



ORDINANCE NO. 2013 – 58

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, ADOPTION OF AMENDMENTS TO THE LAND DEVELOPMENT CODE, MORE SPECIFICALLY AMENDING CHAPTER EIGHT – DECISION-MAKING AND ADMINISTRATIVE BODIES, BY ADDING SECTION 8.10.00 HEARING EXAMINER; CHAPTER TEN – APPLICATION, REVIEW, AND DECISION-MAKING PROCEDURES, INCLUDING SECTION 10.02.03 SUBMITTAL REQUIREMENTS FOR SITE DEVELOPMENT PLANS; SECTION TWO, CONFLICT AND SEVERABILITY; SECTION THREE, INCLUSION IN THE COLLIER COUNTY LAND DEVELOPMENT CODE; AND SECTION FOUR, EFFECTIVE DATE.

FILED
2013 OCT -2 PM 12:22
CLERK OF COUNTY COMMISSIONERS
COLLIER COUNTY 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WHEREAS, the Collier County Board of County Commissioners (Board) on June 22, 2004, adopted Ordinance No. 04-41, which repealed and superseded Ordinance No. 91-102, as amended, the Collier County Land Development Code, which had an effective date of October 18, 2004; and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 amendment to the LDC is part of the first amendment cycle for the calendar year 2013; 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 the date noted herein, and did take action concerning this amendment 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: ADOPTION OF AMENDMENTS TO THE LAND DEVELOPMENT CODE

SUBSECTION 1.A: AMENDMENTS TO CHAPTER EIGHT – DECISION-MAKING AND ADMINISTRATIVE BODIES

Chapter Eight, Decision-Making and Administrative Bodies, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to add the following:

Section 8.10.00 – Hearing Examiner

A. *Establishment and Powers.* The Board of County Commissioners established the office of the Hearing Examiner by County Ord. No. 2013-25, as it may be amended from time to time, with the powers and duties set forth therein.

B. *Role on Planning Commission.* The Hearing Examiner may sit as a member of the Collier County Planning Commission as long as the Planning Commission serves solely in an advisory body capacity to the Board of County Commissioners. While a Hearing Examiner is employed by the County, all powers and duties expressly granted to the Hearing Examiner, either through the Collier County Hearing Examiner Ordinance (No. 2013-25, as may be amended) or through future resolutions, preempt the Collier County Planning Commission, or the Board of Zoning Appeals, as the case may be, with respect to the established procedures set forth in the Collier County Land Development Code.

SUBSECTION 1.B: 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 add the following:

Section 10.02.03 Submittal Requirements for Site Development Plans

F. Site plan with deviations for redevelopment projects.

1. Purpose. A site plan with deviations shall provide a means for a redevelopment project to seek dimensional deviations, excluding height, architectural deviations, and deviations from site features, such as but not limited to, landscaping, parking, and buffers, from the standards established in the LDC when the passing of time has rendered certain existing buildings, structures or site features nonconforming.
2. Applicability. A site plan with deviations may be requested for the redevelopment of a site which meets the criteria for a site development plan, site development plan amendment or a site improvement plan as established in LDC section 10.02.03. Except for the requested deviations, the site development plan or site improvement plan shall comply with LDC section 10.02.03. For purposes of this section, "Redevelopment" shall mean the renovation, restoration, or remodeling of a building or structure, or required infrastructure, in whole or in part, where the existing buildings, structures or infrastructure were legally built and installed.
3. Application. The Administrative Code shall establish the process and submittal requirements for a site plan with deviations for redevelopment projects application.
 - a. Requested deviations shall be clearly delineated and justified in the petition. Project enhancements to offset or minimize the deviations shall also be clearly stated.
 - b. Projects subject to the provisions of LDC section 5.05.08 shall submit architectural drawings that are signed and sealed by a licensed architect registered in the State of Florida.
 - c. The site construction plans shall be signed and sealed by the applicant's professional engineer, licensed to practice in the State of Florida.
 - d. The landscaping plans shall be signed and sealed by the applicant's landscape architect, registered in the State of Florida.
 - e. The survey shall be signed and sealed by the applicant's professional surveyor and mapper, registered in the State of Florida.
4. Staff review and recommendation. Based upon evaluation of the factors set forth in LDC section 10.02.03.F.8, County Staff shall prepare a report containing their

