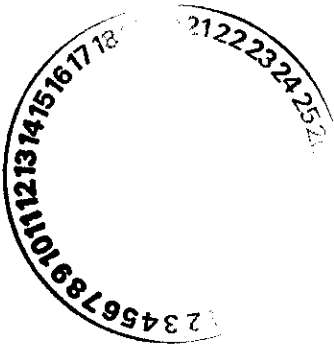


ORDINANCE NO. 08-63

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 1.04.04 REDUCTION OF REQUIRED SITE DESIGN REQUIREMENTS, SECTION 1.08.02 ADDING DEFINITIONS; CHAPTER 2 - ZONING DISTRICTS AND USES, INCLUDING SECTION 2.03.01 AGRICULTURAL ZONING DISTRICTS, SECTION 2.03.04 INDUSTRIAL ZONING DISTRICTS, SECTION 2.03.07 OVERLAY ZONING DISTRICTS; CHAPTER 3 - RESOURCE PROTECTION, INCLUDING SECTION 3.02.09 REGULATIONS FOR MOBILE HOMES AND RECREATIONAL VEHICLES, SECTION 3.05.05 CRITERIA FOR REMOVAL OF PROTECTED VEGETATION, SECTION 3.05.07 PRESERVATION STANDARDS, 3.05.08 REQUIREMENT FOR REMOVAL OF PROHIBITED EXOTIC VEGETATION; CHAPTER 4 - SITE DESIGN STANDARDS AND DEVELOPMENT STANDARDS, INCLUDING SECTION 4.02.03 SPECIFIC STANDARDS FOR LOCATION OF ACCESSORY BUILDINGS AND STRUCTURES, SECTION 4.02.27 SPECIFIC DESIGN STANDARDS FOR THE IMMOKALEE - STATE ROAD 29A COMMERCIAL OVERLAY SUBDISTRICT, 4.02.37 DESIGN STANDARDS FOR DEVELOPMENT IN THE GOLDEN GATE DOWNTOWN CENTER COMMERCIAL OVERLAY DISTRICT (GGDCCO), SECTION 4.03.08 FACILITY AND SERVICE IMPROVEMENT REQUIREMENTS, SECTION 4.05.06 LOADING SPACE REQUIREMENTS, SECTION 4.05.08 BICYCLE PARKING REQUIREMENTS, SECTION 4.06.03 LANDSCAPING REQUIREMENTS FOR VEHICULAR USE AREAS AND RIGHTS-OF-WAY, SECTION 4.06.05 GENERAL LANDSCAPING REQUIREMENTS, SECTION 4.07.02 DESIGN REQUIREMENTS; CHAPTER 5 - SUPPLEMENTAL STANDARDS, INCLUDING SECTION 5.03.02 FENCES AND WALLS, SECTION 5.05.08 ARCHITECTURAL AND SITE



DESIGN STANDARDS, SECTION 5.05.12 SPECIFIC STANDARDS FOR RAW WATER WELLS, SECTION 5.06.02 PERMITTED SIGNS, SECTION 5.06.04 SIGN STANDARDS FOR SPECIFIC SITUATIONS; CHAPTER 6 - INFRASTRUCTURE IMPROVEMENTS AND ADEQUATE PUBLIC FACILITIES REQUIREMENTS, INCLUDING SECTION 6.02.02 MANAGEMENT AND MONITORING PROGRAM, SECTION 6.02.03 TRANSPORTATION LEVEL OF SERVICE REQUIREMENTS, SECTION 6.02.05 PARK AND RECREATION FACILITY LEVEL OF SERVICE REQUIREMENTS, SECTION 6.02.06 POTABLE WATER FACILITY LEVEL OF SERVICE REQUIREMENTS, SECTION 6.02.07 SANITARY SEWER FACILITY LEVEL OF SERVICE REQUIREMENTS, SECTION 6.02.08 SOLID WASTE FACILITY LEVEL OF SERVICE REQUIREMENTS, SECTION 6.06.03 STREETLIGHTS; CHAPTER 8 - DECISION-MAKING AND ADMINISTRATIVE BODIES, INCLUDING SECTION 8.03.01 ESTABLISHMENT, POWERS AND DUTIES AND THE ADDITION OF SECTION 8.03.08 APPEALS; CHAPTER 9 - VARIATIONS FROM CODE REQUIREMENTS, INCLUDING SECTION 9.03.07 NONCONFORMITIES CREATED OR INCREASED BY PUBLIC ACQUISITION; CHAPTER 10 - APPLICATION, REVIEW AND DECISION-MAKING PROCEDURES, INCLUDING SECTION 10.02.02 SUBMITTAL REQUIREMENTS FOR ALL APPLICATIONS, SECTION 10.02.03 SUBMITTAL REQUIREMENTS FOR SITE DEVELOPMENT PLANS, SECTION 10.02.04 SUBMITTAL REQUIREMENTS FOR PLATS, SECTION 10.02.05 SUBMITTAL REQUIREMENTS FOR IMPROVEMENT PLANS, SECTION 10.02.06 SUBMITTAL REQUIREMENTS FOR PERMITS, SECTION 10.02.07 SUBMITTAL REQUIREMENTS FOR CERTIFICATES OF PUBLIC FACILITY ADEQUACY, SECTION FOUR, CONFLICT AND SEVERABILITY; SECTION FIVE, INCLUSION IN THE COLLIER COUNTY LAND DEVELOPMENT CODE; AND SECTION SIX, EFFECTIVE DATES.

### 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 first amendment to the LDC for the calendar year 2008; and

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

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

WHEREAS, the Board of County Commissioners, in a manner prescribed by law, did hold advertised public hearings on September 24, 2008 and October 30, 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. : DELETION OF SECTION 1.04.04 REDUCTION OF REQUIRED SITE DESIGN REQUIREMENTS**

Section 1.04.04 Reduction of Required Site Design Requirements, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby deleted as follows:

#### **~~1.04.04~~ Reduction of Required Site Design Requirements**

- A. ~~No part of a required yard, required open space, required off-street parking space, or required off-street loading space,~~

~~provided in connection with one building, structure, or use shall be included as meeting the requirements for any other, structure, or use, except where specific provision is made in this LDC.~~

~~B. Minimum standards; nonconformities created by public acquisition.~~

~~1. All lots or yards created after the effective date of this Code [Feb. 14, 2006] must comply with the requirements then established by this Code.~~

~~2. No lot, even though it may consist of one or more abutting lots of record, or yard, existing at the effective date of this Code [Feb. 14, 2006] or lawfully existing on the effective date [Feb. 14, 2006] of applicable amendments to this Code shall thereafter be reduced in its degree of compliance, including its size, dimension, or area, below the minimum requirements then set forth in this Code, except by reason of a portion thereof being acquired for public use in any manner, including dedication, condemnation, purchase, and the like.~~

~~a. Required yards on improved lots, lot area, lot coverage on improved lots, and lot dimensions rendered nonconforming or more legally nonconforming as a result of being acquired for public use, may be reduced by the same dimension, area, or amount involved in the dedication, condemnation, purchase, or similar method of acquisition for public use, but shall not result in a front yard of less than ten feet (10') in depth. Accordingly, the resulting degree of nonconformity of the area and dimensions of a lot and the required yards with this Code's then current requirements will be deemed lawful unless or until the remaining lot or yard is recreated, typically by re-development, re-plat or lot re-combination, at which time such lots and yards must comply with the requirements then established by this Code. Further, no conforming lot otherwise qualifying for a lot split or lot line adjustment pursuant to Section 10.02.02.B.8; 10.02.02, B.12, 1.04.04 or 9.03.03.A 5 may be denied such approval solely on the grounds that the resulting lot or lots would be less than the required minimum area for such lot(s) in the applicable zoning district as a result of acquisition, from Feb. 14, 2006.~~

~~b. Other existing site related legal nonconformities, including those rendered more nonconforming as a result of acquisition for public use and which pertain to this Code's or other county code requirements, such as, but not limited to, stormwater management, landscaping or buffers, preserves, on or off-site~~

~~parking, architectural design standards, etc., will be deemed legally nonconforming, and all such resulting nonconformities may be allowed to remain so nonconforming, unless or until the remaining lot or yard is subsequently re-created or re-developed, at which time such site related nonconformities and development must comply with the then existing requirements of this Code.~~

~~c. In those circumstances where acquisition for public use of a portion of a lot or yard would result in one or more nonconformities that would require approval of a development order or permit in order to implement the terms of the acquisition, i.e., in order to cure or remedy the effect of an acquisition, (e.g., an SDP or building permit required to relocate a prior existing building), the County manager, or designee, is authorized to approve such development order or permit so long as any prior existing legal nonconformity of the type set forth in b. above would not be increased.~~

~~3. This section may be applied to those acquisitions occurring prior to the adoption of this ordinance so long as the purchase or dedication of the property has not closed, or the condemnation proceeding relating to the property acquired has not reached final disposition.~~

~~C. Other than provided for immediately above, required off-street parking shall not be reduced in area or changed to any other use unless the permitted or permissible use that it serves is discontinued or modified, or equivalent required off-street parking is provided meeting the requirements of this LDG.~~

\* \* \* \* \*

### **SUBSECTION 3.B. 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**

\* \* \* \* \*

~~*Park, neighborhood:* A public park, owned and maintained by Collier County which is intended to serve the needs of the local community and: is located within the E (Estates) zoning district, or any residential zoning district or residential component of a planned unit development; is comprised of no more that five acres of land; access to which is provided through non-vehicular means, with no on-site parking facilities; and provides only basic park facilities and amenities such as, but not limited to, sidewalks,~~

~~non-air conditioned shelters, bike racks, drinking fountains and playground equipment.~~

\* \* \* \* \*

Park, neighborhood: Means a park which serves the population of a neighborhood and is generally accessible by bicycle or pedestrian ways.

\* \* \* \* \*

Passive Recreation: Activities characterized by a natural resource emphasis and non-motorized activities. These activities are deemed to have minimal negative impacts on natural resources; or are consistent with preservation, enhancement, restoration and maintenance goals for the purpose of habitat conservation. Examples of passive recreation include, but are not limited to, bird watching and nature study, swimming, picnicking, hiking, fishing and hunting, where appropriate.

\* \* \* \* \*

Post Take Plan: A plan depicting site modifications, enhancements, and/or deviations from the requirements of this code as set forth in Section 9.03.07, or from the requirements of a PUD or Conditional Use as may be applicable, where such modifications, enhancements, and/or deviations are designed to remediate, mitigate, minimize, or resolve site impacts caused by a Take to an improved property, or unimproved property where an application for Development Order has been made. A Post Take Plan may include, but is not limited to, any or all of the following: redesign or relocation of ingress/egress; replacement of all, or a portion of, lost parking spaces; redesign of internal vehicular circulation patterns; relocation or replacement of signage, redesign or relocation of stormwater retention, detention, or conveyance facilities, replacement of landscaping materials and/or irrigation fixtures; redesign or relocation of landscape buffers, preserves, or conservation areas; and similar types of site related modifications or enhancements.

\* \* \* \* \*

Public utility ancillary system: The individual or collective appurtenant equipment and structures owned or operated by a public or quasi public entity which are integral to treatment facilities that provide raw water, potable water, irrigation quality (IQ) water and wastewater services.

\* \* \* \* \*

Take or Taking: A parcel of land or a lot or portion thereof, or parcels or lots in combination or a portion thereof, that Collier County (or other governmental agency with eminent domain powers), or a private party or parties under agreement with Collier County or other government entity, has acquired or proposes to acquire for public use, whether by fee simple title or by easement, regardless of whether that acquisition occurs through dedication, condemnation, purchase, gift, or some similar manner.

\* \* \* \* \*



Vegetation, protected: Any living, woody plant (tree, shrub or groundcover) and any dead woody plant that has a nest of a bald eagle. Nuisance invasive vines and nuisance invasive groundcover are not protected vegetation.

\* \* \* \* \*

~~Wells, raw water:~~ The individual or collective excavations and resulting appurtenant equipment owned or operated by a public or quasi-public entity which are the source of raw water used to provide public irrigation or potable water. When water from such wells is conveyed through physically connected infrastructure to a public or quasi-public treatment facility, the system of physically inter-connected infrastructure and wells may be considered to be collectively located "on-site" as that term is to be applied in GMP Policies 6.1.1. and 6.1.2., and any implementing land development regulations.

