public facilities to serve **development**.
 2. Establishing a regulatory program that ensures that each public facility is available to serve **development** concurrent with the impacts of **development** on the public facilities.
 3. No approval of the final **subdivision** plat, improvement plans, or authorization to proceed with construction activities in compliance with the same shall require the County to issue a **development order** or **building** permit if it can be shown that issuance of said **development order** or **building** permit will result in a reduction in the **level of service** for any public facility below the **level of service** established in the GMP, or if issuance of said **development order** or **building** permit is inconsistent with the GMP. Anything in this section to the contrary notwithstanding, all **subdivision** and **development** shall comply with the Collier County requirements for adequate public facilities.
- B. Procedures for determinations of vested rights for adequate public facilities are set forth in Chapter 10.
- C. Procedures for applications for certificates of public facility adequacy are set forth in Chapter 10.
- D. For the purposes of this section only, the following terms are defined as follows:
1. *Capital access* means the planning of, engineering for, acquisition of land for, or the construction of drainage and water management facilities necessary for proposed **development** to meet the (LOS) for **access**.
 2. *Capital drainage facilities*: The planning of, engineering for, acquisition of land for, or the construction of drainage and water management facilities necessary for proposed development to meet the LOS for drainage facilities.
 23. *Capital road facilities* or *capital road improvement* means and will include transportation planning for, engineering of, **right-of-way** acquisition for, and construction of any project eligible for inclusion as a road project in the road component of the (CIE) of the GMP or the Five-Year FDOT Work Program.
 34. *Capital potable water facilities* mean the planning of, engineering for, acquisition of land for, or construction of potable water facilities necessary to meet the LOS for potable water facilities.
 45. *Capital sanitary sewer facilities* mean the planning of, engineering for, acquisition of land for, or construction of sanitary sewer facilities necessary to meet the LOS for sanitary sewer facilities.
 56. *Capital solid waste facilities* mean the planning of, engineering for, acquisition of land for, or construction of **solid waste** facilities necessary to meet the LOS for **solid waste facilities**.
 67. *Comprehensive plan* means a plan that meets the requirement of §§ 163.3177 and 163.3178, F.S., and shall mean the GMP, where referenced in this section.
 78. *Constrained facilities* are those road facilities which have been so designated by action of the BCC upon the recommendation of the County Manager or designee once it has been determined that the road facility will not be expanded by two or more through lanes due to physical, environmental, or policy constraints,
 89. *Physical constraints* exist when intensive land use **development** is immediately adjacent to existing through lanes making road facility expansion cost prohibitive, or when a road facility has reached the maximum through lane standards acceptable to the county. For

county maintained facilities, the maximum through lane standard for a road facility will be no greater than six through lanes with allowances for auxiliary or service lanes as deemed operationally necessary. For state maintained facilities, the maximum through lane standard will be as designated by the FDOT.

- 910. *Environmental and policy constraints* exist when decisions are made not to expand a road facility based on environmental, historical, archeological, aesthetic or social impact considerations. Policy constraints are artificial barriers to road facility expansions based on environmental or political realities within a community. Unlike physical constraints, however, these barriers to road facility expansion can change over time, as needs and community goals change.
- 4011. *Deficient road segment* means a county or state road segment on the major road network system that is operating below its adopted (LOS) standard as determined by roadway service volumes calculated by the County Manager or designee.
- 4412. *Transportation Concurrency Management System* means a "real time" **concurrency** system that tracks and allocates the available roadway capacity on a continuous basis with quarterly status reports to the Board. Trips generated from proposed **developments** will be added to the trips approved to date and the existing background traffic counts to determine if there is available capacity for each new **development** to be approved, in whole or part, as proposed **development plans** are submitted.
- 4213. *Proportionate share payment* means a payment by a developer to Collier County to be used to enhance roadway operations, mass transit operations or other non-automotive transportation alternatives.

