

**ORDINANCE NO. 2024- 40**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, AMENDING ORDINANCE NO. 2023-64, WHICH ADOPTED THE FLORIDA BUILDING CODE, EIGHTH EDITION (2023), TO ADD AN AMENDMENT TO SECTION 110.3 OF THE FLORIDA BUILDING CODE RELATING TO REQUIRED INSPECTIONS; AND TO ADD SECTIONS 104.8 AND 104.8.1 RELATING TO LIABILITY AND LEGAL DEFENSE; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR INCLUSION IN THE COLLIER COUNTY CODE OF LAWS AND ORDINANCES; PROVIDING FOR PENALTIES FOR VIOLATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, Article VIII of the State Constitution and Chapter 125 of the Florida Statutes provides that counties, as political subdivisions of the State, have the governmental and proprietary powers to enable them to conduct government, perform services, and may exercise any such powers for public purposes, except when expressly prohibited by law; and

WHEREAS, on January 8, 2002, the Board of County Commissioners adopted Ordinance No. 2002-01, which adopted by reference the Florida Building Code, 2001 Edition and added Section 105.6.1 entitled “Building Inspections-As-Built Survey” to require a location survey depicting building foundation, to be enforced by Collier County in the unincorporated portions of the County; and

WHEREAS, on November 10, 2009, the Board of County Commissioners repealed Ordinance No. 2002-01 (“2009 Ordinance”) in its entirety, including Section 105.6.1 entitled “Building Inspections-As-Built Survey”; and

WHEREAS, most recently, on December 12, 2023, the Board of County Commissioners adopted Ordinance No. 2023-64, which adopted by reference the Florida Building Code, Eighth Edition (2023), to be enforced by Collier County in the unincorporated portions of the County, as well as exemptions to the Florida Building Code, and amendments to administrative provisions of the Florida Building Code, as authorized by Section 553.73(4)(a), Florida Statutes; and

WHEREAS, pursuant to Section 553.73(4)(a), Florida Statutes, the Board of County Commissioners desires to amend Section 110.3, an administrative provision of the Florida Building Code, relating to inspections, to add the survey requirement that was omitted in the 2009 Ordinance; and

WHEREAS, the Board further desires to adopt provisions related to liability and legal defense of the building official, member of the Board of Appeals and County employees.

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

**SECTION ONE: AMENDMENT OF ORDINANCE NO. 2023-64 TO ADOPT ADDITIONS TO THE FLORIDA BUILDING CODE.**

Paragraph 2 of section one of Ordinance No. 2023-64 is hereby amended as follows:

**2. Additions. The following additions, adjustments, amendments and exemptions are added to the Eighth Addition (2023) Florida Building Code as amended:**

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**104.8 Liability.**

The building official, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be civilly or criminally rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee or board member because of an act performed by that officer or employee or board member in the lawful discharge of duties and under the provisions of this code shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The building official or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of this code.

**104.8.1 Legal defense.**

Any suit or criminal complaint instituted against an officer or employee or board member because of an act performed by that officer or employee or board member in the lawful discharge of duties and under the provisions of this code shall be defended by legal representatives of the jurisdiction until the final termination of the proceedings. The



building official or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of this code.

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### **110.3 Required Inspections.**

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#### **Building**

1. Foundation inspection. To be made after trenches are excavated and forms erected and shall at a minimum include the following building components:

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- 1.2 The permit holder shall submit, within 10 calendar days of this inspection, a spot survey depicting the building foundation to the authority having jurisdiction. For structures without a foundation inspection and that require a minimum floor elevation, a spot survey is required prior to receiving a certificate of Occupancy/Completion. The spot survey shall be prepared by or under the direct supervision of a Florida Registered land surveyor and certified by same and shall be in a form acceptable to the Building Official. The Building Official has the right to waive this requirement for certain small, non-habitable structures.

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### **SECTION THREE: 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 the 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 shall not affect the validity of the remaining portion.

### **SECTION FOUR: INCLUSION IN THE CODE OF LAWS AND ORDINANCES.**

The provisions of this Ordinance shall become and be made a part of the Code of Laws and

Ordinances of Collier County, Florida. The sections of the Ordinances 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 FIVE: PENALTIES FOR VIOLATION.**

If any person, firm, corporation, or other legal entity whether public or private, shall fail or refuse to obey or comply with, or violates, any of the provisions of the Ordinance, such person, firm, corporation, or other legal entity whether public or private, upon conviction of such offense, shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00) or by imprisonment not to exceed sixty (60) days in the County jail, or both, in the discretion of the court. Each day of continued violation or noncompliance shall be considered as a separate offense. In addition, any person, firm, corporation, or other legal entity whether public or private, convicted under the provisions of this section shall pay all costs and expenses involved in the case. In addition, the provisions of this Ordinance may be enforced by any means appropriate under Section 125.69, Florida Statutes, or Chapter 162, Florida Statutes, or as set forth in the Code of Laws and Ordinances of Collier County, Florida, and the Collier County Land Development Code.

#### **SECTION SIX: EFFECTIVE DATE.**

This Ordinance shall be effective upon filing with the Florida Department of State.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida, this 24<sup>th</sup> day of September 2024.

ATTEST:  
CRYSTAL K. KINZEL, CLERK

By: [Signature]  
Attest as to Chairman's signature only, Deputy Clerk

Approved as to form and legality:

[Signature]  
Heidi Ashton-Cicko  
Managing Assistant County Attorney

BOARD OF COUNTY COMMISSIONERS  
COLLIER COUNTY, FLORIDA

By: [Signature]  
Chris Hall, Chairman

This ordinance filed with the  
Secretary of State's Office the  
30 day of Sept., 2024  
and acknowledgement of that  
filing received this 01 day  
of Oct., 2024  
By: [Signature] OC  
Deputy Clerk



## FLORIDA DEPARTMENT *of* STATE

**RON DESANTIS**  
Governor

**CORD BYRD**  
Secretary of State

October 1, 2024

Crystal K. Kinzel, Clerk of Court  
Office of the Clerk of the Circuit Court  
& Comptroller of Collier County  
3329 Tamiami Trail E, Suite #401  
Naples, FL 34112

Dear Ms. Kinzel,

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Collier County Ordinance No. 2024-40, which was filed in this office on September 30, 2024.

Sincerely,

Alexandra Leijon  
Administrative Code and Register Director

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