\* \* \* \* \*

### SUBSECTION 3.C. AMENDMENTS TO SECTION 2.03.01 AGRICULTURAL ZONING DISTRICTS

Section 2.03.01 Agricultural Zoning Districts, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

#### 2.03.01 Agricultural Zoning Districts

- A. Rural Agricultural District (A). The purpose and intent of the rural agricultural district (A) is to provide lands for agricultural, pastoral, and rural land uses by accommodating traditional agricultural, agricultural related activities and facilities, support facilities related to agricultural needs, and conservation uses. Uses that are generally considered compatible to agricultural uses that would not endanger or damage the agricultural, environmental, potable water, or wildlife resources of the County, are permissible as conditional uses in the A district. The A district corresponds to and implements the Agricultural/Rural land use designation on the future land use map of the Collier County GMP, and in some instances, may occur in the designated urban area. The maximum **density** permissible in the rural agricultural district within the urban mixed use district shall be guided, in part, by the **density** rating system contained in the future land use element of the GMP. The maximum **density** permissible or permitted in A district shall not exceed the **density** permissible under the **density** rating system. The maximum **density** permissible in the A district within the agricultural/rural district of the future land use element of the Collier County GMP shall be consistent with and not exceed the **density** permissible or permitted under the agricultural/rural district of the future land use element.
1. The following subsections identify the uses that are permissible by right and the uses that are allowable as **accessory** or **conditional uses** in the rural/agricultural district (A).

\* \* \* \* \*

c. **Conditional uses.** The following uses are permitted as conditional uses in the rural agricultural district (A), subject to the standards and procedures established in section 10.08.00.

\* \* \* \* \*

23. Cultural, ~~educational,~~ ecological, or recreational facilities that provide opportunities for educational experience, eco-tourism or agri-tourism and their related modes of transporting participants, viewers or patrons where applicable, subject to all applicable federal, state and local permits. Tour operations, such as, but not limited to airboats, swamp buggies, horses and similar modes of transportation, shall be subject to the following criteria:

- i. Permits or letters of exemption from the U.S. Army Corps of Engineers, the Florida Department of Environmental Protection, and the South Florida Water Management District shall be presented to the planning services director prior to site **development plan** approval.
- ii. The petitioner shall post the property along the entire property line with no trespassing **signs** approximately every 300 yards.
- iii. The petitioner shall utilize only trails identified and approved on the site **development plan**. Any existing trails shall be utilized before the establishment of new trails.
- iv. Motor vehicles shall be equipped with engines which include spark arrestors and mufflers designed to reduce noise.

\* \* \* \* \*

**SUBSECTION 3.D. AMENDMENTS TO SECTION 2.03.04 INDUSTRIAL ZONING DISTRICTS**

Section 2.03.04 Industrial Zoning Districts, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

**2.03.04 Industrial Zoning Districts**

\* \* \* \* \*

A. Industrial District (I). The purpose and intent of the industrial district (I) is to provide lands for manufacturing, processing, storage and warehousing, wholesaling, and distribution. Service and commercial activities that are related to manufacturing, processing, storage and warehousing, wholesaling, and distribution activities, as well as commercial uses relating to automotive repair and heavy equipment sales and repair are also permissible in the I district. The

I district corresponds to and implements the industrial land use designation on the future land use map of the Collier County GMP.

1. The following uses, as identified within the Standard Industrial Classification Manual (1987), or as otherwise provided for within this section, are permitted as a right, or as **accessory** or **conditional uses** within the industrial district (I).

\* \* \* \* \*

b. **Accessory Uses.**

\* \* \* \* \*

4. **Recreational vehicle** campground and ancillary support facilities when in conjunction with temporary special events such as air shows and the like. – applicable to the Immokalee Regional Airport only, and subject to the provisions of section 5.05.10.C.1. – C.6. of this Code. Recreational vehicles, tents, and other structures and facilities allowed in the campground for temporary habitation, shall be allowed for no more than seventy-two consecutive hours.

- ~~5.~~ **Recreational vehicle** campground and ancillary support facilities when in conjunction with vehicle racing – applicable to the Immokalee Regional Airport only, and subject to the provisions of section 5.05.10.C.1. – C.6. of this Code. Recreational vehicles, tents, and other structures and facilities allowed in the campground for temporary habitation, shall be allowed for no more than seventy-two consecutive hours.

\* \* \* \* \*

- c. **Conditional uses.** The following uses are permitted as **conditional uses** in the industrial district (I), subject to the standards and procedures established in section 10.08.00.

\* \* \* \* \*

- ~~22.~~ Vehicle racing – applicable to the Immokalee Regional Airport only.

- ~~22.~~ 23. Wholesale trade-durable goods (5015, 5051, 5052, 5093). Wholesale trade-nondurable goods (5162, 5169, 5171, 5172, 5191).

- ~~23.~~ 24. Homeless shelters.

- ~~24.~~ 25. Soup kitchens.

25. ~~26.~~ Any other industrial use which is comparable in nature with the foregoing list of permitted uses and consistent with the purpose and intent statement of the district, as determined by the board of zoning appeals pursuant to section 10.08.00.

\* \* \* \* \*

B. Business Park District (BP). The purpose and intent of the business park district (BP) is to provide a mix of **industrial uses**, corporate headquarters offices and business/professional offices which complement each other and provide convenience services for the employees within the district; and to attract businesses that create high value added jobs. It is intended that the BP district be designed in an attractive park-like environment, with low structural **density** and large landscaped areas for both the functional use of **buffering** and enjoyment by the employees of the BP district. The BP district is permitted by the urban mixed use, urban commercial, and urban-industrial districts of the future land use element of the Collier County GMP.

1. The following uses, as identified within the latest edition of the Standard Industrial Classification Manual, or as otherwise provided for within this section, are permitted as of right, or as uses **accessory** to permitted primary or secondary uses, or are **conditional uses** within the business park district.

\* \* \* \* \*

c. **Accessory uses to permitted primary and secondary uses:**

\* \* \* \* \*

4. **Recreational vehicle** campground and ancillary support facilities when in conjunction with temporary special events such as air shows and the like – applicable to the Immokalee Regional Airport only, and subject to the provisions of section 5.05.10.C.1. – C.6. of this Code. Recreational vehicles, tents, and other structures and facilities allowed in the campground for temporary habitation, shall be allowed for no more than seventy-two consecutive hours.

5. **Recreational vehicle** campground and ancillary support facilities when in conjunction with vehicle racing – applicable to the Immokalee Regional Airport only, and subject to the provisions of section 5.05.10.C.1. – C.6. of this Code. Recreational vehicles, tents, and other structures and facilities allowed in the campground for temporary habitation, shall be allowed for no more than seventy-two consecutive hours.

\* \* \* \* \*

d. **Conditional uses:**

\* \* \* \* \*

2. Vehicle racing – applicable to the Immokalee Regional Airport only.

\* \* \* \* \*

**SUBSECTION 3.E. 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**

\* \* \* \* \*

O. Golden Gate Downtown Center Commercial Overlay District "GGDCCO": Special conditions for properties in the vicinity of Golden Gate Parkway in Golden Gate City, as identified on the Golden Gate Downtown Center Commercial Subdistrict Map of the Golden Gate Area Master Plan and as contained herein.

~~1.~~ 2. *Purpose and Intent.* The purpose and intent of this overlay district (see Downtown Center Commercial Subdistrict Map) is to encourage redevelopment herein in order to improve the physical appearance of the area and create a viable downtown district for the residents of Golden Gate City and Golden Gate Estates. Emphasis shall be placed on the creation of pedestrian-oriented areas, such as outdoor dining areas and pocket parks, ~~which that~~ do not impede the flow of traffic along Golden Gate Parkway. Also, emphasis shall be placed on the construction of mixed-use **buildings**. Residential **dwelling units** constructed in this overlay district are intended to promote resident-business ownership. The provisions of this overlay district are intended to ensure harmonious **development** of commercial and mixed-use **buildings** at a pedestrian scale that is compatible with residential **development** within and outside of the overlay district.

~~2.~~ 3. *Aggregation of Properties.* This overlay district encourages the aggregation of properties in order to promote flexibility in site design. The types of uses permitted within this overlay district are low intensity retail, office, personal services, institutional, and residential. Non-residential **development** is intended to serve the needs of residents within the overlay district, surrounding neighborhoods, and passersby.

~~3.~~ 1. *Applicability.* These regulations apply to properties in Golden Gate City lying north of Golden Gate Parkway, generally bounded by 23rd Avenue SW and 23rd Place SW to the north, 45th Street SW to the west, and 41st Street SW and Collier Boulevard to the east. South of Golden Gate

Parkway, these regulations apply to properties bounded by 25<sup>th</sup> Avenue SW to the south, 47<sup>th</sup> Street SW to the west, and 44<sup>th</sup> Street SW to the east. These properties are more precisely identified on ~~Map 17~~, the "Golden Gate Downtown Center Commercial Subdistrict" map of the Golden Gate Area Master Plan and as depicted on the applicable official zoning atlas maps. Except as provided in this section and section 4.02.26, all other use, dimensional and **development** requirements shall be as required or allowed in the underlying zoning districts.

\* \* \* \* \*

7. *Prohibited Uses.* Prohibited uses within the GGDCCO include the uses listed below:

- a. New residential-only **structures**
- b. Any commercial use employing drive-up, drive-in or drive through delivery of goods or services.
- c. Sexually oriented businesses (Code of Laws, 26-151 *et seq.*).
- d. Enameling, painting or plating as a primary use. However, these uses are permitted if secondary to an artist's or craft studio.
- e. Single-room occupancy hotels, prisons, detention facilities, halfway houses, soup kitchens or homeless shelters.

\* \* \* \* \*

**SUBSECTION 3.F. AMENDMENTS TO SECTION 3.02.09 REGULATIONS FOR MOBILE HOMES AND RECREATIONAL VEHICLES**

Section 3.02.09 Regulations For Mobile Homes and Recreational Vehicles, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

**3.02.09 Regulations For Mobile Homes and Recreational Vehicles**

- A. No ~~mobile home~~ mobile home shall be placed in ~~the a floodway or coastal high hazard area, as depicted on the county-wide Future Land Use Map, or in a floodway,~~ except in an existing **mobile home park** or existing **mobile home subdivision, or land already zoned to allow mobile home development.**

\* \* \* \* \*

**SUBSECTION 3.G. : AMENDMENTS TO SECTION 3.05.05 CRITERIA FOR REMOVAL OF PROTECTED VEGETATION**

Section 3.05.05 Criteria for Removal of Protected Vegetation, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

3.05.05 Criteria for Removal of Protected Vegetation

\* \* \* \* \*

P. Removal of living or dead standing vegetation with a bald eagle nest. Permits, if required, shall be provided from the Florida Fish and Wildlife Conservation Commission and U.S. Fish and Wildlife Service authorizing the removal of the nest, in accordance with state and federal permit requirements, prior to issuance of a County permit. Removal of vegetation containing an active, inactive or abandoned nest may be allowed when:

1. The vegetation is located on a single-family lot, and is located in such a manner that either:
  - a. the principal structure cannot be constructed, or
  - b. access to the property is impeded.
2. The protected vegetation poses an imminent threat to human safety or an adjacent principal or accessory building.
3. The vegetation is located outside of a preserve or an area used to fulfill the native vegetation preservation requirements of this Code.

\* \* \* \* \*

**SUBSECTION 3.H. : 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**

\* \* \* \* \*

H. Preserve standards.

\* \* \* \* \*

1. Design standards.

\* \* \* \* \*

g. Preserve management plans. The Preserve Management Plan shall identify actions that must be taken to ensure that the preserved areas will function as proposed. A Preserve Management Plan shall include the following elements:

i. General Maintenance. Preserves shall be maintained in their natural state and must be kept free of refuse and debris.

ii. **Exotic vegetation** Removal, **Non-native vegetation**, and Nuisance or Invasive Plant Control. **Exotic vegetation** removal and maintenance plans shall require that Category I Exotics be removed from all preserves. All exotics within the first 75 feet of the outer edge of every preserve shall be physically removed, or the tree cut down to **grade** and the stump treated. Exotics within the interior of the preserve may be approved to be treated in place if it is determined that physical removal might cause more damage to the **native vegetation** in the preserve. When **prohibited exotic vegetation** is removed, but the base of the vegetation remains, the base shall be treated with an U.S. Environmental Protection Agency approved herbicide and a visual tracer dye shall be applied Any person who supervises up to eight people in the application of pesticides and herbicides in the chemical maintenance of exotic vegetation in preserves, required retained native vegetation areas, wetlands, or LSPA shall maintain the Florida Dept. of Agriculture and Consumer Services certifications for Natural Areas Pesticide Applicators or Aquatic Herbicide Applicators



dependent upon the specific area to be treated. Control of exotics shall be implemented on a yearly basis or more frequently when required, and shall describe specific techniques to prevent reinvasion by **prohibited exotic vegetation** of the site in perpetuity. Non-native **vegetation** and nuisance or invasive plants shall be removed from all Preserves.

