



ORDINANCE NO. ~~2012~~ - 25

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 TWO - ZONING DISTRICTS AND USES, INCLUDING SECTION 2.01.03 ESSENTIAL SERVICES, TO ADD AVIATION USES AS A PERMITTED USE IN THE CONSERVATION ZONING DISTRICT ON LANDS ADJACENT TO THE MARCO ISLAND EXECUTIVE AIRPORT; SECTION FOUR, CONFLICT AND SEVERABILITY; SECTION FIVE, INCLUSION IN THE COLLIER COUNTY LAND DEVELOPMENT CODE; AND SECTION SIX, EFFECTIVE DATES.

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FILED

#### 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WHEREAS, the Collier County Board of County Commissioners (Board) on June 22, 2004, adopted Ordinance No. 04-41, which repealed and superseded Ordinance No. 91-102, as amended, the Collier County Land Development Code, which had an effective date of October 18, 2004; and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 amendment to the LDC is part of the first amendment cycle for the calendar year 2012; 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 June 12, 2012 and June 26, 2012 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 Community Planning 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 § 163.3161, *et seq.*, F.S., the Florida Community Planning 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 § 163.3202(1). F.S., mandates that Collier County adopt land development regulations that are consistent with and implement the adopted comprehensive plan.

3. Section 163.3201, F.S., 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), F.S., 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), F.S., 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 § 163.3161 *et seq.*, F.S.

7. Section 163.3194(1)(a), F.S., 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 § 163.3194(3)(a), F.S., 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), F.S., states 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. 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: AMENDMENTS TO SECTION 2.01.03 ESSENTIAL SERVICES OF THE LAND DEVELOPMENT CODE**

Section 2.01.03, Essential Services, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

#### **2.01.03 - Essential Services**

**Essential services** are hereby defined as services designed and operated to provide water, sewer, gas, telephone, electricity, cable television or communications to the general public by providers which have been approved and authorized according to laws having appropriate jurisdiction, and government facilities. **Essential services** are allowed in any zoning district subject to the following conditions:

- A. The following uses shall be deemed permitted uses in all zoning districts, except **CON districts, RFMU sending lands, NRPAS, HSAS, and FSAS**:
1. Water lines and sewer lines;
  2. Natural gas lines, except those associated with **oil extraction and related processing** operations as defined in this Code and regulated under applicable federal and state law;
  3. Telephone lines, telephone switching stations, and cable television lines;
  4. Communication **towers**, limited to those providing wireless emergency telephone service, subject to all applicable provisions in section 5.05.09 of this Code;
  5. Electrical transmission and distribution lines, substations, and emergency power **structures**;
  6. Sewage lift stations and water pumping stations;
  7. **Essential service** wells (including extraction facilities and requisite ancillary facilities);
  8. Any other wells which have been or will be permitted by the South Florida Water Management District or the Florida Department of Environmental Protection either prior to or subsequent to the effective date of this ordinance, or if the respective well and/or well related facility is otherwise required to be installed or constructed by law. If any proposed well is a Collier County owned well under the permitting jurisdiction of a Florida agency, staff, early in the County's well permit application process, shall post **sign(s)** at the County's proposed well site(s) and shall provide written notice that the County has applied for a required well permit to property owners within 300 feet of the property lines of the **lots or parcels** of land on which the applied-for well is being sought by the County, including, if applicable, the times and places of the permitting agency's scheduled public hearings; and