- review findings and a recommendation of approval, approval with conditions, or denial.
5. Public notice. Public notice of the hearing shall be as required by the LDC section 10.03.06 Q and Chapter 6 of the Administrative Code.
 6. Public hearing. The Hearing Examiner shall hold at least one public quasi-judicial hearing to review the proposed site plan with deviations.
 - a. Review. The Hearing Examiner shall hear the petition following receipt of the staff report and application by the Office of the Hearing Examiner. At the public hearing, the Hearing Examiner shall consider the applicant's justification for the requested deviations, the staff report, the standards of approval and any other relevant testimony and evidence.
 - b. Decision. The Hearing Examiner shall render a decision to approve, approve with conditions, or deny the requested deviations within 30 days of the public hearing. If approved, or approved with conditions, the decision shall specifically note the deviations and the basis for their approval. A decision by the Hearing Examiner shall be rendered prior to the issuance of the approval letter by the County Manager or designee for the site plan.
 7. Standards for approval. The petition shall be reviewed for consistency with the following standards:
 - a. Land uses and densities within the development shall be consistent with the permitted and approved conditional uses in the zoning district.
 - b. The proposed development is consistent with the Growth Management Plan.
 - c. The development shall have a beneficial effect both upon the area in which it is proposed to be established and upon the unincorporated area as a whole.
 - d. The total land area within the development and the area devoted to each functional portion of the development shall be adequate to serve its intended purpose.
 - e. Streets, utilities, drainage facilities, recreation areas, sizes and yards, architectural features, vehicular parking and loading facilities, sight distances, landscaping and buffers shall be appropriate for the particular use involved.
 - f. Visual character of the project shall be equal or better in quality than that required by the development standards for the zoning district. The visual character of the project shall be better in quality than the existing project before redevelopment and after it was first permitted.

- g. Areas proposed for common ownership shall be subject to a reliable and continuing maintenance guarantee.
 - h. Deviations shall be clearly delineated in the petition and shall be the minimum required to achieve the goals of the project and comply with these standards.
 - i. The petitioner has provided enhancements to the development.
 - j. Approval of the deviation will not have an adverse effect on adjacent properties.
8. Timeframe. Time limits for site plans will be pursuant to LDC section 10.02.03 H.

SECTION TWO: 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 THREE: 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 FOUR: EFFECTIVE DATE

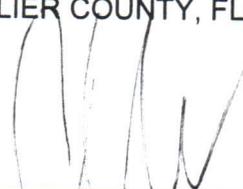
This Ordinance shall become effective upon filing with the Florida Department of State, Tallahassee, Florida.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida, this 24th day of September, 2013.

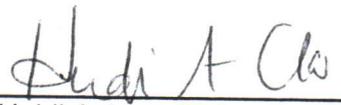
ATTEST:
DWIGHT E. BROCK, CLERK

By: 
Attest as to Chairman's Deputy Clerk
signature only.

BOARD OF COUNTY COMMISSIONERS
OF COLLIER COUNTY, FLORIDA

By: 
GEORGIA A. HILLER, ESQ., Chairwoman

Approved as to form and legality:


Heidi Ashton-Cicko, Esquire
Managing Assistant County Attorney

04-CMD-01077/1052 (9/17/13)

This ordinance filed with the
Secretary of State's Office the
2nd day of October, 2013
and acknowledgement of that
filing received this 7th day
of October, 2013
By: 
Deputy Clerk

STATE OF FLORIDA)

COUNTY OF COLLIER)

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

ORDINANCE 2013-58

which was adopted by the Board of County Commissioners on the 24th day of September, 2013, during Regular Session.

WITNESS my hand and the official seal of the Board of County Commissioners of Collier County, Florida, this 30th day of September, 2013.

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



By: Martha Vergara,
Deputy Clerk