- iii. Designation of a Preserve Manager. A Preserve Manager shall be identified as the responsible party to ensure that the Preserve Management Plan is being complied with. The individual's name, address and phone number shall be listed on the Preserve Management Plan. The same information shall be provided regarding the developer. Both parties will be responsible until such time that the homeowners association takes over the management of the preserve. At that time, the homeowners association shall amend the plan to provide the homeowner association information and information regarding the person hired by the association to manage the preserve. The homeowner's association and the preserve manager shall be responsible for annual maintenance of the preserve, in perpetuity. At a minimum, the Preserve Manager shall have the same qualifications as are required for the author of an EIS, as set forth in subsection 10.02.02 A.3.

\* \* \* \* \*

- h. Allowable uses within preserve areas. Passive recreational uses such as pervious nature trails or boardwalks are allowed within the preserve areas, as long as any clearing required to facilitate these uses does not impact the minimum required vegetation. For the purpose of this section, passive recreational uses are those uses that would allow limited **access** to the preserve in a manner that will not cause any negative impacts to the preserve, such as pervious **pathways**, benches and educational **signs**. Fences may be utilized outside of the preserves to provide protection in the preserves in accordance with the protected species subsection 3.04.01 D.1.c. Fences and walls are not permitted within the preserve area.

\* \* \* \* \*

**SUBSECTION 3.I. : AMENDMENTS TO SECTION 3.05.08 REQUIREMENT FOR REMOVAL OF PROHIBITED EXOTIC VEGETATION**

Section 3.05.08 Requirement for Removal of Prohibited Exotic Vegetation, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

**3.05.08 Requirement for Removal of Prohibited Exotic Vegetation**

\* \* \* \* \*

A. General.

\* \* \* \* \*

6. Herbicides utilized in the removal of **prohibited exotic vegetation** shall have been approved by the U.S. Environmental Protection Agency. Any person who supervises up to eight people in the application of pesticides and herbicides in the chemical maintenance of exotic vegetation in preserves, required retained native vegetation areas, wetlands, or LSPA shall maintain the Florida Dept. of Agriculture and Consumer Services certifications for Natural Areas Pesticide Applicators or Aquatic Herbicide Applicators dependent upon the specific area to be treated. When **prohibited exotic vegetation** is removed, but the base of the vegetation remains, the base shall be treated with an U.S. Environmental Protection Agency approved herbicide and a visual tracer dye shall be applied.

\* \* \* \* \*

**SUBSECTION 3.J. : AMENDMENTS TO SECTION 4.02.03 SPECIFIC STANDARDS FOR LOCATION OF ACCESSORY BUILDINGS AND STRUCTURES**

Section 4.02.03 Specific Standards for Location of Accessory Buildings and Structures, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

**4.02.03 Specific Standards for Location of Accessory Buildings And Structures**

- A. For the purposes of this section, in order to determine yard requirements, the term "accessory structure" shall include detached and attached accessory use structures or buildings notwithstanding the attachment of such structure or building containing the accessory use to the **principal use** structure or building. **Accessory** buildings and structures must be constructed simultaneously with or following the construction of the principal structure and shall conform with the following setbacks and building separations.

**Table 3. Dimensional Standards for Accessory Buildings and Structures on Non-Waterfront Lots And Non-Golf Course Lots in Zoning Districts other than Estates(E)\*\*.**

		Front	Rear	Side	Structure to Structure (If Detached)
1.	Parking garage or carport, single-family	SPS	10 feet	SPS	10 feet
2.	One-story parking structures and/or carports	SPS	35 feet	SPS	10 feet
3.	Multistory parking structures	SPS	35 feet	SPS	1/1*
4.	Swimming pool and/or screen enclosure (one- and two-family)	SPS	10 feet	SPS	N
5.	Swimming pool (multi-family and commercial)	SPS	20 feet	15 feet	N
6.	Tennis courts (private) (one- and two-family)	SPS	15 feet	SPS	10 feet
7.	Tennis courts (multi-family, and commercial)	SPS	20 feet	15 feet	20 feet
8.	Utility buildings	SPS	10 feet	SPS	10 feet
9.	Chickee, barbecue areas	SPS	10 feet	SPS	10 feet
10.	Attached screen porch	SPS	10 feet	SPS	N/A
11.	Unlisted accessory	SPS	SPS	SPS	10 feet
12.	Satellite dish antenna	NP	15 feet	SPS	10 feet
13.	Permanent emergency generators	NP	10 feet	See sec. 4.02.01 D.13	N/A

N = None.

N/A = Not applicable.

NP = structure allowed in rear of building only.

SPS = Calculated same as principal structure.

\* = 1 foot/feet of accessory height = 1 foot/feet of building separation.

\*\* = All accessory structures in Estates zoning must meet principal structure setbacks.

**Table 4. Dimensional Standards for Accessory Buildings and Structures on Waterfront Lots and Golf Course Lots in Zoning Districts other than Estates(E)\*\* 2**

		Setbacks			Structure to structure (If Detached)
		Front	Rear	Side	
1.	Parking garage or carport, single-family	SPS	SPS	SPS	10 feet
2.	One-story parking structures	SPS	SPS	SPS	10 feet
3.	Multistory parking structures	SPS	SPS	SPS	1/1 <sup>1</sup>
4.	Swimming pool and/or screen enclosure (one- and two-family)	SPS	10 feet <sup>3</sup>	SPS	N
5.	Swimming pool (multi-family and commercial)	SPS	20 feet	15 feet	N
6.	Tennis courts (private) (one- and two-family)	SPS	15 feet	SPS	10 feet
7.	Tennis courts (multi-family and commercial)	SPS	35 feet	SPS	20 feet
8.	Boathouses and boat shelters (private)	SPS	N/A	7.5 feet or 15 feet	10 feet
				(See subsection 5.03.06(F.))-	
9.	Utility buildings	SPS	SPS	10 feet	10 feet
10.	Chickee, barbecue areas	SPS	10 feet	SPS	N
11.	Davits, hoists and lifts	N/A	N/A	7.5 feet or 15 feet	SPS
12.	Attached screen porch	SPS	10 feet <sup>4</sup>	SPS	SPS
13.	Unlisted accessory	SPS	SPS	SPS	10 feet

14.	Docks, decks and mooring pilings	N/A	N/A	7.5 feet or 15 feet	N/A
15.	Boat slips and ramps (private)	N/A	N/A	7.5 feet	N/A
16.	Satellite dish antennas	NP	15 feet	SPS	10 feet
17.	Permanent emergency generators	NP	10 feet	See sec. 4.02.01. D.13	N/A

N = None.

N/A = Not applicable.

NP = structure allowed in rear of building only.

SPS = Calculated same as principal structure.

~~\* = 1 foot/foot of accessory height = 1 foot/foot of building separation~~

\*\* = All accessory structures in Estates zoning must meet principal structure setbacks.

<sup>1</sup>1/foot of accessory height = 1/foot of building separation.

<sup>2</sup>In those cases where the coastal construction control line is involved, the coastal construction control line will apply.

\* \* \* \* \*

**SUBSECTION 3.K.: AMENDMENTS TO SECTION 4.02.27 SPECIFIC DESIGN STANDARDS FOR THE IMMOKALEE – STATE ROAD 29A COMMERCIAL OVERLAY SUBDISTRICT**

Section 4.02.27 Specific Design Standards for the Immokalee – State Road 29A Commercial Overlay Subdistrict, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

**4.02.27 Specific Design Standards for the Immokalee--State Road 29A Commercial Overlay Subdistrict**

- A. Access points to SR-29 shall comply with Florida State Department of Transportation (FDOT) permitting regulations. **Parcels** that ~~do have a minimum of~~ have 440-feet or less of street frontage shall provide access off existing adjacent roadways, when possible, and should not directly access to SR-29.

\* \* \* \* \*

D. Transportation.

1. Shared parking arrangements between adjoining developments shall be encouraged.
2. Deceleration and acceleration lanes shall be ~~provided~~ consistent with the ROW Permitting and Inspection Handbook and subject to FDOT approval where applicable.

\* \* \* \* \*

**SUBSECTION 3.L.: AMENDMENTS TO SECTION 4.02.37 DESIGN STANDARDS FOR DEVELOPMENT IN THE GOLDEN GATE DOWNTOWN CENTER COMMERCIAL OVERLAY DISTRICT (GGDCCO)**

Section 4.02.37 Design Standards for Development in the Golden Gate Downtown Center Commercial Overlay District (GGDCCO), of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

**4.02.37 Design Standards for Development in the Golden Gate Downtown Center Commercial Overlay District (GGDCCO)**

A. **Development** criteria. The following standards shall apply to all uses in this overlay district. Where specific **development** criteria and standards also exist in the Golden Gate Area Master Plan, or the Future Land Use Element of the Growth Management Plan, these standards shall supersede any less stringent requirement or place additional requirements on development.

1. Cessation of residential uses. Existing, non-owner-occupied residential uses located along Golden Gate Parkway shall cease to exist no later than seven years after the effective date of the adoption of the Downtown Center Commercial Subdistrict in the Golden Gate Area Master Plan (adopted October 26, 2004; effective January 14, 2005). This does not require the removal of residential structures located on Golden Gate Parkway that are converted to uses allowed in this overlay district within one additional year; nor does this require the removal of residential structures located elsewhere in this overlay district.

\* \* \* \* \*

**SUBSECTION 3.M.: AMENDMENTS TO SECTION 4.03.08 FACILITY AND SERVICE IMPROVEMENT REQUIREMENTS**

Section 4.03.08 Facility and Service Improvement Requirements, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

**4.03.08 Facility and Service Improvement Requirements**

The following improvements in this section are required in conjunction with the **subdivision** and **development** of any and all property pursuant to procedures set forth in Chapter 10 within the unincorporated areas of Collier County. Any required improvements shall be designed and constructed in accordance with the design requirements and specifications of the entity having responsibility for approval, including all federal, state, and local agencies.

A. **Street System.** The design and construction of all **subdivision streets**, access improvements and related facilities shall be in conformance with the design requirements, regulations and standards established in Chapter 6 of this LDC and the Collier County Construction Standards Manual and shall include but not be limited to the pavement **structure**, drainage, **sidewalks** and traffic control/safety devices.

1. **Access to lots** within a **subdivision** shall be designed to accomplish **access** to the **lots** by use of local **streets**. **access** Access to residential lots shall be in accordance with Ordinance No. 82-91 [superseded by ordinance found in LDC ch. 110, art. II], construction standards handbook for work within the public **right-of-way** Ordinance No. ~~93-63~~ 03-37, as may be amended.

\* \* \* \* \*

**SUBSECTION 3.N. AMENDMENTS TO SECTION 4.05.06 LOADING SPACE REQUIREMENTS**

Section 4.05.06 Loading Space Requirements, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

**4.05.06 Loading Space Requirements**

\* \* \* \* \*

B. Requirements.

1. Each retail store, warehouse, wholesale establishment, industrial activity, terminal, market, **restaurant**, funeral home, laundry, dry cleaning

establishment, or similar use which has an aggregate **floor area** of:

**Table 18. Required LOADING SPACES.**

Square Feet	Number of Spaces
5,000 but not over 10,000	1
10,000 but not over 20,000	2
20,000 but not over 50,000	3
Plus one additional off-street loading space for each additional 25,000 square feet over 50,000 square feet or major fraction thereof.	