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SUBSECTION 3.M. AMENDMENTS TO SECTION 6.02.04 DRAINAGE FACILITY LEVEL OF SERVICE REQUIREMENTS

Section 6.02.04 Drainage Facility Level of Service Requirements, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

6.02.04 Drainage Facility Level of Service Requirements

- A. The LOS for capital ~~access~~ drainage facilities varies among new or existing capital ~~access~~ drainage facilities owned or operated by a local government or other public entity, existing capital ~~access~~ drainage facilities owned or operated by private persons, and new capital drainage facilities owned or operated by private persons.
 - 1. For those capital ~~access~~ drainage facilities (publicly or privately owned) that are in existence on the effective date of this section and for those new capital ~~access~~ drainage facility owned or operated by a local government or other public entity, the LOS is the existing LOS as identified (by design storm return frequency event) in the Collier County Water Management Master Plan.
 - 2. For new capital ~~access~~ drainage facilities owned or operated by private persons, the LOS is identified in the GMP.
- B. Determination of public facility adequacy for ~~access~~ drainage facilities shall be granted if the proposed **development** has a drainage and water management plan that has been approved by the County Manager or designee as meeting the LOS for ~~Capital~~ access drainage facilities.

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SUBSECTION 3.N. AMENDMENTS TO SECTION 6.06.01 STREET SYSTEM REQUIREMENTS

Section 6.06 01 Street System Requirements, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

6.06.01 Street System Requirements

- A. The arrangement, character, and location of all streets shall conform to the GMP and shall be considered in their relation to existing and proposed **streets**, topographical conditions, public convenience, safety, and in their appropriate relation to the proposed uses of the land to be served by such **streets**.
- B. The street layout of all **subdivisions** or developments shall be coordinated with the street systems of the surrounding areas. adjacent properties shall be provided with local street interconnections unless topography, other natural features, or other ordinances/regulations do not allow or require said connections. All **arterial** or **collector streets** shall be planned to conform to the GMP. **collector** and **arterial streets** within a development shall not have individual residential **driveway** connections. Their location and right-of-way cross-section must be reviewed and approved by the County Manager or designee during the preliminary subdivision plat review process. All **subdivisions** shall provide **rights-of-way** in conformance with the GMP and the right-of-way cross-section contained in Appendix B. All **streets** shall be designed and constructed to provide for optimum vehicular and pedestrian safety, long service life, and low cost of maintenance.
- C. Every subdivision or development shall have legal and adequate access to a street dedicated for public use and which has been accepted for maintenance by or dedicated to the State of Florida or the County, as described in Chapter 10. When a subdivision or development does not immediately adjoin such a street, the applicant shall provide access to the development from a dedicated street in accordance with these regulations and provide legal documentation that access is available to the project site. All **lots** within a subdivision or development shall be provided legal access to a street dedicated for public use.
 - 1. Nothing in any development order (DO) shall vest a right of access in excess of a right-in/right-out condition at any access point. Neither shall the existence of a point of ingress, a point of egress, or a median opening, nor lack thereof, be the basis for any future cause of action for damages against the County by the developer, its successor in title, or assignee. Collier County reserves the right to close any median opening existing at any time which is found to be adverse to the health, safety and welfare of the public. Any such modification shall be based on, but not limited to, safety, operational circulation and roadway capacity.
 - 2. Access points shown on a PUD Master Plan are considered to be conceptual. The number of access points constructed may be less than the number depicted on the Master Plan; however, no additional access points shall be considered unless a PUD amendment is approved.
 - 3. Site related improvements (as opposed to system related improvements) necessary for safe ingress and egress to this project, as determined by Collier County, shall not be eligible for impact fee credits. All improvements necessary to provide safe ingress and egress for construction-related traffic shall be in place and operational prior to commencement of on-site construction.
- D. The arrangement of **streets** in **subdivisions** or developments may be required to make provision for the continuation of existing or proposed **collector** or **arterial streets** to and from adjoining properties, whether developed or undeveloped, and for their proper projection to ensure a coordinated and integrated street system per requirements of the GMP,

this LDC, or other ordinances and regulations. Where a subdivision or development **abuts** an existing or proposed public **arterial** or **collector street**, **buffering** shall be required per Chapter 4.

