



ORDINANCE NO. 08-10

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 3 - RESOURCE PROTECTION, ADDING SECTION 3.07.00 INTERIM WATERSHED MANAGEMENT REGULATIONS, SECTION 3.07.01 APPLICABILITY, AND SECTION 3.07.02 INTERIM WATERSHED REGULATIONS; CHAPTER 6 - INFRASTRUCTURE IMPROVEMENTS AND ADEQUATE PUBLIC FACILITIES REQUIREMENTS INCLUDING, SECTION 6.05.01 STORMWATER MANAGEMENT SYSTEM REQUIREMENTS; 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 FOUR, CONFLICT AND SEVERABILITY; SECTION FIVE, PUBLICATION AS THE COLLIER COUNTY LAND DEVELOPMENT CODE; AND SECTION SIX, EFFECTIVE DATE.

FILED
2008 MAR - 3 AM 9:51
DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

Recitals

WHEREAS, on October 30, 1991, the Collier County Board of County Commissioners adopted Ordinance No. 91-102, the Collier County Land Development Code (hereinafter LDC), which was subsequently amended; and

WHEREAS, the Collier County Board of County Commissioners (Board) on June 22, 2004, adopted Ordinance No. 04-41, which repealed and superseded Ordinance No. 91-102, as amended, the Collier County Land Development Code, which had an effective date of October 18, 2004; and

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

WHEREAS, this is the second amendment to the LDC for the calendar year 2007; and

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

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

WHEREAS, the Board of County Commissioners, in a manner prescribed by law, did hold an advertised public hearing on January 16,

2008 and February 5, 2008 and did take action concerning these amendments to the LDC; and

WHEREAS, the subject amendments to the LDC are hereby determined by this Board to be consistent with and to implement the Collier County Growth Management Plan as required by Subsections 163.3194 (1) and 163.3202 (1), Florida Statutes; and

WHEREAS, this Ordinance is adopted in compliance with and pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act (F.S. § 163.3161 *et seq.*), and F.S. § 125.01(1)(t) and (1)(w); and

WHEREAS; this Ordinance is adopted pursuant to the constitutional and home rule powers of Fla. Const. Art. VIII, § 1(g); and

WHEREAS, all applicable substantive and procedural requirements of the law have otherwise been met.

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, that:

SECTION ONE: RECITALS

The foregoing Recitals are true and correct and incorporated by reference herein as if fully set forth.

SECTION TWO: FINDINGS OF FACT

The Board of Commissioners of Collier County, Florida, hereby makes the following findings of fact:

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

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

3. Section 163.3201, Fla. Stat., provides that it is the intent of the Act that the adoption and enforcement by Collier County of land development regulations for the total unincorporated area shall be based on, be related to, and be a means of implementation for, the adopted comprehensive plan.

4. Section 163.3194(1)(b), Fla. Stat., requires that all land development regulations enacted or amended by Collier County be consistent with the adopted comprehensive plan, or element or portion thereof, and any land regulations existing at the time of adoption which are not consistent with the adopted comprehensive plan, or element or portion thereof, shall be amended so as to be consistent.

5. Section 163.3202(3), Fla. Stat., states that the Act shall be construed to encourage the use of innovative land development regulations.

6. On January 10, 1989, Collier County adopted the Collier County Growth Management Plan (hereinafter the "Growth Management Plan" or "GMP") as its comprehensive plan pursuant to the requirements of Sec. 163.3161 *et seq.*, Fla. Stat., and Rule 9J-5 F.A.C.

7. Section 163.3194(1)(a), Fla. Stat., mandates that after a comprehensive plan, or element or portion thereof, has been adopted in conformity with the Act, all development undertaken by, and all actions taken in regard to development orders by, governmental agencies in regard to land covered by such comprehensive plan, or element or portion thereof shall be consistent with such comprehensive plan or element or portion thereof.

8. Pursuant to Sec. 163.3194(3)(a), Fla. Stat., a development order or land development regulation shall be consistent with the comprehensive plan if the land uses, densities or intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government.

9. Section 163.3194(3)(b), Fla. Stat., requires that a development approved or undertaken by a local government shall be consistent with the comprehensive plan if the land uses, densities or intensities, capacity or size, timing, and other aspects of development are compatible with, and further the objectives, policies, land uses, densities, or intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government.