2. ~~For each multi-family dwelling facility having at least twenty (20) dwelling units but not over fifty (50) dwelling units: one (1) space. For each multi-family dwelling facility having over fifty (50) dwelling units: one (1) space, plus one (1) space for each additional fifty (50) dwelling units, or major fraction thereof.~~
  2. 3. For each auditorium, convention hall, exhibition hall, museum, **hotel** or **motel**, office **building**, sports arena or stadium, two (2) or more **buildings** or uses may be permitted to combine their off-street loading facilities, provided that such off-street loading facilities meet the requirements of this LDC, are equal in size and capacity to the combined requirements of the several **buildings** or uses, and are designed, located, and arranged to be usable thereby; **hospitals**, sanitariums, welfare institutions, or similar uses which have an aggregate gross **floor area** of: over 5,000 square feet, but not over 20,000 square feet: one (1) space; plus for each additional 25,000 square feet (over 20,000 square feet) or major fraction thereof: one (1) space.
  3. 4. For facilities in this section not of sufficient size to meet the minimum requirements set forth therein, each such facility shall provide off-street loading on the property for the parking of a delivery vehicle to ensure that no deliveries or shipments of goods or products will require the use, however temporary, of any public **right-of-way** or required off-street parking space.
  4. **Multi-family dwellings** are exempt from the off-street loading space requirement, however the commercial components of mixed-use developments are still required to provide **loading spaces** according to Table 18 of this section.
  5. For any use not specifically mentioned, the requirements for off-street loading facilities for a use which is so mentioned and to which the unmentioned use is similar shall apply.
- C. Each **loading space** shall be a minimum of ten (10) feet by twenty (20) feet in size.



\* \* \* \* \*

**SUBSECTION 3.O. AMENDMENTS TO SECTION 4.05.08 BICYCLE PARKING REQUIREMENTS**

Section 4.05.08 Bicycle Parking Requirements, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

**Section 4.05.08 Bicycle Parking Requirements**

**A. Applicability. The following regulations shall apply to all commercial developments.**

~~A.~~ **B.** Number. Provisions for the safe and secure parking of bicycles shall be furnished at a ratio of five (5%) percent of requirements for motor vehicles as set forth in section 4.05.04. but not to exceed a maximum of fifteen (15) total bicycle parking spaces. A minimum of two (2) bicycle parking spaces shall be provided.

~~B.~~ **C.** Design.

1. A bicycle parking facility suited to a single bicycle ("parking space") shall be of a stand-alone inverted-U design measuring a minimum of thirty-six (36) inches high and eighteen (18) inches wide [of one and one-half (1 1/2) inch Schedule 40 pipe, ASTM F 1083] bent in one piece ("bike rack") mounted securely to the ground [by a 3/8-inch thick steel base plate, ASTM A 36] so as to secure the bicycle frame and both wheels.
2. Each parking space shall have a minimum of three (3) feet of clearance on all sides of the bike rack.
3. Bicycle spaces shall be surfaced with the same or similar materials approved for the motor vehicle parking lot, lighted and located no greater than one hundred (100) feet from the main building entrance.
4. Extraordinary bicycle parking designs which depart from the bike rack standard but are consistent with the development's design theme shall be considered by the County architect. Bike racks which function without securing the bicycle frame, require the use of a bicycle kick stand, or which may be freely reoriented are not allowable.

**SUBSECTION 3.P. AMENDMENTS TO SECTION 4.06.03 LANDSCAPING REQUIREMENTS FOR VEHICULAR USE AREAS AND RIGHTS-OF-WAY**

Section 4.06.03 Landscaping Requirements for Vehicular Use Areas and Rights-of-Way, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

Words ~~struck through~~ are deleted, words underlined are added

**4.06.03 Landscaping Requirement for Vehicular Use Areas and Rights-of-Way**

A. Applicability. The provisions of this section shall apply to all new off-street parking or other **vehicular use areas**. Existing landscaping which does not comply with the provisions of this Code shall be brought into conformity to the maximum extent possible when: the vehicular use area is altered or expanded except for restriping of **lots/drives**, the **building** square footage is changed, or the structure has been vacant for a period of 90 days or more and a request for an occupational license to resume business is made. These provisions shall apply to all **developments** with the exception of single-family, two-family, **mobile home dwelling unit, raw water wells public utility ancillary system**, and dwellings on individually platted **lots**. Any appeal from an administrative determination relating to these regulations shall be to the board of zoning appeals or equivalent. Prior to issuing occupancy permits for new construction, implementation and completion of landscaping requirements in off-street vehicular facilities shall be required. Where a conflict exists between the strict application on this division and the requirements for the number of off-street parking spaces or area of off-street loading facilities, the requirements of this section shall apply.

\* \* \* \* \*  
B. Standards for landscaping in **Vehicular Use Areas**

\* \* \* \* \*

1. Landscaping required in interior of vehicular use areas. At least ten percent of the amount of **vehicular use area ~~on-site~~ onsite** shall be devoted to interior landscaping areas. The width of all curbing shall be excluded from the required landscaped areas. All interior landscaped areas not dedicated to trees or to preservation of existing vegetation shall be landscaped with grass, ground cover, shrubs or other landscape treatment. One tree shall be provided for every 250 square feet of required interior landscaped area. Interior landscaped areas shall be a minimum of five feet in width and 150 square feet in area. The amount of required interior landscape area provided shall be shown on all preliminary and final landscape plans.
2. All rows of parking spaces shall contain no more than ten parking spaces uninterrupted by a required landscaped island which shall measure inside the curb not less than eight feet in width and at least eight feet in length and at least 100 square feet in area. At least one tree shall be planted in each island. These islands shall not be used as retention areas or as swales. Landscape islands for compact car parking areas shall be at least seven feet in width and at least 100 square feet in area. These tree requirements shall be met with existing native trees whenever such trees are located within the parking area and may be feasibly incorporated into the landscaping. Where existing trees are retained in a landscape island the amount of parking spaces in that row may be

increased to 15. A parking stall shall be no farther than 50 feet from a tree, measured to the tree trunk. Interior landscaping areas shall serve to divide and break up the expanse of paving at strategic points and to provide adequate shading of the paved area. Perimeter landscaping shall not be credited toward interior landscaping.

3. ~~Green space required in **shopping centers** and freestanding retail establishments with a floor area greater than 40,000 square feet. An area that is at least seven percent of the size of the vehicular use areas must be developed as green space within the front yard(s) or courtyards of **shopping centers** and retail establishments and must be in addition to the building perimeter planting area requirements. The courtyards must only be located in areas that are likely to be used by pedestrians visiting the **shopping center** and retail establishment. The seven percent green space area must be in addition to other landscaping requirements of this section, may be used to meet the open space requirements (section 4.02.01), and must be labeled "Green Space" on all subdivision and site plans. (Refer to section 5.05.08, Architectural and Site Design Standards and Guidelines for Commercial Buildings and Projects.) The interior landscape requirements of these projects must be reduced to an amount equal to five percent of the **vehicular use area** on site. Green space must be considered areas designed for environmental, scenic or noncommercial recreation purposes and must be pedestrian-friendly and aesthetically appealing. Green space may only include the following: lawns, mulch, decorative plantings, non-prohibited exotic trees, walkways within the interior of the green space area not used for shopping, fountains, manmade watercourses (but not water retention areas), wooded areas, park benches, site lighting, sculptures, gazebos, and any other similar items that the planning service director deems appropriate. Green space must include: walkways within the interior of the green space area not used for shopping, a minimum of one foot of park bench per 1,000 square feet of building area. The green space area must use existing trees where possible and landscaping credits will be allowed as governed by table 4.06.04D. The green space areas must be located in areas that are in close proximity to the retail shopping area. Benches may also be located in interior landscaped areas and 75 percent of the benches may be located adjacent to the building envelope along paths, walkways and within arcades or malls.~~

3. All rows of parking spaces shall be bordered on each end by curbed landscape islands as shown in Figure 4.06.03 B - Terminal Landscape Islands. Each terminal island shall measure inside the curb not less than eight feet in width and extend the entire length of the single or double row of parking spaces bordered by the island. Type D or Type F curb per current FDOT Design Standards is required around all landscape islands. A terminal

island for a single row of parking spaces shall be landscaped with at least one canopy tree. A terminal island for a double row of parking spaces shall contain not less than two canopy trees. The remainder of the terminal island shall be landscaped with sod, ground covers or shrubs or a combination of any of the above.

\* \* \* \* \*

**SUBSECTION 3.Q. : AMENDMENTS TO SECTION 4.06.05 GENERAL LANDSCAPING REQUIREMENTS**

Section 4.06.05 General Landscaping Requirements, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

**4.06.05 General Landscaping Requirements**

\* \* \* \* \*

**B. Landscaping requirements for industrial and commercial development**

\* \* \* \* \*

4. ~~Raw water well~~ Public utility ancillary system landscaping requirements. Screening and buffering requirements are to be limited to the area surrounding the ~~raw water well~~ installation, including ~~appurtenances such as security fencing, wall or well house~~ public utility ancillary system. Ancillary systems that are physically located on a water or wastewater treatment property are not required to be individually fenced and landscaped. Existing, previously permitted public utility ancillary systems are not required to meet the landscaping requirements of this section if an SDPI application is required for modifications. A public utility ancillary system requiring an SDPA will need to meet the landscaping requirements of Section 4.06.00 Canopy trees as described in section 4.06.05 B.1., will not be required. Projections visible above the fence or wall shall be screened from view by sabal palms with a minimum clear trunk height of 8 to 12 feet. Palms may be replaced or supplemented with native trees to enhance screening. Each palm shall be planted 10 feet on center around the perimeter of the fence or wall. Surrounding fences or walls must have, at a minimum, 10 gallon shrubs, 5 feet tall at the time of planting, placed 4 feet on center along the exterior perimeter of the surrounding fence or wall. ~~Stand alone well houses~~ Public utility ancillary systems enclosed in buildings without perimeter fences or walls must have, at a minimum, 2 rows of 3 gallon shrubs, 2 feet tall at the time of planting, placed 3 feet on center and offset between rows. In all cases, mature vegetation must provide and 80 percent sight-obscuring screen equal to 75 percent of the height of the fence or wall, as applicable.

a. Native plant materials ~~must~~ shall be used, to the maximum extent practicable, to meet the screening and buffering requirements of this sub-section and the chosen plant materials ~~must~~ shall be

consistent with the existing native vegetation found on or near the ~~raw water well~~ **public utility ancillary system** site, with the following exceptions:

- i. for any disturbed area required to construct a ~~raw water well~~ **public utility ancillary system** that is equal to or greater than 15 feet from the edge of a ~~well house building~~ or other structure, the disturbed area may be planted with a drought resistant sod such as Bahia; or
- ii. for any disturbed area required to construct a ~~raw water well~~ **public utility ancillary system** that is less than 15 feet from the edge of a well house or other structure, the disturbed area may be covered with a sufficient depth of ground cover such as organic mulch, shell, or similar pervious material.

\* \* \* \* \*

**SUBSECTION 3.R. AMENDMENTS TO SECTION 4.07.02 DESIGN REQUIREMENTS**

Section 4.07.02 Design Requirements, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

**4.07.02 DESIGN REQUIREMENTS**

\* \* \* \* \*

**E. Minimum dimensional standards.**

- 1. Except as provided for within the industrial and neighborhood **village center** component of this section, dimensional standards within any tract or increment of the proposed PUD shall conform to the minimum dimensional and other standards of the zoning district to which it most closely resembles in type, **density**, and intensity of use. Where there is uncertainty, the more restrictive standards shall apply.
- 2. Variation from these minimum dimensional standards may be approved if the PUD demonstrates unique or innovative design. For purposes of this section, examples of unique and innovative design may include, but are not limited to:
  - a. Providing usable **common open space** within individual tracts or increments to offset and compensate for decreases in typical lot sizes or **yard** requirements.
  - b. Providing for public **access** to **open space** areas beyond the boundaries of the property.
  - c. The use(s) occurring within the PUD are such that ~~compatibility~~ **compatibility** with surrounding uses can be assured by applying

different requirements than would be applicable under another zoning district.