- E Rural type roadway cross-sections shall only be considered for permitting on a case-by-case basis. The design of a rural cross-section and its required right-of-way width shall be based on the drainage characteristics of the required swale section and the relationship of the maximum stormwater flow line to the bottom of the subbase course of the roadway. A detailed design report documenting these considerations shall be submitted for review and approval by the County Manager or designee prior to the approval of a rural roadway cross-section.
- F. All public and private streets requiring a design capacity which exceeds the roadway cross-sections established herein for a minor **collector** shall be coordinated by the County Manger or designee prior to the approval of the project's improvement plans and **final subdivision plat**.
- G. Use of local **streets** by cut-through traffic shall be discouraged, using methods (like traffic calming) that do not compromise connectivity or reduce the number of access points to the subdivision.
- H. As applicable, the installation of turn lanes, storage lanes, deceleration lanes, parallel service lanes, or any other traffic control improvements necessary to provide safe internal movements or ingress and egress from the subdivision or development to any existing or proposed street or highway shall be required.
 - 1. If, in the sole opinion of Collier County, traffic signal(s), other traffic control device, sign, pavement marking improvement within a public **right of way** or **easement**, or site related improvements (as opposed to system related improvements), necessary for safe ingress or egress to the project, is determined to be necessary, the cost of such improvement shall be the responsibility of the developer, successor(s) or assigns. The improvements shall be paid for or installed, at the County's discretion, prior to the issuance of the appropriate corresponding certificate of occupancy (CO).
 - 2. All traffic control devices, signs, pavement marking and design criteria shall be in accordance with the Florida Department of Transportation (FDOT) Manual of Uniform Minimum Standards (MUMS), current edition, FDOT Design Standards, current edition and the Manual On Uniform Traffic Control Devices (MUTCD), current edition.
 - 3. If any required turn lane improvement requires the use of any existing County **rights-of-way** or **easement(s)**, then compensating **right-of-way** shall be provided at no cost to Collier County as a consequence of such improvement(s) upon final approval of the turn lane design during the review of the first subsequent **development order** unless waived by the County Manager or designee. The typical cross section may not differ from the existing roadway without written approval of the County Manager or designee.

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SUBSECTION 3.O. AMENDMENTS TO SECTION 10.02.03 SUBMITTAL REQUIREMENTS FOR SITE DEVELOPMENT PLANS

Section 10.02.03 Submittal Requirements for Site Development Plans, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

10.02.03 Submittal Requirements for Site Development Plans

A. Generally.

1. Purpose. The intent of this section is to ensure compliance with the appropriate land **development** regulations prior to the issuance of a **building** permit. This section is further intended to ensure that the proposed **development** complies with fundamental planning and design principles such as: consistency with the county's growth management plan; the layout, arrangement of buildings, architectural design and **open spaces**; the configuration of the traffic circulation system, including **driveways**, traffic calming devices, parking areas and emergency access; the availability and capacity of drainage and utility facilities; and, overall **compatibility** with **adjacent development** within the jurisdiction of Collier County and consideration of natural resources and proposed impacts thereon.

* * * * *

4. Site development and site improvement plan standards. The County Manager or his designee shall review and consider all site improvement and site **development plans** in accordance with the following standards:

- a. Statements regarding ownership and control of the property and the development as well as sufficiency of conditions regarding ownership and control, use and permanent maintenance of **common open space**, common facilities, conservation/preservation areas, or common lands to ensure the preservation of such lands and facilities will not become a future liability of the county.

- b. Development compliance with all appropriate zoning regulations and the growth management plan. The ingress and egress to the proposed development and its improvements, vehicular and pedestrian safety, separation of vehicular traffic from pedestrian and other traffic, traffic flow and control, traffic calming devices, provision of services and servicing of utilities and refuse collection, and access in the case of fire or catastrophe, or other emergency.