9. **Conservation Collier lands** which provide for permitted nondestructive, passive natural resource based recreational and educational activities, exclusive of major improvements. Permitted minor improvements shall be limited to one (1) **ground sign**, not to exceed eight (8) feet in height with a maximum **sign area** of thirty-two (32) square feet; a parking area, not to exceed twenty (20) parking spaces; hiking trails; a fully accessible trail or trail section; educational kiosks not to exceed one hundred (100) square feet; and public restroom facilities not to exceed five hundred (500) square feet. The provisions for **Conservation Collier lands** in this Code do not affect the underlying zoning districts or land use designations in any district where **Conservation Collier lands** are established. Such that no expansion or diminution of the various zoning district permitted uses is intended or implied by these provisions, except as stated above with respect to minor improvements. **Oil and gas exploration** as defined and regulated in this Code remains a permitted use on or beneath **Conservation Collier lands** established in any zoning district providing for **oil and gas exploration** as a permitted use pursuant to subsection 2.03.09 B.1.a.viii.
- B. Permitted **Essential services** ~~IN~~ in **CON districts**, RFMU sending lands, NRPAs, HSAs, and FSAs.
1. Within **CON districts**, Sending Lands in the **RFMU district**, NRPAs, and within designated Habitat Stewardship Areas (HSA) and Flow way Stewardship Areas (FSA) within the RLSA overlay district subject to the limitations set forth in section 4.08.08 C., the following **essential services** are permitted:
    - a. Private wells and septic tanks;
    - b. Utility lines, except sewer lines;
    - c. Sewer lines and lift stations, only if located within already cleared portions of existing **rights-of-way** or easements, and necessary to serve a publicly owned or privately owned central sewer system providing service to urban areas; or the Rural Transition Water and Sewer District, as delineated on the Urban-Rural Fringe Transition Zone Overlay Map in the Future Land Use Element of the GMP; and,
    - d. Water pumping stations necessary to serve a publicly owned or privately owned central water system providing service to urban areas; or the Rural Transition Water and Sewer District, as delineated on the Urban-Rural Fringe Transition Zone Overlay Map in the Future Land Use Element of the GMP.
    - e. **Conservation Collier lands** which provide for permitted nondestructive, passive natural resource based recreational and educational activities, exclusive of major improvements. Permitted minor improvements shall be limited to one (1) **ground sign**, not to exceed eight (8) feet in height with a maximum **sign area** of thirty-two (32) square feet; a parking area, not to exceed twenty (20) parking spaces; hiking trails; a fully accessible trail or trail section; educational kiosks not to exceed one hundred (100) square feet; and public--restroom facilities not to exceed five hundred (500) square feet. The provisions for **Conservation Collier lands** in this Code do not affect the underlying zoning districts or land use designations in any district where **Conservation Collier lands** are established, such that no expansion or diminution of the various zoning district permitted uses is intended or implied by these provisions, except as stated above for minor improvements. **Oil and gas exploration** as defined and regulated in this Code remains a permitted use on or beneath **Conservation Collier**

**lands** established in the CON zoning district providing for **oil and gas exploration** as a permitted use subject to subsection 2.03.09 B.1.a.viii.

- f. Aviation related uses as approved in the September 11, 2001 Memorandum of Understanding between Collier County Airport Authority and the Intervenor Signatories to the Deltona Settlement Agreement (July 20, 1982), including The Conservancy of Southwest Florida, The National Audubon Society, The Florida Audubon Society, The Environmental Defense Fund, Izaak Walton League, Florida Division, The Florida Department of Environmental Protection, The South Florida Water Management District, The Florida Department of Community Affairs, The Deltona Corporation, and Collier County.

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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 26<sup>th</sup> day of June, 2012.

ATTEST:  
DWIGHT E. BROCK, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF COLLIER COUNTY, FLORIDA

By: [Signature]  
Deputy Clerk  
Approved as to form and  
legal sufficiency:

By: Fred W. Coyle  
FRED W. COYLE, Chairman

[Signature] HFA/L  
6/14/12  
Heidi Ashton-Cicko, Esquire  
Managing Assistant County Attorney

11-COA-0141228

This ordinance filed with the  
Secretary of State's Office the  
2<sup>nd</sup> day of July, 2012  
and acknowledgement of that  
filing received this 13<sup>th</sup> day  
of July, 2012  
By: [Signature]  
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 2012-25**

which was adopted by the Board of County Commissioners on the 26th day of June, 2012, during Regular Session.

WITNESS my hand and the official seal of the Board of County Commissioners of Collier County, Florida, this 27th day of June, 2012.

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

  
By: Teresa Cannon,  
Deputy Clerk