10. On October 30, 1991, Collier County adopted the Collier County Land Development Code, which became effective on November 13, 1991 and may be amended twice annually. The Land Development Code adopted in Ordinance 91-102 was recodified and superseded by Ordinance 04-41.

11. Collier County finds that the Land Development Code is intended and necessary to preserve and enhance the present advantages that exist in Collier County; to encourage the most appropriate use of land, water and resources consistent with the public interest; to overcome present handicaps; and to deal effectively with future problems that may result from the use and development of land within the total unincorporated area of Collier County and it is intended that this Land Development Code preserve, promote, protect and improve the public health, safety, comfort, good order, appearance, convenience and general welfare of Collier County; to prevent the overcrowding of land and avoid the undue concentration of population; to facilitate the adequate and efficient provision of transportation, water, sewerage, schools, parks, recreational facilities, housing and other requirements and services; to conserve, develop, utilize and protect natural resources within the jurisdiction of Collier County; to protect human, environmental, social and economic resources; and to

maintain through orderly growth and development, the character and stability of present and future land uses and development in Collier County.

12. It is the intent of the Board of County Commissioners of Collier County to implement the Land Development Code in accordance with the provisions of the Collier County Comprehensive Plan, Chapter 125, Fla. Stat., and Chapter 163, Fla. Stat., and through these amendments to the Code.

SECTION THREE: ADOPTION OF AMENDMENTS TO THE LAND DEVELOPMENT CODE

SUBSECTION 3.A. ADDITION OF SECTION 3.07.00 INTERIM WATERSHED MANAGEMENT REGULATIONS

Section 3.07.00 Interim Watershed Management Regulations, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

3.07.00 Interim Watershed Management Regulations

SUBSECTION 3.B. AMENDMENTS TO SECTION 3.07.01 APPLICABILITY

Section 3.07.01 Applicability, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

3.07.01 Applicability

- A. New **development** and redevelopment shall be in compliance with the goals, objectives and policies of the Conservation and Coastal Management Element (CCME) of the Collier County GMP and with this LDC until the formal adoption by the County of all land **development** regulations, ordinances, policies, and programs which implement the Watershed Management Plans as they are prepared.
- B. The following watershed management requirements will remain in force for the applicable region of the County until superseded by the formal adoption by the County of land **development** regulations, ordinances, policies, and programs for each watershed as established by the completion, adoption and implementation of the individual Watershed Management Plans.
- C. The County shall adhere to the limiting discharge rates of each basin as outlined in Ordinance 2001-27, adopted May 22, 2001 which amended the County Water Management Policy and provided basin delineations where special peak discharge rates have been established.