Notwithstanding the requirement to comply with the foregoing provisions, the depiction on a PUD master plan or description of access or location of access points in a PUD ordinance, does not authorize or vest access to the major road system. The location, design, capacity, or routing of traffic for any specific access point will be determined by, and must comply with, the regulations for site development in effect at the time of site development plan approval.

- c. The location and relationship of parking and loading facilities to thoroughfares and internal traffic patterns within the proposed development, considering vehicular and pedestrian safety, traffic flow and control, access in case of fire or catastrophe, screening and landscaping.
- d. Adequacy of recreational facilities and open spaces considering the size, location, and development of these areas with regard to adequacy, effect on adjacent and nearby properties as well as uses within the proposed development, and the relationship to community-wide open spaces and recreation facilities.
- e. Adequacy of the proposed landscape screens and buffers considering preservation of the development's internal land

uses as well as compatibility with adjacent land uses.

- f. Water management master plan on the property, considering its effect on adjacent and nearby properties and the consequences of such water management master plan on overall county capacities. Water management areas shall be required to be maintained in perpetuity according to the approved plans. Water management areas not maintained shall be corrected according to approved plans within 30 days. The engineer of record, prior to final acceptance, shall provide documentation from the stormwater maintenance entity; indicating that said entity has been provided information on how the stormwater systems functions and indicating responsibility for maintenance of the system.
- g. Adequacy of utility service, considering hook-in location and availability and capacity for the uses projected.
- h. Signage proposed for the project in conformity with section 5.06.00, and a unified sign permit shall be applied for with the submittal packet for the site development or site improvement plan.
- i. Architectural design of the building for all commercial developments located in any commercial zoning district.
- j. Outdoor serving areas shall be explicitly detailed on the site plan, showing layout of chairs, tables, benches, bars and other serving area features as may be requested. The plan shall clearly indicate that the location is unenclosed and provide information on hours of operation, whether or not live performance music/**amplified sound** will be provided as entertainment and the approximate distances of all **adjacent** residential zoning districts or residential uses within 2500 feet of the location.
 - i. The County Manager or designee may require additional landscape **buffering** beyond Code requirements, the relocation of the outdoor serving area to another part of the development, the installation of sound attenuation devices, limitations to hours of operation and further restrictions on outdoor entertainment and amplified sound which, in their professional judgment, will help to mitigate the impacts of the outdoor serving area on **adjacent** residential zoning districts and/or residential uses.
 - ii. Within 30 days from an applicant's first designation of the use in a site development plan, it shall be within the discretion of the County Manager or designee to deny approval of such site development plan if, in the professional judgment of the County Manager or designee, such use is believed to be not compatible with or has the potential to cause a deleterious effect upon an **adjacent** residential use.
 - iii. Notice of such denial shall be promptly mailed to the applicant for the site development plan. The Applicant and staff will meet at their earliest convenience to discuss and attempt to resolve the compatibility issues, which can include, but is not limited to, moving the questioned use to another location within the **development**.
 - iv. Should the parties be unable to reach a solution,

the matter will be promptly referred to the Collier County Planning Commission. At a publicly noticed hearing, the Planning Commission will review the proposed use and make a finding as to: (1) whether the proposed use was intended for this site, and (2) whether such use can be made compatible with the adjacent residential zoning districts and/or uses through the imposition of certain conditions or restrictions, including but not limited to locating the use to another location within the development, additional buffering, sound attenuation devices, limitations on hours of operation, requirement of a vestibule, walls, and relocation of dumpsters.

- v. Should either the County or the applicant be unwilling to abide with the findings and recommendations of the Planning Commission, the matter will then be forwarded to the Board of County Commissioners for a public hearing to be conducted in the same manner as LDC Section 10.08.00, except that for notice purposes 10 days prior notice by publication will be sufficient.
- j k. Such other standards as may be imposed by this Code, the growth management plan or other applicable regulations for the particular use or activity proposed.