- d. Providing places for public assembly such as parks and plazas which are linked together and centrally located to ensure accessibility.
- e. Siting **buildings** and **dwelling units** to provide optimum **access** to **open space** areas.
- f. Providing for the integration and preservation of natural resources with **development**, through conservation of natural resources such as streams, lakes, **flood plains**, groundwater, wooded areas and areas of unusual beauty or importance to the natural ecosystem.
- g. Providing certain personal services, offices and convenience shopping goods to residents of the PUD having the effect of reducing the number of vehicular trips for these purposes to destinations outside of the PUD.
- h. Providing a suitable neighborhood park, as determined on a case-by-case basis by the Board of County Commissioners.

\* \* \* \* \*

J. Streets, drives, parking and service areas.

\* \* \* \* \*

- 6. Public or private **streets** approved within the PUD after [effective date of this amendment] shall be maintained by the developer, master association, community development district or special district governing body and successors and/or assigns, unless otherwise approved by the BCC.

\* \* \* \* \*

**SUBSECTION 3.S.: AMENDMENTS TO SECTION 5.03.02 FENCES AND WALLS**

Section 5.03.02 Fences and Walls, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

**5.03.02 Fences and Walls**

- A. All districts.

\* \* \* \* \*

4. Barbed wire is authorized within agricultural, commercial, industrial districts and on fences surrounding ~~raw water wells~~ public utility ancillary systems in all districts. Razor or concertina wire is not permitted except in the case of an institution whose purpose is to incarcerate individuals, i.e., a jail or penitentiary, or by appeal to the BZA.

\* \* \* \* \*

C. Residential zoning districts. For the purposes of this section, residential districts shall include: RSF, RMF-6, RMF-12, RMF-16, RT, VR, MH, and TTRVC zoning districts, and the residential increments of PUD zoning districts. Fences and walls placed within required yards shall be subject to the following:

1. Fences or walls on lots greater than one (1) acre in area may reach a maximum height of six (6) feet; except for ~~raw water wells~~ public utility ancillary systems, for which the allowable height is eight (8) feet.
2. For non-waterfront interior lots one (1) acre or less in area, fences or walls may reach a maximum height of six (6) feet for side and rear yards, but are limited to four (4) feet within the required front yard, except for public utility ancillary systems for which the allowable height is 8 feet in all yards.

\* \* \* \* \*

**SUBSECTION 3.T. : AMENDMENTS TO SECTION 5.05.08 ARCHITECTURAL AND SITE DESIGN STANDARDS**

Section 5.05.08 Architectural and Site Design Standards, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

**5.05.08 Architectural and Site Design Standards**

\* \* \* \* \*

B. *Applicability.* The provisions of section 5.05.08 apply:

\* \* \* \* \*

5. ~~Raw water wells~~ Public utility ancillary systems in Collier County do ~~not have~~ are not required to meet the provisions of this Section provided that ~~well houses surrounding the raw water well~~ a building containing any of these uses shall not have any wall planes exceeding 35 feet in length, excluding storage tanks, or have an **actual building height** greater than eighteen (18) feet, excluding storage tanks and communications equipment. Fences and walls surrounding ~~raw water wells~~ public utility ancillary systems must be screened with plant materials as described in Section 4.06.05.B.6. and are exempt from Sections 5.05.08.C.3 and 5.05.08. D.1 and 5.05.08.D.2 of this Section.

\* \* \* \* \*

**SUBSECTION 3.U. : AMENDMENTS TO SECTION 5.05.12 SPECIFIC STANDARDS FOR RAW WATER WELLS**

Section 5.05.12 Specific Standards for Raw Water Wells, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

**5.05.12 Specific Standards for ~~Raw Water Wells~~ Public Utility Ancillary Systems in Collier County**

A. Applicability. When water and wastewater is conveyed through physically connected infrastructure to or from a public or quasi-public treatment facility, the system of physically interconnected infrastructure, including but not limited to raw water wells, pump stations, water and wastewater storage tanks, vaults, valves, antennas, and other appurtenant equipment, shall be considered to be collectively located onsite as that term is to be applied in the GMP CCME Policies 6.1.1 and 6.1.2, and any implementing land development regulations. Applicable designs for ~~raw water wells~~ public utility ancillary systems selected from the Collier County Utility Standards Manual shall be submitted for appropriate County staff review of the following requirements.

B. Setback Requirements.

1. ~~Well houses enclosing raw water wells~~ Any structure enclosing a public utility ancillary system which are is greater than four hundred (400) square feet in size must meet the following minimum setbacks:

**Adjacent to Right-of-Way – 25 feet**

Side yard from adjoining property – no less than the underlying zoning district's requirements for side yard setback

Rear yard from adjoining property – 25 feet

For well houses within easements – 6 feet or the above setbacks where an easement line is coincidental with the property line.

Appurtenant equipment, including, but not limited to antennas, pig launchers, fuel tanks, and transformers, not enclosed by a fence or wall, shall not be considered separate structures and shall be setback six (6) feet from a property or easement line.

2. ~~Well houses enclosing raw water wells~~ Any structure enclosing a public utility ancillary system which are is equal to or less than four hundred (400) square feet must meet the following minimum setbacks:

**Adjacent to Right-of-Way – 15 feet**



Side yard from adjoining property – no less than the underlying zoning district’s requirements for side yard setback

Rear yard from adjoining property – 10 feet

For well houses within easements – 6 feet or the above setbacks where an easement line is coincidental with the property line.

Appurtenant equipment, including, but not limited to antennas, pig launchers, fuel tanks, and transformers, not enclosed by a fence or wall, shall not be considered separate structures and shall be setback six (6) feet from a property or easement line.

3. Fences and walls enclosing ~~raw water wells and appurtenant equipment including, but not limited to well vaults and enclosures, meters, control panels, generators, antennas, pig launchers and transformers~~ **public utility ancillary systems** must meet the following setbacks:

**Adjacent to Right-of-Way** or easement line – 5 feet

Side yard or easement line – 5 feet.

Appurtenant equipment, other than antennas, that exceeds the height of the fence or wall, shall be setback no less than the underlying zoning district’s requirements for side yard setback.

Rear yard or easement line – 5 feet

Raw water well easements contained within a larger public easement – 2 feet

Fence or wall heights may be between six (6) feet and eight (8) feet in height.

Appurtenant equipment shall not be considered as separate structures.

C. **Raw water well Public utility ancillary system** site access:

1. Direct access from public ways shall be limited to one **access** point location and must otherwise comply with the requirements of LDC Section 4.04.02.
2. **Access** from an easement must provide legal **access** to a public or approved private way. **Access** from an existing public way to an easement must otherwise comply with the requirements of LDC Section 4.04.02.

D. Prior to County approval of any ~~raw water well~~ **public utility ancillary system** site under this Code, the applicant shall obtain a ~~consumptive use permit, permits~~ from ~~South Florida Water Management District (SFWMD), FDEP or other and~~

~~meet the requirements of any state or federal agency having jurisdiction over well development or siting the intended use if such permits are required.~~

- E. Stormwater management and environmental resource permits for ~~raw water well~~ **public utility ancillary system** sites shall be governed by the requirements of SFWMD and or ~~Florida Department of Environmental Protection (FDEP)~~, and if approval is granted for the well(s) **public utility ancillary system** by SFWMD or FDEP under those requirements, or said requirements are deemed not applicable by SFWMD or FDEP due to the de minimus size or nature of the public utility ancillary system site as verified in writing by SFWMD or FDEP. the project may be considered for a waiver from the requirements of Section 10.02.02 A.
- F. Landscaping and buffering shall conform to the requirements of Section 4.06.05 B. ~~4.6.~~
- G. Site planning review and approval for ~~raw water wells~~ **public utility ancillary systems** must follow the requirements of an insubstantial change to a Site Development Plan or Site Improvement Plan review process providing water, wastewater or irrigation quality water from such wells **public utility ancillary system** is conveyed through physically connected infrastructure to a public or quasi-public treatment facility. The system of physically inter-connected infrastructure and wells may be considered to be collectively located "on-site".

\* \* \* \* \*

**SUBSECTION 3.V. 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.

\* \* \* \* \*

8. **Signs for non-residential uses within residential zoning districts and as applicable to residential designated portions of PUD zoned properties.**

a. Such **signs** shall follow the requirements for **signs** within non-residential districts, except as follows:

i. **Illuminated signs** shall not be allowed facing residential uses unless the non-residential use is separated from the residential use by an **arterial or collector road.**

ii. Commercial signage for conditional uses within residential and agricultural districts.

\* \* \* \* \*

**SUBSECTION 3.W. 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-premises signs. On-premises pole signs, ground signs, projecting signs, wall signs and mansard signs shall be allowed in all nonresidentially zoned districts subject to the restrictions below.

\* \* \* \* \*

16. Off-premises directional signs. Off-premises directional signs are permitted subject to review and approval of the design and location of such signs by the County Manager or his designee, or his designee, if the following requirements are met:

a. Off-premises directional signs shall ~~only~~ be permitted only in nonresidentially zoned districts, ~~or~~ agricultural districts and non-residential components of PUDs.

b. No more than two one-sided or one double-sided off-premise directional signs shall be permitted, identifying the location and nature of a building, structure, or use which is not visible from the **arterial roadway** serving such building, structure, or uses, provided:

i. Each sign is not more than 12 square feet in area.

ii. The sign is not more than eight feet in height above the lowest center grade of the **arterial roadway.**

iii. The sign is located no closer than ten feet to any property line.

iv. The applicant must submit with the permit application notarized, written permission from the property owner where the off-site sign is located.

v. The sign shall ~~only~~ be located within no more than

1,000 feet from ~~of the intersection of the arterial roadway~~ the property serving the building, structure, or use.

- c. Off-premises directional signs shall not be located closer than 50 feet from a residentially zoned district.
- d. Off-premises directional signs shall not be located closer than 100 feet from another off-premises directional sign.

17. *Illuminated* signs. All illuminated signs shall have electrical components, connections, and installations that conform to the National Electrical Code, and all other applicable federal, state, and local codes and regulations. Further, lighted signs shall: be shielded in such a manner as to produce no glare, hazard or nuisance to motorists or occupants of adjacent properties; nor be reflective or phosphorescent; have a steady non-fluctuating or non-undulating light source.

\* \* \* \* \*

**SUBSECTION 3.X. : AMENDMENTS TO SECTION 6.02.02 MANAGEMENT AND MONITORING PROGRAM**

Section 6.02.02 Management and Monitoring Program, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

**6.02.02 Management and Monitoring Program**

\* \* \* \* \*

M. A Significance Test shall be performed in compliance with the Traffic Impact Study (TIS) Guidelines and Procedures. Impact for traffic impact analysis purposes for a proposed development project will be considered significant. This significance test is applicable to projects inside and outside Traffic Concurrency Exception Areas (TCEAs) and Traffic Concurrency Management Areas (TCMAs) as adopted in the Growth Management Plan.

1. Impact for traffic impact analysis purposes for a proposed development project will be considered significant when:

- 4. a. On those roadway segments directly accessed by the project where project traffic is equal to or greater than ~~3%~~ 2 percent of the adopted LOS standard service volume;
- 2. b. ~~On For~~ those roadway segments immediately adjacent to segments which are directly accessed by the project where project traffic is greater than or equal to ~~3%~~ 2 percent of the adopted LOS standard service volume; or

3. ~~c.~~ On ~~For~~ all other adjacent segments where the project traffic is greater than ~~5%~~ 3 percent of the adopted LOS standard service volume.

2. Once traffic from a development has been shown to be less than significant on any segment using the above standards, the **development's** impact is not required to be analyzed further on any additional segments. However, site impact analysis shall be conducted in accordance with the TIS Guidelines and Procedures.

~~4.~~ ~~This significance test is applicable to projects inside and outside TCEAs and TCMA.~~

\* \* \* \* \*

**SUBSECTION 3.Y. : AMENDMENTS TO SECTION 6.02.03 TRANSPORTATION LEVEL OF SERVICE REQUIREMENTS**

Section 6.02.03 Transportation Level of Service Requirements, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

**6.02.03 Transportation Level of Service Requirements**

A. ~~If the proposed land development or subdivision will generate traffic volumes in excess of 1,000 average daily trips (ADT) or 100 vehicles per hour, peak hour/peak season, whichever is more restrictive, then a traffic analysis, prepared by a professional engineer, shall be provided by the applicant. All developments that impact the traffic network shall be evaluated in accordance with the Traffic Impact Study (TIS) Guidelines and Procedures.~~

\* \* \* \* \*

**SUBSECTION 3.Z. AMENDMENTS TO SECTION 6.02.05 PARK AND RECREATION FACILITY LEVEL OF SERVICE REQUIREMENTS**

Section 6.02.05 Park and Recreation Facility Level of Service Requirements, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

**6.02.05 Park and Recreation Facility Level of Service Requirements**

A. The LOS for capital park and recreation facilities means 2.9412 acres per 1,000 persons for regional park land; 1.2882 acres per 1,000 persons for community park land; and ~~\$240.00~~ \$270.00 of capital investment per capita (at current cost) for recreational facilities.

