

## ORDINANCE NO. 17 – 12

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 SIX – INFRASTRUCTURE IMPROVEMENTS AND ADEQUATE PUBLIC FACILITIES REQUIREMENTS, INCLUDING SECTION 6.05.01 WATER MANAGEMENT REQUIREMENTS, ADDING SECTION 6.05.03 STORMWATER PLANS FOR SINGLE-FAMILY DWELLING UNITS, TWO-FAMILY DWELLING UNITS, AND DUPLEXES; SECTION FOUR, CONFLICT AND SEVERABILITY; SECTION FIVE, INCLUSION IN THE COLLIER COUNTY LAND DEVELOPMENT CODE; AND SECTION SIX, EFFECTIVE DATE.

### 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WHEREAS, the Collier County Board of County Commissioners (Board) on June 22, 2004, adopted Ordinance No. 04-41, which repealed and superseded Ordinance No. 91-102, as amended, the Collier County Land Development Code, which had an effective date of October 18, 2004; and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 2016; 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 March 14, 2017 and April 11, 2017, 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, 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.

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: ADOPTION OF AMENDMENTS TO THE LAND DEVELOPMENT CODE

\* \* \* \* \*

#### SUBSECTION 3.A. AMENDMENTS TO SECTION 6.05.01 WATER MANAGEMENT REQUIREMENTS

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

##### Section 6.05.01 Water Management Requirements

\* \* \* \* \*

- E. Any canal which forms a part of the public water management system shall be dedicated for care and maintenance per the requirements of the governmental agency which has jurisdiction. Canals located entirely within the **subdivision** and which do not form a part of the public water management system shall be dedicated to the public, without the responsibility for maintenance, as a drainage **easement**. A maintenance **easement**, of a size acceptable to the County Manager or designee or other governmental agency with maintenance responsibility, shall be provided **adjacent** to the established drainage **easement**, or the drainage **easement** created must be of a size suitable for the proposed canal and its maintenance.

- F. ~~Stormwater Retention/Detention Design for~~ **Single-Family Dwelling Units, Two-Family Dwelling Units and Duplexes.**

1. ~~Applicability. Any application for a building permit to allow the **development** or redevelopment of a **single-family** or **two-family dwelling** or **duplex** submitted after July 1, 2008, except for the following conditions:~~
- a. ~~Any application within the boundaries of **development** projects that have:~~
    - ~~(1) been permitted by the South Florida Water Management District for Surface Water Management or Environmental Resource Protection and~~
    - ~~(2) have a central surface water management collection, storage, treatment and discharge system;~~
  - b. ~~A one time addition is allowed for certain sized homes, as set forth below;~~  
~~or~~
  - c. ~~An application accompanied by a stormwater management plan, signed and sealed by a registered Florida Professional Engineer.~~

Table 6.05.01 F.

| <b>Lot Size</b>   | <b>Lot Coverage</b>  | <b>Impervious Area Coverage</b>                                  |
|---|--|--|
| Under 11,000 sq. ft.  | 25%  | 40%  |
| <del>11,000 sq. ft. to 52,999 sq. ft. and 100 ft. or greater in width</del> | <del>2,750 sq. ft. +5% of area in excess of 11,000 sq. ft.</del> | <del>4,400 sq. ft. +5% of area in excess of 11,000 sq. ft.</del> |
| <del>11,000 sq. ft. to 52,999 sq. ft. and less than 100 ft. in width</del>  | <del>2,750 sq. ft. +2% of area in excess of 11,000 sq. ft.</del> | <del>4,400 sq. ft. +2% of area in excess of 11,000 sq. ft.</del> |
| <del>53,000 sq. ft. and over</del>  | <del>4,850 sq. ft. +3% of area in excess of 53,000 sq. ft.</del> | <del>6,500 sq. ft. +2% of area in excess of 53,000 sq. ft.</del> |

2. ~~The maximum allowable ratio of **lot coverage** and **impervious area** coverage to the total **lot** area shall be as provided for in Table 6.05.01 F. unless accompanied by an engineer's analysis as specified below.~~
- a. ~~The site drainage analysis shall include water quality calculations to SFWMD standards and water quantity calculations done to accommodate the runoff, from area in excess of the above ratio, from a 5-year 1-day storm and shall include a percolation test done by a qualified engineer or technician. If the site will use a drainfield/septic tank for sewage treatment/disposal, the wet season water table calculations for drainage must match that used for the drainfield design.~~
  - b. ~~The application site plan shall list all required separation distances between wells, drainfield systems, and stormwater retention/detention areas. The calculations may be done on the site plan or may be in a~~