- 5. Conceptual site development plan review and approval. At the request of the applicant and subject to the applicable fee set forth in the schedule of fees, planning services department will complete a conceptual review and issue a written summary of issues of concern and conceptual approval. This conceptual approval shall not mean that the project has received final approval, it shall only indicate that the project is in substantial compliance with the requirements of the Code and may be approved subject to further review, changes and modifications.

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SUBSECTION 3.P. AMENDMENTS TO SECTION 10.02.08 SUBMITTAL REQUIREMENTS FOR AMENDMENTS TO THE OFFICIAL ZONING AND LDC

Section 10.02.08 Submittal Requirements for Amendments to the Official Zoning and LDC, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

10.02.08 Submittal Requirements for Amendments to the Official Zoning and LDC

* * * * *

- C. *Amendments.* Amendments to this Code may be made not more than two times during any calendar year as scheduled by the county manager, except:
 - 1. ~~Any amendments to the Access Management Plan maps (Appendix V) may be made more often than twice during the calendar year if related to, and if submitted and reviewed in conjunction with submittal and review of, the following types of development orders: Rezoning, PUD amendment, Development of Regional Impact (DRI) approval, DRI amendment, conditional use, Site Development Plan (SDP) approval, SDP amendment, subdivision approval (including plats, plans, and amendments), construction approval for infrastructure (including water, sewer, grading, paving), and building permit (for single family dwelling only.~~

2-1. Amendments to the Code (See section 10.02.10 A. below for requirements).

The procedure for amendment to this Code shall be as provided in section 10.03.05. This Code may only be amended in such a way as to preserve the consistency of the Code with the growth management plan.

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SUBSECTION 3.Q. AMENDMENTS TO SECTION 10.02.13 PLANNED UNIT DEVELOPMENT (PUD) PROCEDURES

Section 10.02.13 Planned Unit Development (PUD) Procedures, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

10.02.13 Planned Unit Development (PUD) Procedures

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A. *Application and PUD master plan submission requirements.*

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B. *Procedures for planned unit development zoning.*

1. *Preapplication conference.* Prior to the submission of a formal application for rezoning to PUD, the applicant shall confer with the planning services department director and other county staff, agencies, and officials involved in the review and processing of such applications and related materials. The applicant is further encouraged to submit a tentative land use sketch plan for review at the conference, and to obtain information on any projected plans or programs relative to possible applicable federal or state requirements or other matters that may affect the proposed PUD. This preapplication conference should address, but not be limited to, such matters as:

* * * * *

- c. Conformity of the proposed PUD with the goals, objectives, ~~and policies~~ and the Future Land Use Element of the growth management plan.

* * * * *

5. *Planning commission recommendation.* The planning commission shall make written findings as required in section 10.02.08 and as otherwise required in this section and shall recommend to the board of county commissioners either approval of the PUD rezoning as proposed; approval with conditions or modifications; or denial. In support of its recommendation, the planning commission shall make findings as to the PUD master plan's compliance with the following criteria in addition to the findings in section 10.02.08.

* * * * *

- c. Conformity of the proposed PUD with the goals, objectives, ~~and policies~~ and the Future Land Use Element of the growth management plan.

* * * * *

D. *Time limits for approved PUDs.* For purposes of this section, the word

"sunset" or "sunsetting" shall be the term used to describe a PUD which has, through a determination made by the planning services department director, not met the time frames and **development** criteria outlined in this section 10.02.12 of this Code as applicable. For all PUDs, the owner entity shall submit to the planning services department director a status report on the progress of **development** annually from the date of the PUD approval by the board of county commissioners. The purpose of the report will be to evaluate whether or not the project has commenced in earnest in accordance with the following criteria:

1. ~~For PUDs approved prior to October 24, 2001 the landowner(s) shall:~~
 - a. ~~Obtain approval for improvements plans or a **development order** for all **infrastructure** improvements to include utilities, roads and similar improvements required by the approved PUD master Plan or other **development orders** for at least 15 percent of the gross land area of the PUD site every five years from the date of approval by the board of county commissioners; and~~
 - b. ~~Receive **final local development orders** for at least 15 percent of the total number of approved **dwelling units** in the PUD, or in the case of PUDs consisting of nonresidential uses, 30 percent of the total approved gross leasable floor area within the PUD every six years from the date of approval by the board of county commissioners.~~
 - c. ~~Any PUD approved before October 24, 2001 that receives subsequent amendment approval shall be subject to the **development** criteria and time limits established for those PUDs approved on or after October 24, 2001 as outlined in section 10.02.12 of this Code.~~
2. ~~For PUDs and PUD amendments approved on or after October 24, 2001, but prior to January 3, 2007, the land owner shall:~~
 - 1 a. For residential portions of PUDs, the owner entity shall initiate physical **development** of **infrastructure** improvements, including **access** roads, internal roads, sewer and water utilities and any other related **infrastructure**, that supports a minimum of 15 percent of the designated residential area or areas of the PUD shall be initiated by the ~~third~~ fifth anniversary date of the PUD approval. An additional 15 percent of such infrastructure shall be completed every year thereafter until PUD buildout; and
 - 2 b. For the nonresidential portions of PUDs and commercial and industrial PUDs, the owner entity shall initiate physical **development** of a minimum of 15 percent of authorized floor area when approved on the basis of a defined amount of floor space; shall be initiated by the ~~third~~ fifth anniversary date of the PUD approval. In the event that the floor area is not the defining intensity measure, then 25 percent of the land area to include some representative portion of the **building** space shall be constructed by the ~~third~~ fifth anniversary date of the PUD approval date. The same amount of **development** shall be required every year thereafter up to an amount representing 75 percent of authorized buildable area and floor area. Thereafter the PUD shall be exempt from these sunset provisions.
- 3 For mixed use **tracts** or **structures**, physical **development** of **infrastructure** improvements, including **access** roads, internal roads, sewer and water utilities and any other related **infrastructure** that supports a minimum of 15 percent of the designated mixed use **tract** or **structure** shall be initiated by the fifth anniversary date of the PUD approval. Physical **development** of a minimum of 15 percent of approved mixed use floor area, and 15 percent of the approved residential units, shall

be initiated by the fifth anniversary date of the PUD approval. Components of mixed use planned unit developments (MPUDs) that are non-residential shall adhere to the requirements provided in subsections 10.02.13 D. 2. a. through b.

- 4 e. If in the event of a moratorium, or other action of government that prevents the approval of any final **development order**, the duration of the suspension of the approval shall not be counted towards the three- 5 year sunset provision period.
- ~~3.~~ ~~For PUDs approved on or after the date of adoption of this revision January 3, 2007 the land owner shall:~~
- a. ~~For all PUDs the build out year as submitted and approved with the application's Traffic Impact Statement (TIS) shall serve as the reference year for the approved density and intensity. Two years after the build out year as defined on the approved TIS submitted with the application and on the anniversary date of the adopted PUD any remaining density or intensity that has not been approved by the appropriate site development plan or plat and received a certificate of public adequacy (COA) shall be considered expired and void of any remaining development rights. In the event that action or inaction by the County or any regulatory agency or legal action prevents the approval of a development order, the duration of the suspension of the approval shall not be counted towards the expiration provision above, contingent that the applicant has been diligently pursuing a local development order or permit through any of the required regulatory agencies. The county manager or designee must be notified in writing of the circumstances of the delay with the appropriate documentation.~~
- b. ~~For all PUDs the build out year as submitted and approved with the application's Traffic Impact Statement (TIS) shall serve as the reference year for the approved density and intensity. On the build out year as defined on the approved TIS submitted with the application and on the anniversary date of the adopted PUD any remaining density and intensity shall be considered expired if all of the lands within the PUD boundary have received approval through site development plans or plats and received a certificate of public adequacy (COA). For non residential portions of a PUD, section (a) above allows for two additional years to amend the site development plan(s) in order to apply for development orders for any remaining intensity within non residential sections of the PUD.~~
- 5 4. Infrastructure improvements as required above shall be located on site and shall constitute infrastructure that makes possible vertical construction consistent with the permitted land uses. Acceleration lanes, entry road access and the like do not count towards meeting the required levels of infrastructure improvements as required above.
- 6 5. *PUD sunseting.* Prior to or any time after the planning services department director determines that a PUD has sunsetted, then the property owner shall initiate one of the following:
- a. Request for a PUD extension; ~~or~~
- b. Request for a PUD amendment; or
- c. Request a rezone.
- 7 6. *Board of county commissioners action on PUDs which have sunsetted.* Upon review and consideration of the appropriate