\* \* \* \* \*

**SUBSECTION 3.AA. AMENDMENTS TO SECTION 6.02.06 POTABLE WATER FACILITY LEVEL OF SERVICE REQUIREMENTS**

Section 6.02.06 Potable Water Facility Level of Service Requirements, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

**6.02.06 Potable Water Facility Level of Service Requirements**

- A. The LOS for capital potable water facilities varies between public water systems and private water systems.

\* \* \* \* \*

- 5. For independent districts and private potable water systems, the LOS is the ~~sewage-potable water~~ flow design standards as identified in Policy 1.3.1 3.1 of the Potable Water Sub-Element of the GMP, except that approved private wells are exempt from these LOS requirements.

\* \* \* \* \*

**SUBSECTION 3.BB. AMENDMENTS TO SECTION 6.02.07 SANITARY SEWER FACILITY LEVEL OF SERVICE REQUIREMENTS**

Section 6.02.07 Sanitary Sewer Facility Level of Service Requirements, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

**6.02.07 Sanitary Sewer Facility Level of Service Requirements**

- A. The LOS for capital sanitary sewer facilities varies between public sanitary sewer systems and private sanitary sewer systems. The LOS for the North Sewer Area The LOS for capital sanitary sewer facilities varies between is 145 GPCD. The LOS for the South Sewer Area is 100 GPCD. The LOS for the Southeast Sewer Service Area is 120 GPCD. The LOS for the Northeast Sewer Service Area is 120 GPCD. The LOS for the City of Naples unincorporated sewer service area is 121 GPCD.

- B. The LOS for independent districts and private sanitary sewer systems is the sewage flow design standards identified in Policy 4-2.1 of the Sanitary Sewer Sub-Element of the GMP, as required by the State of Florida. Approved private septic systems are exempt from these LOS requirements.

\* \* \* \* \*

**SUBSECTION 3.CC. AMENDMENTS TO SECTION 6.02.08 SOLID WASTE FACILITY LEVEL OF SERVICE REQUIREMENTS**

Section 6.02.08 Solid Waste Facility Level of Service Requirements, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

**6.02.08 Solid Waste Facility Level of Service Requirements**

- A. The LOS for capital solid waste ~~disposal~~-management facilities is ~~two (2)~~ years of constructed lined cell capacity at the average disposal rate for the previous ~~five (5)~~ 3 years, and ~~ten (10)~~ years of permittable landfill capacity at the average disposal rate for the previous ~~five (5)~~ 3 years.
- B. The determination of public facility adequacy for solid waste ~~disposal~~ management facilities shall be based on the following:

\* \* \* \* \*

**SUBSECTION 3.DD.: AMENDMENTS TO SECTION 6.06.03 STREETLIGHTS**

Section 6.06.03 Streetlights, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

**6.06.03 Streetlights**

- A. Streetlights shall be designed and installed utilizing the IES standards for each **street**, intersection at required intervals along each **street** and at the end of each **cul-de-sac**. The IES standards for this **street** lighting are per IESNA RP 8.00, except as below:
- B. At the entry/exit of any ~~subdivision~~ residential or commercial development approved through a SDP, SDPA, or PPL located on a public **collector** or **arterial street**, the following additional standards shall apply:
  - 1. At the points where the edges of pavement of the entrance road meet the intersecting right-of-way line, the illumination level shall be at or between, a minimum of 2.0 foot candles and maximum of 5.0 foot candles. In cases when this code may conflict with any other lighting codes, requirements, policies, or recommendations relating to the spillover of light outside of project boundaries, public safety needs shall be evaluated by staff and shall take precedence in the required placement of fixtures.
  - 2. A full cutoff fixture is required on both sides of each entry or exit outside of the intersecting public **right-of-way**. except when located at a single-lane one-way driveway. In such case, one fixture will be allowed but it shall meet minimum required foot-candle values. If the applicant can show the existing illumination levels from existing roadway lighting meet the required foot candles through a photometric lighting plan (calculated or by field measurement) certified by an engineer, licensed in the State of Florida, the county manager or designee may waive or modify the requirement for additional lighting at the point where the entry road intersects the public right of way.

\* \* \* \* \*

**SUBSECTION 3.EE. AMENDMENTS TO SECTION 8.03.01 ESTABLISHMENT: POWERS AND DUTIES**

Section 8.03.01 Establishment: Power and Duties, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

**8.03.01 Establishment; Powers and Duties**

There is hereby established a Planning Commission, which shall have the following powers and duties:

- A. To serve as the local planning agency (LPA), and the land development regulation commission as required by ~~§~~§ 163.3174 and 163.3194, F.S.;
- B. To prepare, or cause to be prepared, the Collier County GMP, or element or portion thereof, and to submit to the BCC an annual report recommending amendments to such plan, element, or portion thereof;
- C. To prepare, or cause to be prepared, the LDC to implement the Collier County GMP, and to submit to the BCC an annual report recommending amendments to the LDC;
- D. To initiate, hear, consider, and make recommendations to the BCC on applications for amendment to the text of the Collier County GMP and the LDC;
- E. To initiate, review, hear, and make recommendations to the BCC on applications for amendment to the future land use map of the Collier County GMP or the official zoning atlas of the LDC;
- F. To hear, consider, and make recommendations to the BCC on applications for conditional use permits;
- G. To make its special knowledge and experience available upon reasonable written request and authorization of the BCC to any official, department, board, commission, or agency of the County, state, or federal governments;
- H. To recommend to the ~~BCC~~BCC additional or amended rules of procedure not inconsistent with this section to govern the Planning Commissions proceedings;
- I. To perform those functions, powers and duties of the Planning Commission as set forth in chapter 67-1246, Laws of Florida, incorporated herein and by reference made a part hereof, as said chapter has been or may be amended; and
- J. To consider and take final action regarding preliminary subdivision plats processed pursuant to the provisions of section 4.03.00.



\* \* \* \* \*

**SUBSECTION 3.FF. AMENDMENTS TO ADD SECTION 8.03.08 APPEALS**

Section 8.03.08 Appeals, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

**8.03.08 Appeals**

As to any land development petition or application upon which the planning commission takes final action, an aggrieved petitioner, applicant, or aggrieved party may appeal such final action to the board of county commissioners. An aggrieved or adversely affected party is defined as any person or group of persons which will suffer an adverse affect to an interest protected or furthered by the Collier County growth management plan, land development code, or building code(s). The alleged adverse interest may be shared in common with other members of the community at large, but shall exceed in degree the general interest in community good shared by all persons. The board of county commissioners may affirm, affirm with conditions, reverse or reverse with conditions the action of the planning commission. Such appeal shall be filed with the development services director within 30 days of the date of final action by the planning commission and shall be noticed for hearing with the board of county commissioners, as applicable, in the same manner as the petition or application was noticed for hearing with the planning commission. The cost of notice shall be borne by the petitioner, applicant or aggrieved party.

\* \* \* \* \*

**SUBSECTION 3.GG.: AMENDMENTS TO SECTION 9.03.07 NONCONFORMITIES CREATED OR INCREASED BY PUBLIC ACQUISITION**

Section 9.03.07 Nonconformities Created or Increased by Public Acquisition, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

**9.03.07 Nonconformities Created or Increased by Public Acquisition**

**A. Applicability.**

1. For purposes of this section, "acquisition" means any method of acquiring private property for public use, including dedication, condemnation, or purchase
2. This section applies to the acquisition for present or planned public use by the following party or parties: (i) Collier County; (ii) another governmental entity; (iii) public or private utility companies providing public service; and/or (iv) a private party or parties under agreement with Collier County or other government entity.

**B. Lot Area**

1. Unimproved Lots: If an unimproved lot has sufficient area for the subdivision of three (3) or fewer conforming lots, and part of the lot is acquired for public purpose, then it may be subdivided after the acquisition to the same number of lots that could have been achieved prior to the acquisition. Each newly created lot must contain at least 80% of the required minimum lot area.
2. Improved or Unimproved Lots. No conforming lot otherwise qualifying for a lot split or lot line adjustment pursuant to the provisions of this Code may be denied approval solely on the grounds that the resulting lot or lots would be less than the required minimum area for such lot(s) in the applicable zoning district as a result of acquisition, from Feb. 14, 2006, if the newly created lots contain at least 80 percent of the required minimum lot area.

C. Other Nonconformities:

1. Required yards on improved lots, lot coverage on improved lots, and lot dimensions rendered nonconforming or more legally nonconforming as a result of a portion being acquired for public use, may be reduced by the same dimension, area, or amount involved in the dedication, condemnation, purchase, or similar method of acquisition; and
2. Any structure that is not located within the acquisition area, but is made nonconforming in terms of a required yard or setback as a result of the acquisition, need not be relocated, except as follows:
  - a. The County Manager or designee determines that leaving the structure or a site related condition in its pre-acquisition location may create an unsafe condition, in which case the structure shall be relocated the minimum distance necessary to address the public safety concern or the site related condition shall be modified to a safe condition; and
  - b. A front yard of at least ten feet in depth shall be maintained for all building structures.
  - c. The resulting degree of nonconformity of the area and dimensions of a lot and the required yards with this Code's then current requirements are considered lawful unless or until the remaining lot or lots in combination are: (i) recreated or replatted, combining the subject lot or lots with an adjacent lot or lots resulting in a unified plan of development; or (ii) improved such that the value of the proposed improvements are equal to or greater than 50 percent of the total replacement value of the structures and site improvements on the lots or lot combinations existing at the time of improvement. The replacement value shall be calculated by a Florida licensed property appraiser. In the occurrence of either condition (i) or (ii) above, the lot or lots must comply with the requirements then established by this Code or as may be set forth within a PUD if applicable. Otherwise, any legal and conforming site modification or change of use shall not trigger a requirement to bring the nonconformity created by the acquisition into conformance with the then required provisions.

3. Any other site related nonconformity or site related condition resulting from the acquisition, including those rendered more nonconforming, shall be considered legally nonconforming, including stormwater management facilities, landscaping, open space, native vegetation, conservation areas, buffers and preserves, on- or off-site parking, vehicle stacking, throat lengths, or non-structural architectural design standards. All such nonconformities are allowed to remain legally nonconforming and in their existing location(s) and/or configuration(s), provided they continue to function adequately to meet their intended purpose, except where it is determined by the County Manager or designee that such newly created or increased nonconformity or site related condition constitutes an unsafe condition. In those cases where it is determined that the newly created or increased nonconformity or related condition constitutes an unsafe condition, the nonconformity or site related condition shall be relocated or modified in accordance with paragraph 2.a. above, as applicable. In any case, such nonconformities are subject to the limitations set forth in paragraph 2.c., above.

**D. Post Take Plan.** This section addresses the development, review and approval of post-take cure plans for remainder properties to mitigate and/or eliminate the negative and potentially costly impacts resulting from the taking of a property for public purposes. In such cases, it may be determined to be in the public interest to allow some deviations from applicable LDC or PUD provisions, or **Conditional Use** requirements, in order to accommodate site modifications and/or enhancements, designed to cure, remedy, mitigate, minimize or resolve otherwise negative site impacts resultant from public acquisition.