SUBSECTION 3.C. AMENDMENTS TO SECTION 3.07.02 INTERIM WATERSHED REGULATIONS

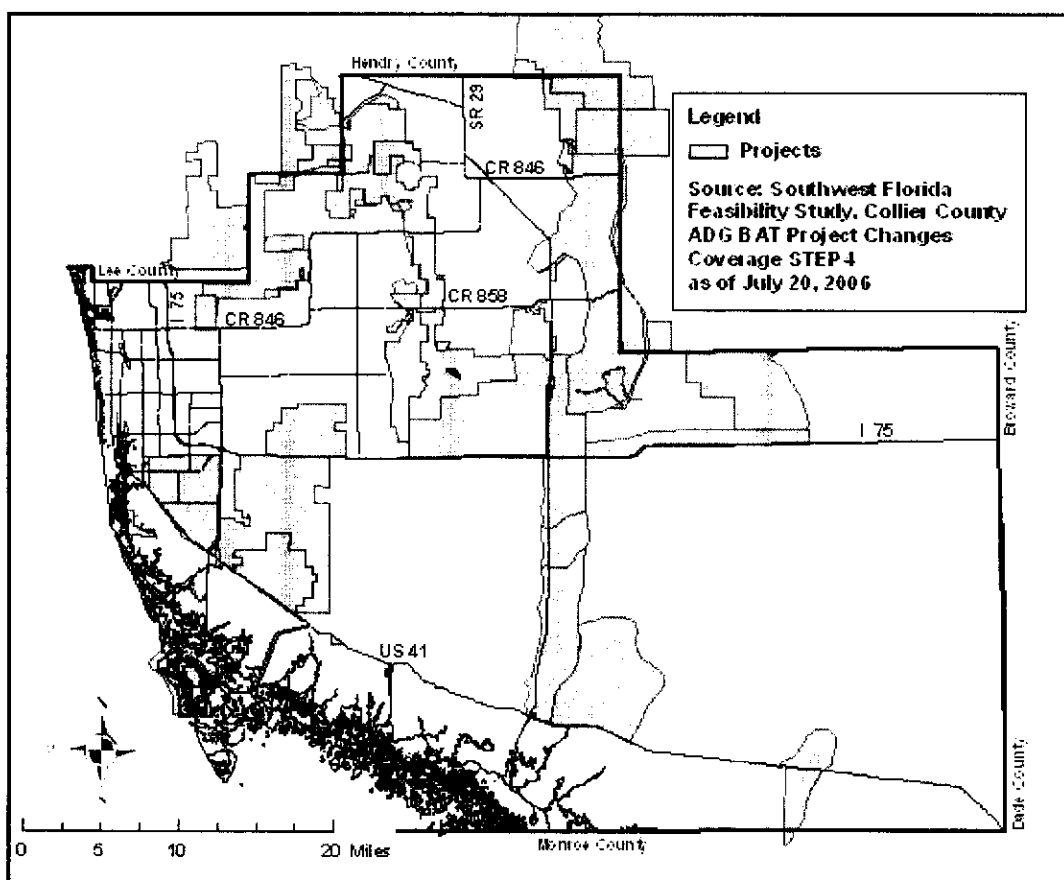
Section 3.07.02 Interim Watershed Regulations, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

3.07.02 Interim Watershed Regulations

- A. All new **development** and redevelopment projects, except public roadway projects as defined in the Metropolitan Planning Organization (MPO) Long Range Transportation Plan, shall meet 150% of the water quality volumetric requirements of Section 5.2.1(a) of the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District (February 2006). The projects shall also comply with the allowable offsite discharge rates required Ordinance 2001-27, as amended. The 150% water quality volumetric requirement also applies to the County's minimum requirement of 1 inch under Ordinance 90-10, as amended; thus increasing the County's minimum requirement to 1.5 inches.

1. The entirety of the required 150% treatment shall occur within the boundaries of the stormwater treatment system, excluding County required native vegetation preserves, which are not allowed to be incorporated into the stormwater quality treatment system.
 2. For purposes of these interim watershed management regulations, any reconfiguration of, or addition to, the on-site impervious area that equals or exceeds 50 percent of the existing on-site impervious area square footage shall be considered redevelopment of the site. Redevelopment shall also be considered as any changes to, or reconfiguration of, the building footprint and/or all other on-site impervious area which equals or exceeds 50 percent of the assessed value of the improvements on the site. In any case, the more restrictive shall apply in the determination of redevelopment. The 50 percent threshold for impervious area and/or assessed value of improvements shall be calculated cumulatively over a 5-year period.
- B. Loss of storage or conveyance volume resulting from direct impacts to wetlands shall be compensated for by providing an equal amount of storage or conveyance capacity on site and within or **adjacent** to the impacted wetland.
- C. Floodplain storage compensation calculation shall be provided on a case by case basis, based upon historical flooding and drainage problem area information, as determined by staff, for developments within the designated flood zones "A", "AE", and "VE" as depicted on the Flood Insurance Rate Maps published by the Federal Emergency Management Agency with an effective date of November 17, 2005. Floodplain storage compensation calculations shall be provided on a case by case basis, based upon historical flooding and drainage problem area information, as determined by staff, for areas known to be periodically inundated by intense rainfall or sheetflow conditions.

Figure 3.07.02 - 1 Areas of special evaluation for watershed system requirements per subsection 3.07.02 D.