application, or the status report provided by the property owner and any supplemental information that may be provided, the board of county commissioners shall elect one of the following:

- a. To extend the current PUD approval for a maximum period of two years; at the end of which time, the property owner shall again submit to the procedure as defined herein, however no further development order applications shall be processed by the county until the PUD is officially extended.
- b. Approve or deny an application for a PUD amendment. The existing PUD shall remain in effect until subsequent action by the board of county commissioners on the submitted amendment to the PUD, however no further development order applications shall be processed by the county until the PUD is officially amended.
- c. Require the owner to submit an amended PUD. The existing PUD shall remain in effect until subsequent action by the board of county commissioners on the submitted amendment to the PUD, however no further development order applications shall be processed by the county until the PUD is officially amended.
 - i. If the owner fails to submit an amended application to the PUD within six months of the action of the board of county commissioners to require such a submittal, or the board denies the request to amend the PUD, then the board of county commissioners may initiate proceedings to rezone the unimproved portions of the original PUD to an appropriate zoning classification consistent with the future land use element of the growth management plan.

8 7. *PUD time limit extensions.* Extensions of the time limits for a PUD may be approved by the board of county commissioners. An approved PUD may be extended as follows:

- a. Maximum extension: ~~There shall be a maximum of two extensions~~ may be one PUD extension. ~~The first may be granted for a maximum of two years from the date of original approval. The second extension, may be granted for an additional two years from the date of expiration of the first extension.~~
- b. Approval of an extension shall be based on the following:
 - i. The PUD and the master plan is consistent with the current growth management plan including, but not limited to, density, intensity and concurrency requirements;
 - ii. The approved development has not become incompatible with existing and proposed uses in the surrounding area as the result of development approvals issued subsequent to the original approval of the PUD zoning; and
 - iii. Approved development will not, by itself or in conjunction with other development, place an unreasonable burden on essential public facilities.
- c. An extension request shall consist of the following:
 - i. A completed application form provided to the property owner by the county; and

- ii. A copy of the original PUD approval ordinance; and
 - iii. A written statement describing how the criteria listed in subsection 10.02.12 of this Code have been met; and
 - iv. A fee paid in accordance with the county fee resolution.
 - v. Any other information the County Manager or his designee deems necessary to process and evaluate the request.
- d. No more than ~~two~~ one extensions may be granted for any development original approval date.
 - e. Any PUD developer who has not commenced development pursuant to the sunset provisions set forth in this ~~section 10.02.12 of this~~ Code within ten years of the original PUD approval date shall submit a new rezoning application.

9. *Retention of existing PUD status.* Once a PUD has sunsetted the land shall retain its existing PUD zoning status, however applications for additional development orders shall not be processed until one of the following occurs:

- a. The board of county commissioners approves a request for extension of PUD zoning status.
- b. The board of county commissioners approves an amendment to the existing PUD.

Should the planning services department director determine that development has commenced in earnest, then the land shall retain its existing PUD approval and shall not be subject to additional review and consideration of new development standards or use modification pursuant to the provisions for time limits for approved PUDs.

In the case of developments of regional impact, PUD time limit restrictions shall be superseded by the phasing plan and/or time limits contained within the application for development approval and approved as part of a development order in conformance with F.S. § 380.06.