~~separate Engineer's report, but must be signed and sealed by the Engineer.~~

~~c. The water surface area of swimming pools and ponds is not considered as impervious area for the purposes of the calculations in Table 6.05.01 F.~~

~~3. A one-time addition to an existing residence will be allowed after July 1, 2008. The addition will be limited to 3 percent of the lot area up to a maximum of 1,000 square feet as long as that one-time addition does not exceed the area in Table 6.05.01 F. by more than 3 percent of the lot area or more than 1,000 square feet.~~

~~G-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.

*(\*\*ALL REMAINING SUBSECTIONS TO BE RE-LETTERED ACCORDINGLY\*\*)*

\* \* \* \* \*

**SUBSECTION 3.B.                      ADDING SECTION 6.05.03 STORMWATER PLANS FOR SINGLE-FAMILY DWELLING UNITS, TWO-FAMILY DWELLING UNITS, AND DUPLEXES**

Section 6.05.03 Stormwater Plans for Single-Family Dwelling Units, Two-Family Dwelling Units, and Duplexes, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby added as follows:

Section 6.05.03 Stormwater Plans for Single-Family Dwelling Units, Two-Family Dwelling Units, and Duplexes

A. Purpose. The purpose of this section is to manage stormwater runoff on **lots** with **single-family dwelling units, two-family dwelling units, or duplexes** in order to prevent detrimental impacts on site or to **adjacent** properties. This section is also designed to provide criteria for demonstrating compliance with Collier County Code of Laws and Ordinances section 90-41(f)(8). For the purposes of this section, the term **impervious area** shall include roofed **buildings**, concrete and asphalt pads, cool deck (e.g. spraycrete), pavers with limerock base, swimming pools, and lined pond area. Additionally, the term **pervious area** shall include grass, crushed stone (e.g. #57), mulch, pavers without limerock base, and unlined pond area.

B. Applicability. A Type I or Type II Stormwater Plan shall be required for **lots** with **single-family dwellings, two-family dwellings, or duplexes** with the following exceptions:

1. Lots located in the Rural Agricultural (A) zoning district outside the Immokalee Urban Area Overlay district and outside the coastal urban designated area as established in the Future Land Use Map.
  2. Lots that have received a Surface Water Management or Environmental Resource Protection permit from the South Florida Water Management District.
- C. Stormwater plan submittal. A stormwater plan shall be submitted as part of an application for a **building** permit for any of the following:
1. Type I Stormwater Plans.
    - a. New **structures**, additions, pools, or decks on **lots** with 40 percent or less **impervious area**, or as described in the following zoning districts:
      - i. RSF-1 zoned **lots** with 30 percent or less **impervious area**.
      - ii. Rural Agricultural (A) zoned **lots** within the Immokalee Urban Area Overlay district or within the coastal urban designated area as established in the Future Land Use Map with 30 percent or less **impervious area**.
      - iii. Estates zoned **lots** with 25 percent or less **impervious area**.
    - b. New **structures**, additions, pools, or decks on **lots** that discharge directly to a waterbody downstream of the last control structure, whether or not the **lot** exceeds the **impervious area** thresholds in LDC section 6.05.03 C.1.a above.
  2. Type II Stormwater Plans.
    - a. New **structures**, additions, pools, or decks on **lots** with more than 40 percent **impervious area**, or as described in the following zoning districts:
      - i. RSF-1 zoned **lots** with more than 30 percent **impervious area**.
      - ii. Rural Agricultural (A) zoned **lots** within the Immokalee Urban Area Overlay district or within the coastal urban designated area as established in the Future Land Use Map with more than 30 percent **impervious area**.
      - iii. Estates zoned **lots** with more than 25 percent **impervious area**.
    - b. New **structures**, additions, pools, or decks on **lots** that discharge directly to a waterbody upstream of the last control structure, whether or not the **lot** exceeds the **impervious area** thresholds in LDC section 6.05.03 C.2.a above.
- D. Stormwater plan criteria.