1. A Post Take Plan may be submitted for staff review and approval and shall provide /depict the following:

- a. A scaled drawing or drawings 24 x 36 inches in size, with one 8.5 by 11 inch drawing providing and/or depicting:
  - i. The public project name (purpose of the acquisition);
  - ii. The name, address and phone number of the consulting firm(s) preparing the plans;
  - iii. Zoning designation of the subject property;
  - iv. Legal Description, along with the total site acreage in both pre- and post-acquisition condition;
  - v. All existing improvements, clearly depicting those affected by the acquisition;
  - vi. All proposed mitigating improvements and remedies;
  - vii. The exact nature and dimension of any requested deviations;
  - viii. The pre- and post-acquisition configuration of the lot or lots;
  - ix. The dimensions from the pre- and post-acquisition property line to all affected improvements;
- b. A narrative description of the pre- and post-acquisition site conditions, noting impacts and all nonconformities created or

exacerbated as a result of the acquisition, and any proposed mitigation and remedies;

- c. A signed and sealed boundary or special purpose survey prepared by a surveyor licensed to practice in the State of Florida as may be deemed sufficient, to ascertain or verify existing conditions; and,
- d. The most recent available aerial of the site.
- e. The appropriate fee as established by the Board of County Commissioners.

2. The property owner or the County may request the following deviations from the LDC, PUD or **Conditional Use** requirements, as may be applicable:

- a. Landscape Buffers may be reduced from the required width or depth; but shall not result in a buffer of less than five (5) feet in width or depth. Landscape buffers which have been completely eliminated by the acquisition may be replaced beyond the acquisition area; but shall not result in a buffer of less than five (5) feet in width or depth. All required plant materials and irrigation requirements shall remain within the reduced buffer area or shall be relocated or installed as a condition of the **Post Take Plan** approval.
- b. Water management facilities, including retention, detention and conveyance may occupy up to seventy-five (75) percent of a landscape buffer width, if there is a minimum remaining planting area of at least five (5) feet.
- c. Required native vegetation, preserve, or open space requirements may be reduced by an amount not to exceed ten (10) percent.

3. Deviations other than those set forth in paragraphs a. through c. above, or exceeding the minimums or maximums established therein, may also be approved, subject to the following procedures:

- a. In addition to the requirements for submittal established in paragraph D.1., above, within 60 days of the date of submittal of the **Post Take Plan** to Collier County the applicant shall also notify property owners in accordance with notice procedures established in Section 10.03.05.B.10 and Section 10.03.05.B.11, as may be applicable.
- b. The notice shall: (1) list the requested deviations other than those set forth in paragraph 2, above, or exceeding the minimums and maximums established in that subsection; (2) provide a brief narrative justification for such deviation(s); and (3) provide a copy of the **Post Take Plan** (in 11 by 17 inch or 8.5 by 11 inch format). If no written objection is received within 30 days of the date of mailing of the notice, the **Post Take Plan** is deemed approved.

c. If an abutting property owner who receives a notice submits a written objection to Collier County within 30 days of the date of mailing of notice, the matter shall be scheduled for public hearing before the Collier County Planning Commission (CCPC). In such cases, the Board of County Commissioners delegates the authority to review the **Post Take Plan** to the CCPC and includes this review as part of the CCPC powers and duties under Section 8.03.01 of the LDC. Public notice for the hearing shall comply with Section 10.03.05.B, as may be applicable, and shall specifically note the location of the property and the requested deviations. The CCPC, in considering whether to approve, approve with conditions, or deny the proposed **Post Take Plan**, shall consider the following:

- i. Whether the deviation is the minimum amount necessary to mitigate for the impacts of the acquisition, while still protecting the public health, safety, and welfare; and
- ii. Whether the County or property owner has or will mitigate for impacts from the requested deviation(s) on neighboring properties by maintaining or enhancing compatibility through various measures, including but not limited to the installation of additional landscape plantings or the installation of fences or walls; and
- iii. Whether the requested deviations are consistent with and further applicable policies of the GMP and the requirements of the LDC, PUD, or **Conditional Use**, as may be applicable.

4. Within 30 days of approval, approval with conditions, or denial of a **Post Take Plan** by the CCPC, the applicant, affected property owner, or abutting property owner may appeal the decision to the Board of Zoning Appeals. For the purposes of this section, an aggrieved or adversely affected party is defined as any person or group of persons which will suffer an adverse effect to any interest protected or furthered by the Collier County Growth Management Plan, Land Development Code, or building code(s). If an appeal is filed by an abutting property owner, and said appeal is successful, Collier County shall reimburse said appellant for the appeal application fee and any associated advertising costs.

E. This section (9.03.07) applies to acquisitions which occurred prior to the adoption of this ordinance if the purchase or dedication of the property has not closed, or the condemnation proceeding relating to the property acquired has exhausted all available appeals.

\* \* \* \* \*

**SUBSECTION 3.HH.: AMENDMENTS TO SECTION 10.02.02 SUBMITTAL REQUIREMENTS FOR ALL APPLICATIONS**

Section 10.02.02 Submittal Requirements for All Applications, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

**10.02.02 Submittal Requirements for All Applications**

\* \* \* \* \*

H. Upon submittal of any SDP, SDPA, PPL, PUDA, plats, a registered engineer shall submit:

1. A copy of the latest approved agreements, PUD ordinance or amendments and an itemized list of all commitments identified within the agreement or ordinance, and a corresponding detailed status report of the commitments.
2. A notarized affidavit from the owner/agent that certifies all commitments within the agreement or PUD are compliant, or not applicable at this time, or that work identified in the application being submitted fulfills the outstanding commitment(s).
3. An up-to-date site drawing showing (except for DRI's):
  - a. All on-site and off-site infrastructure identified as a commitment which have been completed or are pending such as turn lanes, entrance lighting, signalization, right of way dedication, water management, well fields, conservation easements, sidewalks, interconnections, etc.
  - b. Other information which may be required by the County Manager or designee that is consistent with the monitoring of agreements and PUD ordinances.

\* \* \* \* \*

**SUBSECTION 3.II. 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**

\* \* \* \* \*

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

\* \* \* \* \*

2. Site improvement plan review. Submittal of a site plan may be reviewed under the site improvement plan (SIP) review process if the **development** proposal meets all of the following conditions:

\* \* \* \* \*

d. ~~Raw water wells~~ **Public utility ancillary systems** in Collier County will be permitted as insubstantial changes to the Site Development Plan or Site Improvement Plan approved for the water treatment plant, wastewater treatment plant or other facility to which the ~~raw water well(s)~~ **public utility ancillary systems** are ancillary subordinate, provided that the requirements of Section 5.05.12 are met. More than 1 well ancillary use may be permitted with 1 application provided that all wells uses are within the same wellfield connected by the same pipeline. The insubstantial change submittal shall include a signed and sealed boundary survey of the property or lease parcel; a copy of recorded deed or lease agreement; a recent aerial photograph of the project area; a master plan showing all wellfields **public utility ancillary systems** ancillary subordinate to the main water treatment plant, or wastewater treatment facility, or irrigation quality (IQ) system including the proposed wells; and a site plan prepared on a 24-inch by 36-inch sheet drawn to scale and setting forth the following information:

\* \* \* \* \*

4. Site development plan time limits for review, approval and construction.

a. Site development plans (SDPs), once accepted for review, will remain under review so long as a re-submittal in response to a county reviewer's comments is received within 270 days of the date on which the comments were sent to the applicant. If a response is not received within this time, the for site development plan review will be considered withdrawn and cancelled. Further review of the project will require a new application subject to the then current code.

~~b. Approved site development plans (SDPs) only remain valid and in force for two years from the date of their approval unless construction has commenced, as follows. If actual construction has not commenced within two years, measured by the date of the SDP approval letter, the site development plan approval term expires and the SDP is of no force or effect; however, one amendment to the SDP may be approved prior to the expiration date, which would allow the SDP, as amended, to remain valid for two years measured from the date of approval of the amendment, so long as the proposed amendment complies with the requirements of the then existing code. Once construction has commenced, the approval term will be determined as follows:~~

b. Approved site development plans (SDPs) shall remain in force for 3 years from the date of approval, as determined by the date of the SDP approval letter. If construction has not commenced within 3 years, the site development plan approval term will expire and the SDP approval is of no force or effect. One amendment to the SDP may be applied for and may be granted prior to the original expiration date, so long as the proposed amendment complies with the LDC requirements in force at the time of the SDP amendment submittal. The SDP amendment shall remain in effect for 3 years from the date of approval, as determined by the date of the SDP amendment approval letter.

i. A one time, 1-year extension of the 3-year limit of the approved SDP or the approved SDP amendment may be granted. Applications for an extension must be made to the planning manager with the appropriate processing/administrative fee.

c. Once construction has commenced, the approval term shall be determined as follows. The construction of infrastructure improvements approved by under an SDP shall be completed, and the project engineer's completion certificate provided to the Engineering and Environmental Services Director, within 48 30 months of the pre-construction conference, i.e., commencement of construction. A single, six 12-month extension to complete construction may be granted for good cause shown, if. A written request shall be submitted to, and approved by the County Manager or designee, engineering and Environmental services director prior to expiration of the SDP or SDP amendment approval term. Thereafter, the SDP or SDP amendment approval term expires and is of no force or effect.

\* \* \* \* \*



**SUBSECTION 3.JJ. AMENDMENTS TO SECTION 10.02.04 SUBMITTAL REQUIREMENTS FOR PLATS**

Section 10.02.04 Submittal Requirements For Plats, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

**10.02.04 Submittal Requirements for Plats**

\* \* \* \* \*

**B. Final plat requirements.**

1. ***Protected/preserve area and easements.*** A nonexclusive **easement** or tract in favor of Collier County, without any maintenance obligation, shall be provided for all "protected/preserve" areas required to be designated on the preliminary and final **subdivision** plats or only on the final **subdivision** plat if the applicant chooses not to submit the optional preliminary **subdivision** plat. Any buildable **lot** or **parcel** subject to or **abutting** a protected/preserve area required to be designated on the preliminary and final **subdivision** plats, or only on the final **subdivision** plat if the **applicant** chooses not to submit the optional preliminary **subdivision** plat, shall have a minimum 25-foot **setback** as required by the LDC, or other setback that may be approved as a deviation through the PUD approval process by the Board of County Commissioners, from the boundary of such protected/preserve area in which no principle **structure** may be constructed. The 25-foot required preserve principal structure setback line and the 40-foot accessory structure setback lines shall be clearly indicated and labeled on the final plat where applicable. Further, the preliminary and final **subdivision** plats, or only on the final **subdivision** plat if the **applicant** chooses not to submit the optional preliminary **subdivision** plat, shall require that no **alteration**, including **accessory structures**, fill placement, grading, plant alteration or removal, or similar activity shall be permitted within such **setback** area without the prior written consent of the County Manager or his designee; provided, in no event shall these activities be permitted in such **setback** area within ten feet of the protected/preserve area boundary. Additional regulations regarding preserve **setbacks** and **buffers** are located in Chapters 4 and 10, and shall be applicable for all preserves, regardless if they are platted or simply identified by recorded conservation **easement**.

The boundaries of all required **easements** shall be dimensioned on the final **subdivision** plat. Required protected/preserve areas shall be identified as separate tracts or **easements** having **access** to them from a platted **right-of-way**. No individual residential or commercial **lot** or **parcel** lines may project into them when platted as a tract. If the protected/preserve area is determined to be jurisdictional in nature, verification must be provided which documents the approval of the boundary limits from the appropriate local, state or federal agencies having jurisdiction and when applicable pursuant to the requirements and provisions of the growth management plan. All required **easements** or tracts for protected/preserve areas shall be dedicated and also establish the permitted uses for said **easement(s)** and/or tracts on the final

**subdivision** plat to Collier County without the responsibility for maintenance and/or to a property owners' association or similar entity with maintenance responsibilities. An **applicant** who wishes to set aside, dedicate or grant additional protected preserve areas not otherwise required to be designated on the preliminary **subdivision** plat and final **subdivision** plats, or only on the final **subdivision** plat if the **applicant** chooses not to submit the optional preliminary **subdivision** plat, may do so by grant or dedication without being bound by the provisions of this section.

\* \* \* \* \*

3. General requirements for final subdivision plats

\* \* \* \* \*

b. The final **subdivision** plat shall conform to the approved preliminary **subdivision** plat, if the **applicant** chose to submit a preliminary **subdivision** plat, pursuant to section 10.02.05 A.5. The final **subdivision** plat shall constitute only that portion of the approved preliminary **subdivision** plat, if applicable, which the **applicant** proposes to construct within a finite period not to exceed 18 months. The improvements required by this section which apply to the final **subdivision** plat shall be completed within 18 months from the date of approval of the final plat unless prior to the 18-month construction period, a written request for an extension in time ~~not exceeding one year~~ is applied for and approved by the ~~development services administrator~~ County Manager or his designee. The **applicant** shall enter into a construction and maintenance agreement with the county, in a form acceptable to the county attorney, which establishes the terms and conditions for the construction and maintenance of the improvements required during the 18-month construction period (unless a written extension request is approved by the County Manager or his designee prior to the expiration of the 18-month construction period), whether the final plat is approved only or approved and recorded with the posting of a **subdivision** performance security. This agreement shall be submitted with the final plat for review and approval and executed by all parties at the time of final plat approval per section c. below.