10. *Exemptions from sunset.* Any educational plants or facilities or public service facilities including police, fire and EMS facilities that were identified in an approved PUD zoning district or PUD master plan and which are consistent with the approved development regulations shall retain development rights, although a planned unit development may have sunsetted, as provided for this section. A development order for such facilities shall be issued in accordance with a site development plan approval, without the requirement to amend or extend the original planned unit development.

11. *PUD buildout.* For PUDs approved on or after ~~the date of adoption of this revision~~ January 3, 2007 the land owner shall:

- a. For all PUDs the build out year as submitted and approved with the application's Traffic Impact Statement (TIS) shall serve as the reference year for the approved **density** and intensity. Two years after the build out year as defined on the approved TIS submitted with the application and on the anniversary date of the adopted PUD any remaining **density** or intensity that has not been approved by the

appropriate **site development plan** or plat and received a certificate of public adequacy (COA) shall be considered expired and void of any remaining development rights. In the event that action or in-action by the County or any regulatory agency or legal action prevents the approval of a **development order**, the duration of the suspension of the approval shall not be counted towards the expiration provision above, contingent that the applicant has been diligently pursuing a **local development order** or permit through any of the required regulatory agencies. The county manager or designee must be notified in writing of the circumstances of the delay with the appropriate documentation.

- b. For all PUDs the build out year as submitted and approved with the application's Traffic Impact Statement (TIS) shall serve as the reference year for the approved **density** and intensity. On the build out year as defined on the approved TIS submitted with the application and on the anniversary date of the adopted PUD any remaining **density** and intensity shall be considered expired if all of the lands within the PUD boundary have received approval through **site development plans** or plats and received a certificate of public adequacy (COA). For non residential portions of a PUD, section (a) above allows for two additional years to amend the **site development plan(s)** in order to apply for **development orders** for any remaining intensity within non-residential sections of the PUD.

* * * * *

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.

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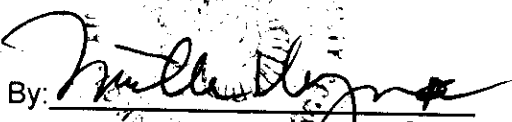
SECTION SIX: EFFECTIVE DATE


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

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida, this 5th Day of February, 2008.

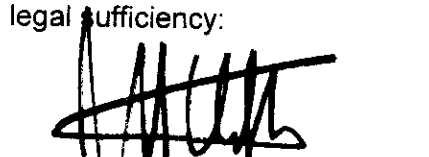
ATTEST:
DWIGHT E. BROCK, CLERK

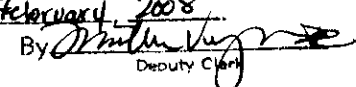
BOARD OF COUNTY COMMISSIONERS
OF COLLIER COUNTY, FLORIDA

By: 
Attest as to Chairman's signature on: Deputy Clerk

By: 
TOM HENNING, CHAIRMAN

Approved as to form and
legal sufficiency:


Jeffrey A. Klatzkov
Chief Assistant County Attorney

This ordinance filed with the
Secretary of State's Office the
18th day of February, 2008
and acknowledgement of that
filing received this 27th day
of February, 2008
By: 
Deputy Clerk

STATE OF FLORIDA)
COUNTY OF COLLIER)

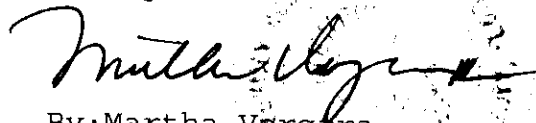
I, DWIGHT E. BROCK, Clerk of Courts in and for the
Twentieth Judicial Circuit, Collier County, Florida, do hereby
certify that the foregoing is a true copy of:

ORDINANCE NO. 2008-08

Which was adopted by the Board of County Commissioners on
the 5th day of February 2008, during Special Session.

WITNESS my hand and the official seal of the Board of
County Commissioners of Collier County, Florida, this 13th day
of February 2008.

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


By: Martha Vergara,
Deputy Clerk