D. All **development** located within areas identified on Figure 3.07.02 -1 shall be evaluated to determine impacts to natural **wetlands, flowways,** or sloughs. For this particular evaluation, natural **wetlands, flowways,** or sloughs shall be tentatively identified as contiguous lands having a continual preponderance of wetland or wet facultative plant species and a ground elevation through the major portion of the natural wetland, **flowway,** or slough at least 1 foot lower, on average, than the ground at the edge of the natural wetland, **flowway,** or slough. The edge of the natural **wetlands, flowways,** or sloughs shall be identified by field determination and based upon vegetation and elevation differences from the **adjacent** uplands or transitional **wetlands.** The County shall require the **applicant** to avoid direct impacts to these natural **wetlands, flowways,** or sloughs or, when not possible, to ensure any direct impact is minimized and compensated for by providing the same conveyance capacity lost by the direct impact.

E. All new **development** and redevelopment projects shall be designed so that surrounding properties will not be adversely impacted by the project's influence on stormwater sheet flow up to the 25-year, 3-day design storm.

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SUBSECTION 3.D. **AMENDMENTS TO SECTION 6.05.01 STORMWATER MANAGEMENT SYSTEM REQUIREMENTS**

Section 6.05.01 Stormwater Management System Requirements, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

6.05.01 Stormwater Management System Requirements

A complete stormwater management system shall be provided for all areas within the **subdivision** or **development**, including **lots, streets,** and **alleys.**

A. The system design shall meet the applicable provisions of the current County codes and ordinances, SFWMD rules and regulations pursuant to Florida Statutes, and the Florida Administrative Code, and any other affected state and federal agencies' rules and regulations in effect at the time of preliminary **subdivision** plat submission.

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F. The design of the stormwater management system shall fully incorporate the requirements of the Interim Watershed Management regulations of LDC section 3.07.00.

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SUBSECTION 3.E. **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

A. Environmental impact statements

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4. Information required for application.

a. **Applicant** information.

i. Responsible person who wrote the EIS and his/her education and job related environmental experience.

ii. Owner(s)/agent(s) name, address, phone number & e-mail address.

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f. Surface and ground water management.

- i. Provide an overall description of the proposed water management system explaining how it works, the basis of design, historical drainage flows, off-site flows coming in to the system and how they will be incorporated in the system or passed around the system, positive outfall availability, Wet Season Water Table and Dry Season Water Table, and how they were determined, and any other pertinent information pertaining to the control of storm and ground water.
- ii. Provide an analysis of potential water quality impacts of the project by evaluating water quality loadings expected from the project (post **development** conditions considering the proposed land uses and stormwater management controls) compared with water quality loadings of the project area as it exists in its **pre-development** conditions. This analysis is required for projects impacting five (5) or more acres of **wetlands**. The analysis shall be performed using methodologies approved by Federal and State water quality agencies.
- iii. Identify any Wellfield Risk Management Special Treatment Overlay Zones (WRM-ST) within the project area and provide an analysis for how the project design avoids the most intensive land uses within the most sensitive WRM-STs.
- iv. The design of the proposed stormwater management system and analysis of water quality and quantity impacts shall fully incorporate the requirements of the Interim Watershed Management regulations of LDC section 3.07.00.

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

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

10.02.03 Submittal Requirements for Site Development Plans

A. Generally.

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

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3. Exemptions. Due to its location or minimal impact on surrounding properties and probable minimal impacts under the site **development plan** review standard contained in section 10.02.03 A.4., standard application requirements as described in section 10.02.03 A., may be waived in part or in full by the County Manager or his designee for agriculturally related **development** as identified in the permitted and **accessory uses** section of the rural agricultural zoning district; however, a site improvement plan as required by section 10.02.03 B. addressing the application requirements deemed necessary by the County Manager or his designee shall be submitted to the planning department for review and approval.
- a. **School board review** ("SBR") application contents. The SBR application submittal will be in accordance with section 10.02.03 of the Code, but will be accorded an expedited process as outlined in the Manual for County Consistency and Site Plan Reviews of **educational facilities** and **ancillary plants**, as may be amended by agreement between the Board of County Commissioners and the Collier County School Board. This document is available in the Records Room of the Community **Development** and Environmental Services **Building**.
- b. The expedited site plan for **school board review**, as referenced in section 10.02.03 A.3.a. of the Land **Development** Code, will consist of the following areas of review:
- i. Collier County Utilities Standards and Procedures, Ordinance No. 01-57, as may be amended. In accordance with this Ordinance, the following requirements must be met:

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- vi. Collier County Stormwater Management Policies as follows:
- (a) A Drainage Plan, signed and sealed by a Florida Professional Engineer must be submitted along with design calculations in order to determine the proposed **development's** effect on County maintained **drainage facilities**.
- (b) SFWMD permits must be submitted prior to a determination that the SBR application is sufficient for review.
- (c) **Easements** for drainage improvements and **access** to them must be submitted prior to SBR approval. When necessary, the School Board will supply additional drainage **easement** area when necessitated by increased capacity to accommodate the proposed **development**.
- (d) If any dedications of **easements** for drainage, maintenance, and/or **access** are required, all necessary documentation to record the **easement(s)** shall be provided to the County prior to approval of the SBR. Prior to the County's issuance of the Certificate of Occupancy, such **easements** shall be approved by the BCC and officially recorded.

- (e) All proposed development activities will be fully in compliance with the Interim Watershed Management regulations of LDC section 3.07.00.

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SUBSECTION 3.G. 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

A. Preliminary **subdivision** plat requirements.

1. Procedures for preliminary **subdivision** plat.

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3. A preliminary **subdivision** plat application shall be submitted for the entire property to be subdivided in the form established by the County Manager or his designee and shall, at a minimum, include ten copies of the preliminary **subdivision** plat unless otherwise specified by the County Manager or his designee. The preliminary **subdivision** plat shall be prepared by the applicant's engineer and surveyor. Land planners, landscape architects, architects, and other technical and professional persons may assist in the preparation of the preliminary **subdivision** plat. The preliminary **subdivision** plat shall be coordinated with the major utility suppliers and public facility providers applicable to the **development**. Provisions shall be made for placement of all utilities underground, where possible. Exceptions for overhead installations may be considered upon submission of sound justification documenting the need for such installation. The preliminary **subdivision** plat shall include or provide, at a minimum, the following information and materials:

- a. A preliminary **subdivision** plat shall consist of a series of mapped information sheets on only standard size 24-inch by 36-inch sheets to include, but not be limited to, the following:
 - i. Cover map sheet;
 - ii. Boundary and topographic survey;
 - iii. Preliminary **subdivision** plat with **right-of-way** and lot configurations;
 - iv. Natural features and vegetative cover map; for proposed site **alteration**(s) within the coastal zone, vegetative cover map shall also comply with section 3.03.02 B.;
 - v. Master utilities and water management (drainage) plans;
 - vi. Aerial map; and
 - vii. Standard **right-of-way** cross-sections and appropriate design details.

The above mapped information may be combined on one or more maps if determined appropriate by the County Manager or his designee.

- b. Name of **subdivision** or identifying title which shall not duplicate or closely approximate the name of any other **subdivision** in the incorporated or unincorporated area of Collier County.

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z. All plans and platting documents shall be prepared fully in compliance with the Interim Watershed Management regulations of LDC section 3.07.00.

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B. Final plat requirements.

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3. *General requirements for final **subdivision** plats.*

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i. All plans and platting documents shall be prepared fully in compliance with the Interim Watershed Management regulations of LDC section 3.07.00.

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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.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida, this 19th Day of February, 2008.

ATTEST:
DWIGHT E. BROCK, CLERK

BOARD OF COUNTY COMMISSIONERS
OF COLLIER COUNTY, FLORIDA

By: *Ann Ferguson, O.C.* Deputy Clerk
Attest as to Chairman's signature only.
By: *Tom Henning*
TOM HENNING, CHAIRMAN

Approved as to form and legal sufficiency:
[Signature]
Jeffrey A. Klatzkow
Chief Assistant County Attorney

This ordinance filed with the Secretary of State's Office the 3rd day of March, 2008 and acknowledgement of that filing received this 6th day of March, 2008
By: *Ann Ferguson, O.C.*
Deputy Clerk

STATE OF FLORIDA)

COUNTY OF COLLIER)

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

ORDINANCE 2008-10

Which was adopted by the Board of County Commissioners on the 19th day of February, 2008, during Special Session.

WITNESS my hand and the official seal of the Board of County Commissioners of Collier County, Florida, this 28th day of February, 2008.

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

Ann Jennejohn S.C.

By: Ann Jennejohn,
Deputy Clerk