\* \* \* \* \*

**SUBSECTION 3.KK. AMENDMENTS TO SECTION 10.02.05 SUBMITTAL REQUIREMENTS FOR IMPROVEMENT PLANS**

Section 10.02.05 Submittal Requirements For Improvement Plans, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

**10.02.05 Submittal Requirements for Improvement Plans**

\* \* \* \* \*

B. Construction of required improvements

\* \* \* \* \*

11. Expiration. All required improvements associated with the construction and maintenance agreement shall be completed within 18 months from the date of recording of the final **subdivision** plat, or, if construction of required improvements is undertaken prior to recording the final **subdivision** plat, within 18 months from the date of approval of the final **subdivision** plat by the board of county commissioners. If improvements are not completed within the prescribed time period and a **subdivision** performance security has been submitted, the engineering review director may recommend to the board that it draw upon the subdivision performance security or otherwise cause the subdivision performance security to be used to complete the construction, repair, and maintenance of the required improvements. All of the required improvements shall receive final acceptance by the board of county commissioners within 36 months from the date of the original board approval. The developer may request ~~a one-time, one-year extension to receive final acceptance of the improvements.~~ one year extensions for completion and acceptance of the required improvements. Each request should provide written justification for the extension. Additional extensions may be granted at the discretion of the County Manager or designee.

\* \* \* \* \*

**SUBSECTION 3.LL.: AMENDMENTS TO SECTION 10.02.06 SUBMITTAL REQUIREMENTS FOR PERMITS**

Section 10.02.06 Submittal Requirements for Permits, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

10.02.06 Submittal Requirements for Permits

\* \* \* \* \*

C. *Vegetation Removal permit requirements.*

\* \* \* \* \*

2. Application contents. Application for a vegetation removal permit shall be submitted to the County Manager or his designee in writing on a form provided by the planning services department. The application shall include the following information:

a. A generalized vegetation inventory which includes:

\* \* \* \* \*

ii. *Generalized written assessment and evaluation.* The generalized vegetation inventory shall be accompanied by a brief written assessment of the plant communities which have been identified on the site. The assessment shall

include an evaluation of character and quality of the plant communities identified, including their rarity, viability, and such other physical characteristics and factors that may affect their preservation, and presence of any bald eagle nests. The inventory assessment and evaluation shall be prepared by a person knowledgeable in the identification and evaluation of vegetative resources, such as a forester, biologist, ecologist, horticulturist, landscape architect, or certified nurseryman.

- \* \* \* \* \*
4. Vegetation removal permit exceptions. The following exceptions shall apply when there are no bald eagle nests.
- \* \* \* \* \*

E. *Enforcement and penalties.*

1. Fines.

- a. The failure of a property owner or any other person to obtain an approved permit as required in this section shall constitute a misdemeanor and each protected living, woody plant, constituting protective vegetation, removed in violation of this Code shall constitute a separate and distinct offense and upon conviction shall be punished by a fine not to exceed \$500.00 per violation or by imprisonment in the county jail not to exceed 60 days, or by both such fine and imprisonment. In addition to or in lieu of the penalties provided by general law for violation of ordinances, the board of county commissioners may bring injunctive action to enjoin the removal of vegetation in violation of this Code.

Removal of vegetation with a bald eagle nest shall be subject to a fine of up to \$5,000 per bald eagle nest. Each nest, eagle, chick and egg using the nest that is removed, shall also constitute a separate and distinct offense and shall be subject to separate and individual fines of up to \$5,000 each or maximum permitted by law, which ever is greater.

\* \* \* \* \*

**SUBSECTION 3.MM. AMENDMENTS TO SECTION 10.02.07 SUBMITTAL REQUIREMENTS FOR CERTIFICATES OF PUBLIC FACILITY ADEQUACY**

Section 10.02.07 Submittal Requirements for Certificates of Public Facility Adequacy, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

**10.02.07 Submittal Requirements for Certificates of Public Facility Adequacy**

No building or land alteration permit or certificate of occupancy shall be issued except in accordance with the Collier County Adequate Public Facilities Ordinance, Ord. No. 90-24 (Chapters 3, 6 and 10 of this Code) and Rule 9J-5.0055, F.A.C.

Regulatory program: Review of development to ensure adequate public facilities are available, including the Transportation Concurrency Management System.

\* \* \* \* \*

C. *Certificate of public facility adequacy.*

1. General.

- a. A certificate of public facility adequacy (COA) shall be issued concurrently with the approval of the next to occur final local development order. At the time a certificate of public facility adequacy is issued, fifty percent of the estimated transportation impact fees must be paid into the applicable trust fund pursuant to 10.02.07 C.1.e., and such funds will be immediately available for appropriation to implement capital road facility improvements, except that for those non-residential (i.e., typically commercial or industrial) developments otherwise required to obtain approval of an SDP prior to the issuance of a building permit, applicants for a final subdivision plat may elect to:
  - i. comply with the applicable regulations of this section as to one or more of the lot(s) of the FSP and obtain a COA specifically for just that lot or lots at a specified intensity of development; or
  - ii. delay submitting a TIS and obtaining a COA for all of the proposed lots, or just those remaining lots not then already complying with this section, until a required SDP is applied for and the terms of this section are then complied with including payment of estimated transportation impact fees.

The subject development is not allocated any available road system capacity or considered eligible to be vested for transportation concurrency purposes, however, until approval of a TIS, payment of 50% estimated Transportation Impact Fees, and issuance of a COA in accordance with Chapters 3, 6, and 10 of this Code and Rule 9J-5.0055, F.A.C.

**Impact fees for all other ~~Category "A"~~ capital improvements will be paid at the time of issuance of building permits at the rate then currently applicable.**

- b. Annual Traffic/PUD Monitoring Report. ~~After February 6, 2003, the effective date of this section's amendment, all Planned Unit Developments (PUDs) which that~~ are less than 100 percent "built-out", must ~~annually~~ submit an annual report detailing their progress toward build-out of the development. The traffic report ~~must~~ shall be submitted as part of the annual PUD monitoring report on or before the anniversary date of the PUD's approval by the Board per LDC section 10.02.13-F.
- i. ~~The written report must shall~~ be submitted to, and be in, a format established by the County Manager, or designee, unless payment-in-lieu is provided pursuant to section 10.02.13-F, ~~and must indicate~~
  - ii. The report shall provide any revised estimates to the initial build-out schedule and any resulting effect on traffic impact projections, along with any progress towards completing any developer contribution requirements.
  - iii. The traffic reporting requirements are the responsibility of the entity or entities that:
    - a. Retains the development rights to any density or intensity; or
    - b. Has obtained a new certificate of occupancy since the previous monitoring period.
  - iv. Traffic/PUD Monitoring Reports which are more than thirty (30) days ~~ninety (90) days~~ past due will result in the suspension of final local development order issuance for the PUD or portion of the PUD pending receipt of the ~~R~~ report from the responsible entity.
  - v. The county manager or designee may waive the traffic counts for the annual monitoring period for the entire PUD or portions of the PUD under the following conditions:
    - a) If ~~or~~ portions of the PUD have ~~when the~~ remaining un-built approved **density** or intensity that produces less than 25 PM peak trips.
    - b) If the PUD or portions of the PUD are completely built out or are still vacant
    - c) If there has been no activity in portions of the PUD since the previous monitoring report.

vi. A notarized statement is required to request a traffic count waiver stating one of the reasons above.

vii. The PUD owner(s) "the Developer, Home Owners Association, Master Association or similar entity" may petition the Board of County Commissioners to relinquish the **development** rights to any un-built units and declare themselves "built-out" in order to satisfy all reporting requirements. ~~The applicant for a waiver or determination of "built-out" status shall be responsible for any documentation required in order to verify the status of the PUD.~~ The applicant shall be responsible for any documentation required to verify the status of the PUD when requesting a waiver or a determination of "built-out" status.

~~The traffic reporting requirements are the responsibility of the entity that retains the remaining **development** rights to any un-built units or intensity.~~

\* \* \* \* \*

2. Rules of general applicability for certificate of public facility adequacy. Certificates of public adequacy issued for roads under section 10.02.07 C.1. of this Code subsequent to the [effective date of this section's amendment] will run in perpetuity provided provisions of subsection 10.02.07 C.1.e. of this Code are met and that annual mid-year monitoring reports are filed which comply with section 10.02.07 C.1. of this Code and all developer requirements established during zoning or as part of a developer contribution agreement are completed or are being constructed consistent with the current development infrastructure improvement construction commitment schedule.

a. *Timing.* An application for a certificate of public facility adequacy may only be submitted as part of an application for a final local development order subject to section 10.02.07 C.1. of this Code.

\* \* \* \* \*

e. *Expiration.* A certificate of public facility adequacy for "~~Category A~~" all public facilities, except roads, shall expire three years from the date of its approval except to the extent that building permits have been issued for the proposed development for which the certificate is approved or a final subdivision plat has been approved and recorded, and the proposed development is then completed pursuant to the terms of the Collier County Building Code or as provided in section 10.02.07 C.1. of this Code, refund of impact fees, except for certificates issued pursuant to section 10.02.07 C.1. of this Code, will be subject to the provisions of the consolidated impact fee trust fund ordinance. The expiration date

of a re-issued certificate re-allocating capacity to different lots or parcels in the same development will relate back to, and be calculated from, the original certificate's date of issuance.

- i. For large developments as indicated below, a five year certificate of public facility adequacy for "~~Category A~~" all public facilities, except roads, may be obtained provided the developer enters into an enforceable development agreement with the county. Developments comprised of more than 500 residential **dwelling units**, or a phased increment of development comprised of more than 150 residential **dwelling units**, or a commercial/industrial development of more than 100,000 square feet of gross leasable area is considered to be a large development. A certificate of public facility adequacy for a large development shall expire five years from the date of its approval except to the extent that building permits have been issued for the proposed development for which the certificate is approved, and the proposed development is then completed pursuant to the terms of the Collier County Building Code.

\* \* \* \* \*

**SECTION FOUR: CONFLICT AND SEVERABILITY**

In the event this Ordinance conflicts with any other Ordinance of Collier County or other applicable law, the more restrictive shall apply. If any phrase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding Section not affect the validity of the remaining portion.

**SECTION FIVE: INCLUSION IN THE COLLIER COUNTY LAND DEVELOPMENT CODE**

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



**SECTION SIX: EFFECTIVE DATE**

This Ordinance shall become effective upon filing with the Florida Department of State, Tallahassee, Florida; with the exception that the amendments to section 9.03.07, as proposed in subsection 3.GG. of this Ordinance, shall become effective 45 days after the effective date of this Ordinance.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida, this 30th day of October, 2008.

ATTEST:  
DWIGHT E. BROCK, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF COLLIER COUNTY, FLORIDA

BY: *Dwight E. Brock*  
Deputy Clerk  
Attest as to Chairman's  
signature on 11/6/08

By: *Tom Henning*  
TOM HENNING, CHAIRMAN

Approved as to form and  
legal sufficiency:

*Heidi Ashton-Cicko*  
Heidi Ashton-Cicko  
Assistant County Attorney

04-CMD-01077/1010 - 11/6/08 FINAL

This ordinance filed with the  
Secretary of State's Office the  
12 day of NOV, 2008  
and acknowledgement of that  
filing received this 20 day  
of NOV, 2008  
By: *Dwight E. Brock*  
Deputy Clerk

STATE OF FLORIDA)

COUNTY OF COLLIER)


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

**ORDINANCE 2008-63**

Which was adopted by the Board of County Commissioners on the 30th day of October, 2008, during Special Session.

WITNESS my hand and the official seal of the Board of County Commissioners of Collier County, Florida, this 6th day of November, 2008.

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

  
By: Teresa Polaski,  
Deputy Clerk