1. Type I Stormwater Plan. Type I Stormwater Plans shall be prepared by a Florida registered design professional, licensed contractor or owner builder. The Type I Stormwater Plan shall demonstrate the following:
  - a. Stormwater runoff. Discharges from the impacted area shall be directed into one or more of the following:
    - i. An existing surface water management system.
    - ii. A drainage conveyance system, such as swales or underground storm sewer systems.
    - iii. On-site retention or detention areas. The bottom of retention or detention areas shall be above the wet season water table.
    - iv. A waterbody downstream of the last control structure. Stormwater discharges to a waterbody shall not result in erosion of soil. Discharges may be allowed through an orifice with a minimum size of 3 inches and the soil **adjacent** to the discharge area shall be stabilized. For **lots** discharging directly to waterbodies upstream of the last control structure, see LDC section 6.05.03 D.2.
  - b. Design standards.
    - i. Retaining walls shall be set back six inches from the property line, if applicable.
    - ii. Stone in French drains shall be calculated with a 40 percent void ratio, if applicable.
    - iii. Stormwater pipes, if used, shall not be metal.
    - iv. Gutters and downspouts shall comply with LDC section 6.05.01 C, if applicable.
  - c. The location, dimension, and **setbacks** of septic systems, if applicable.
2. Type II Stormwater Plan. Type II Stormwater Plans shall be prepared by a professional engineer licensed in the state of Florida. The Type II Stormwater Plan shall demonstrate the following:
  - a. Stormwater runoff. Discharges from the impacted area shall be directed into one or more of the following:
    - i. An existing surface water management system.
    - ii. A drainage conveyance system, such as swales or underground storm sewer systems.



- [illegible]

plan. Future changes to **impervious area** or site grading shall not modify the site in a manner that will prevent continued drainage of the site as shown on the approved stormwater plan, whether or not a permit is required for an improvement.

G. Violations. Where a violation of Collier County Code of Laws and Ordinances section 90-41(f)(8) has been found by the Code Enforcement Board or Special Magistrate, a stormwater plan shall be submitted that demonstrates the additional flow of surface water has been eliminated. The subject property shall be inspected by the County to determine if the violation has been resolved.

\* \* \* \* \*

#### **SECTION FOUR: CONFLICT AND SEVERABILITY**

In the event that any provisions of this ordinance should result in an unresolved conflict with the provisions of the Land Development Code (LDC) or Growth Management Plan (GMP), the applicable provisions of the LDC or GMP shall prevail. 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 shall 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**

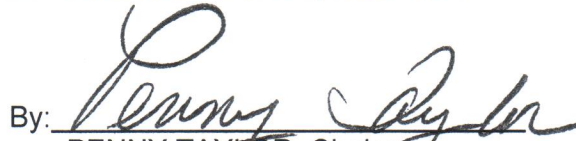
This Ordinance shall become effective upon filing with the Florida Department of State.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida, this 11<sup>th</sup> day of April, 2017.


ATTEST:  
DWIGHT E. BROCK, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF COLLIER COUNTY, FLORIDA

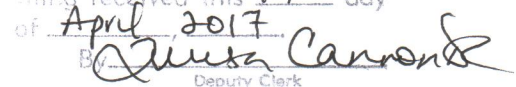
By:   
Deputy Clerk  
Affest as to Chairman's  
signature only.

By:   
PENNY TAYLOR, Chairman

Approved as to form and legality:

  
Scott A. Stone  
Assistant County Attorney

04-CMD-01077/1755 (4/11/17)

This ordinance filed with the  
Secretary of State's Office the  
17<sup>th</sup> day of April, 2017  
and acknowledgement of that  
filing received this 17<sup>th</sup> day  
of April, 2017  
By:   
Deputy Clerk



## FLORIDA DEPARTMENT *of* STATE

**RICK SCOTT**  
Governor

**KEN DETZNER**  
Secretary of State

April 17, 2017

Honorable Dwight E. Brock  
Clerk of the Circuit Court  
Collier County  
Post Office Box 413044  
Naples, Florida 34101-3044

Attention: Teresa L. Cannon, Deputy Clerk

Dear Mr. Brock:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Collier County Ordinance No. 17-12, which was filed in this office on April 17, 2017.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb