



Supplemental Memorandum

To: Collier County Planning Commission (CCPC)
From: Jeremy Frantz, LDC Manager
Date: May 17, 2018
Re: Post-Hurricane Irma and Commercial Landscaping LDC Amendments

These LDC amendments were originally scheduled CCPC for on May 3, 2018. However, due to time constraints, the CCPC continued the review until the next meeting on May 17, 2018.

The LDC amendments are tentatively scheduled for Board review on June 26, 2018, in part to ensure action is taken shortly after the start of hurricane season, which is June 1 to November 30.

Due to this accelerated timeline, the Development Services Advisory Committee (DSAC) meeting was held on May 2, 2018, a day before the scheduled CCPC hearing preventing staff from summarizing the recommendations into the narrative of each LDC amendment in the CCPC packets. However, this postponement to May 17, 2018, gave staff the opportunity to incorporate DSAC recommendations, staff revisions, and recommendations from the County Attorney's Office. This packet replaces the materials you received for the previously scheduled May 3, 2018, meeting.

Please contact me if you have any questions.

Sincerely,

Jeremy Frantz, AICP
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(239) 252-2305

Land Development Code Amendment Request

ORIGIN: Hurricane Irma After-Action Report to the Board of County Commissioners

AUTHOR: Zoning Division Staff

LDC SECTION: 5.05.04 Group Housing

SUMMARY: This amendment establishes new requirements for nursing homes and assisted living facilities (ALFs), as defined by Chapters 400 and 429 F.S., respectively, to require Emergency Environmental Control Plans (EECP) and installation of permanent emergency generators.

DESCRIPTION: In September of 2017, Governor Rick Scott issued Emergency Rules after Hurricane Irma caused an extended power outage to a Broward County nursing home, resulting in heat-related deaths to several of its residents. After the close of the 2018 legislative session, Senate Bill 7028 ratified Rule 58A-5.036, F.A.C. entitled “Emergency Environmental Control for Assisted Living Facilities,” which is implemented by the Department of Elder Affairs (DOEA). Additionally, HB 7099 ratified Rule 59A.-4.1265 entitled “Emergency Environmental Control for Nursing Homes,” and it is implemented by the Agency for Health Care Administration (ACHA). These agency rules require nursing homes and ALFs to acquire alternative power sources, such as a generator, that ensure sufficient cooling temperatures are maintained at 81 degrees Fahrenheit or cooler, during extended power outages for at least 96 hours to all the facility’s residents.

At the Board of County Commissioners Work Session on November 7, 2017, Staff presented several regulatory responses to the After-Action Findings regarding the County’s Hurricane Irma Response. Regulatory Action #1 suggested drafting an ordinance that expands on-site generator capabilities to address cooling, extended generator fuel run times, and comprehensive generator testing for licensed health care facilities.

This amendment proposes to incorporate the requirement to submit an EECP annually to the County in accordance with Rules 58A-5.036 and 59A.-4.1265 F.A.C., and to support the implementation of the state requirement. The amendment shall apply to nursing homes and ALFs and, as defined by Chapters 400 and 429 F.S., respectively. Furthermore, the amendment proposes to add the following additional standards to the State’s requirement and assist staff’s review to EECPs:

- Identification of the County’s primary and secondary evacuation locations.
- Identification of the finished floor elevation for the first and second floors of all nursing homes and ALFs.
- Installation of permanent emergency generators. While the DOEA and ACHA requirements call for alternate power sources, this amendment requires the power source to be a permanent emergency generator. The following are required for permanent emergency generators in all nursing homes and ALFs:

- Capability of keeping the ambient air temperature at or below 81 degrees Fahrenheit for a minimum of 96 hours in the event of the loss of primary electrical power.
- Sufficient fuel supply to ensure compliance with Rules 58A-5.036 F.A.C., and 59A-4.1265 F.A.C., as amended.
- Installation, testing, and maintenance shall be in accordance with National Fire Prevention Association (NFPA) 99, Health Care Facilities Code and NFPA 110, Standard for Emergency and Standby Power Systems.
- Installation of backup power connectivity to accommodate a secondary back-up generator, in the event of permanent emergency generator failure.
- Submittal of the manufacturer's specifications of the generator and calculations demonstrating the fuel supply needed shall comply with DOEA and ACHA rules.
- Annual third-party testing and inspection of the permanent emergency generator, under load, by manufacturer's specifications.

Both rules 58A-5.036 and 59A-4.1265 F.A.C. are provided as a reference in Attachment A of this amendment.

DSAC-LDR SUBCOMMITTEE RECOMMENDATION: The DSAC-LDR Subcommittee reviewed the amendment on April 18, 2018. Lacking a quorum, the Subcommittee member present, as well as a regular member of the DSAC, made several suggestions and observations for further review at the regular DSAC meeting.

DSAC RECOMMENDATION: The DSAC unanimously recommended approval of this amendment on May 2, 2018, with no changes.

FISCAL & OPERATIONAL IMPACTS: In the "Statement of Estimated Regulatory Costs" of the summary bill analysis for Senate Bill 7028, prepared by DOEA, a one-time estimated average ALF facility cost to comply was assumed at \$19,033 for 6 beds or less; \$68,637 for 7 to 49 beds; \$106,721 for 50 to 100 beds and for more than 100 beds, \$439,000. In the "Statement of Estimated Regulatory Costs" prepared by AHCA, a one-time estimated average nursing home cost to comply was assumed at \$2,627 per bed. The one-time estimates included in the bill analyses did not include reoccurring operational and maintenance costs.

This amendment will result in additional costs to comply with the proposed supplementary requirements for EECs, including but not limited to backup power connectivity and third-party testing.

GROWTH MANAGEMENT PLAN IMPACT: This LDC amendment supports Goal 12 of the Conservation and Coastal Management Element of the GMP which requires the County, "to make

every reasonable effort to ensure the public safety, health and welfare of people and property from the effects of hurricane storm damage.” It is consistent with Policy 12.1.14, which states:

All new nursing homes and assisted living facilities that are licensed shall have a core area to shelter residents and staff on site. The core area will be constructed to meet the Public Shelter Design Criteria that are required for new public schools and public community colleges and universities (“State Requirements for Educational Facilities,” 2014). Additionally, this area shall be capable of ventilation of air conditioning provided by back-up generator for a period of no less than seventy-two (72) hours.

Amend the LDC as follows:

5.05.04 – Group Housing

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- E. Emergency Environmental Control Plans. In accordance with Rules 58A-5.036 and 59A-4.1265, F.A.C., as amended, Emergency Environmental Control Plans for assisted living facilities and nursing homes, as defined by §§ 400 and 429 F.S., shall be submitted as a supplement to its Comprehensive Emergency Management Plan, to the Bureau of Emergency Services-Emergency Management Division.
 - 1. The Emergency Environmental Control Plans shall include the following information, in addition to the requirements identified in Rules 58A-5.036 and 59A-4.1265, F.A.C., as amended:
 - a. Primary evacuation locations, either within or outside the County, and a secondary location outside of the county.
 - b. Finished floor elevation of the first and second floors of all structures.
 - c. Permanent emergency generator or alternate power sources. Assisted living facilities or nursing homes, as defined by §§ 400 and 429 F.S., shall install permanent emergency generators or an alternate power source to ensure ambient air temperatures will be maintained at or below 81 degrees Fahrenheit for a minimum of 96 hours in the event of the loss of primary electrical power.
 - i. If a permanent emergency generator is used the following shall be required:
 - a) Permanent emergency generator specifications.
 - i) Permanent emergency generators and the associated fuel supply shall be sized to ensure compliance with §§ 58A-5.036 F.A.C., as amended, for assisted living facilities and 59A-4.1265 F.A.C., as amended, for nursing homes.
 - ii) Permanent emergency generators shall be installed, tested and maintained in accordance with NFPA 99 Health Care Facilities Code, and NFPA 110, Standard for Emergency and Standby Power Systems.
 - b) Regular testing and inspections required. Permanent emergency generators shall be tested under load as required by §§ 58A-5.036 F.A.C., as amended, for assisted living facilities and 59A-4.1265 F.A.C., as amended, for

nursing homes, and by manufacturer's specifications, and be inspected a minimum of once per year. Each facility shall keep a written statement on site attesting to the regular maintenance, third-party testing and inspection of the generator and fuel system by a service organization authorized by the manufacturer.

ii. Submittal Requirements.

a) Manufacturer's specifications of the permanent emergency generator.

b) Calculations demonstrating adequacy of fuel supply to comply with §§ 58A-5.036 F.A.C., as amended, for assisted living facilities and 59A-4.1265 F.A.C., as amended, for nursing homes.

d. Backup connectivity. A power transfer switch or automatic transfer switch shall be installed to accommodate a secondary or back-up generator connection point in the event of failure for the permanent emergency generator or alternate power source.

2. Emergency Environmental Control Plans shall be reviewed and approved by the Bureau of Emergency Services-Emergency Management Division.

3. The Plan shall be resubmitted to the County annually from the date of original submittal, or at the time of a change of ownership of the facility, or after a modification to a previously approved Plan.

4. Notification of Plan submittal shall be in accordance with Rules 58A-5.036 and 59A-4.1265, F.A.C., as amended.

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ATTACHMENT A

58A-5.036 Emergency Environmental Control for Assisted Living Facilities.

(1) DETAILED EMERGENCY ENVIRONMENTAL CONTROL PLAN. Each assisted living facility shall prepare a detailed plan ("plan") to serve as a supplement to its Comprehensive Emergency Management Plan, to address emergency environmental control in the event of the loss of primary electrical power in that assisted living facility which includes the following information:

(a) The acquisition of a sufficient alternate power source such as a generator(s), maintained at the assisted living facility, to ensure that current licensees of assisted living facilities will be equipped to ensure ambient air temperatures will be maintained at or below 81 degrees Fahrenheit for a minimum of ninety-six (96) hours in the event of the loss of primary electrical power.

1. The required temperature must be maintained in an area or areas, determined by the assisted living facility, of sufficient size to maintain residents safely at all times and that is appropriate for resident care needs and life safety requirements. For planning purposes, no less than twenty (20) net square feet per resident must be provided. The assisted living facility may use eighty percent (80%) of its licensed bed capacity as the number of residents to be used in the calculation to determine the required square footage. This may include areas that are less than the entire assisted living facility if the assisted living facility's comprehensive emergency management plan includes allowing a resident to congregate when he or she desires in portions of the building where temperatures will be maintained and includes procedures for monitoring residents for signs of heat related injury as required by this rule. This rule does not prohibit a facility from acting as a receiving provider for evacuees when the conditions stated in Section 408.821, F.S., and subsection 58A-5.026(5), F.A.C., are met. The plan shall include information regarding the area(s) within the assisted living facility where the required temperature will be maintained.

2. The alternate power source and fuel supply shall be located in an area(s) in accordance with local zoning and the Florida Building Code.

3. Each assisted living facility is unique in size; the types of care provided; the physical and mental capabilities and needs of residents; the type, frequency, and amount of services and care offered; and staffing characteristics. Accordingly, this rule does not limit the types of systems or equipment that may be used to achieve ambient temperatures at or below 81 degrees Fahrenheit for a minimum of ninety-six (96) hours in the event of the loss of primary electrical power. The plan shall include information regarding the systems and equipment that will be used by the assisted living facility and the fuel required to operate the systems and equipment.

a. An assisted living facility in an evacuation zone pursuant to Chapter 252, F.S., must maintain an alternative power source and fuel as required by this subsection at all times when the assisted living facility is occupied but is permitted to utilize a mobile generator(s) to enable portability if evacuation is necessary.

b. Assisted living facilities located on a single campus with other facilities under common ownership, may share fuel, alternative power resources, and resident space available on the campus if such resources are sufficient to support the requirements of each facility's residents, as specified in this rule. Details regarding how resources will be shared and any necessary movement of residents must be clearly described in the emergency power plan.

c. A multistory facility, whose comprehensive emergency management plan is to move residents to a higher floor during a flood or surge event, must place its alternative power source and all necessary additional equipment so it can safely operate in a location protected from flooding or storm surge damage.

(b) The acquisition of sufficient fuel, and safe maintenance of that fuel at the facility, to ensure that in the event of the loss of primary electrical power there is sufficient fuel available for the alternate power source to maintain ambient temperatures at or below 81 degrees Fahrenheit for a minimum of ninety-six (96) hours after the loss of primary electrical power during a declared state of emergency. The plan must include information regarding fuel source and fuel storage.

1. Facilities must store minimum amounts of fuel onsite as follows:

a. A facility with a licensed capacity of 16 beds or less must store 48 hours of fuel onsite.

b. A facility with a licensed capacity of 17 or more beds must store 72 hours of fuel onsite.

2. An assisted living facility located in an area in a declared state of emergency area pursuant to Section 252.36, F.S., that may impact primary power delivery must secure ninety-six (96) hours of fuel. The assisted living facility may utilize portable fuel storage containers for the remaining fuel necessary for ninety-six (96) hours during the period of a declared state of emergency.

3. Piped natural gas is an allowable fuel source and meets the onsite fuel supply requirements under this rule.

4. If local ordinances or other regulations limit the amount of onsite fuel storage for the assisted living facility's location, then the assisted living facility must develop a plan that includes maximum onsite fuel storage allowable by the ordinance or regulation and a reliable method to obtain the maximum additional fuel at least 24 hours prior to depletion of onsite fuel.

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(c) The acquisition of services necessary to maintain, and test the equipment and its functions to ensure the safe and sufficient operation of the alternate power source maintained at the assisted living facility.

(d) The acquisition and maintenance of a carbon monoxide alarm.

(2) SUBMISSION OF THE PLAN.

(a) Each assisted living facility licensed prior to the effective date of this rule shall submit its plan to the local emergency management agency for review within 30 days of the effective date of this rule. Assisted living facility plans previously submitted and approved pursuant to Emergency Rule 58AER17-1, F.A.C., will require resubmission only if changes are made to the plan.

(b) Each new assisted living facility shall submit the plan required under this rule prior to obtaining a license.

(c) Each existing assisted living facility that undergoes any additions, modifications, alterations, refurbishment, renovations or reconstruction that require modification of its systems or equipment affecting the facility's compliance with this rule shall amend its plan and submit it to the local emergency management agency for review and approval.

(3) APPROVED PLANS.

(a) Each assisted living facility must maintain a copy of its approved plan in a manner that makes the plan readily available at the licensee's physical address for review by a legally authorized entity. If the plan is maintained in an electronic format, assisted living facility staff must be readily available to access and produce the plan. For purposes of this section, "readily available" means the ability to immediately produce the plan, either in electronic or paper format, upon request.

(b) Within two (2) business days of the approval of the plan from the local emergency management agency, the assisted living facility shall submit in writing proof of the approval to the Agency for Health Care Administration.

(c) The assisted living facility shall submit a consumer-friendly summary of the emergency power plan to the Agency. The Agency shall post the summary and notice of the approval and implementation of the assisted living facility emergency power plans on its website within ten (10) business days of the plan's approval by the local emergency management agency and update within ten (10) business days of implementation.

(4) IMPLEMENTATION OF THE PLAN.

(a) Each assisted living facility licensed prior to the effective date of this rule shall, no later than June 1, 2018, have implemented the plan required under this rule.

(b) The Agency shall allow an extension up to January 1, 2019 to providers in compliance with subsection (c), below, and who can show delays caused by necessary construction, delivery of ordered equipment, zoning or other regulatory approval processes. Assisted living facilities shall notify the Agency that they will utilize the extension and keep the Agency apprised of progress on a quarterly basis to ensure there are no unnecessary delays. If an assisted living facility can show in its quarterly progress reports that unavoidable delays caused by necessary construction, delivery of ordered equipment, zoning or other regulatory approval processes will occur beyond the initial extension date, the assisted living facility may request a waiver pursuant to Section 120.542, F.S.

(c) During the extension period, an assisted living facility must make arrangements pending full implementation of its plan that provides the residents with an area or areas to congregate that meets the safe indoor air temperature requirements of paragraph (1)(a), for a minimum of ninety-six (96) hours.

1. An assisted living facility not located in an evacuation zone must either have an alternative power source onsite or have a contract in place for delivery of an alternative power source and fuel when requested. Within twenty-four (24) hours of the issuance of a state of emergency for an event that may impact primary power delivery for the area of the assisted living facility, it must have the alternative power source and no less than ninety-six (96) hours of fuel stored onsite.

2. An assisted living facility located in an evacuation zone pursuant to Chapter 252, F.S., must either:

a. Fully and safely evacuate its residents prior to the arrival of the event, or

b. Have an alternative power source and no less than ninety-six (96) hours of fuel stored onsite, within twenty-four (24) hours of the issuance of a state of emergency for the area of the assisted living facility.

(d) Each new assisted living facility shall implement the plan required under this rule prior to obtaining a license.

(e) Existing assisted living facilities that undergo any additions, modifications, alterations, refurbishment, renovations or reconstruction that require modification of the systems or equipment affecting the assisted living facility's compliance with this rule shall implement its amended plan concurrent with any such additions, modifications, alterations, refurbishment, renovations or reconstruction.

(f) The Agency for Health Care Administration may request cooperation from the State Fire Marshal to conduct inspections to ensure implementation of the plan in compliance with this rule.

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(5) POLICIES AND PROCEDURES.

(a) Each assisted living facility shall develop and implement written policies and procedures to ensure that the assisted living facility can effectively and immediately activate, operate and maintain the alternate power source and any fuel required for the operation of the alternate power source. The procedures shall ensure that residents do not experience complications from fluctuations in ambient air temperatures inside the facility. Procedures must address the care of residents occupying the facility during a declared state of emergency, specifically, a description of the methods to be used to mitigate the potential for heat related injury including:

1. The use of cooling devices and equipment;
2. The use of refrigeration and freezers to produce ice and appropriate temperatures for the maintenance of medicines requiring refrigeration;
3. Wellness checks by assisted living facility staff to monitor for signs of dehydration and heat injury; and,
4. A provision for obtaining medical intervention from emergency services for residents whose life safety is in jeopardy.

(b) Each assisted living facility shall maintain the written policies and procedures in a manner that makes them readily available at the licensee's physical address for review by a legally authorized entity. If the policies and procedures are maintained in an electronic format, assisted living facility staff must be readily available to access the policies and procedures and produce the requested information. For purposes of this section, "readily available" means the ability to immediately produce the policies and procedures, either in electronic or paper format, upon request.

(c) The written policies and procedures must be readily available for inspection by each resident; each resident's legal representative, designee, surrogate, guardian, attorney in fact, or case manager; each resident's estate; and such additional parties as authorized in writing or by law.

(6) REVOCATION OF LICENSE, FINES OR SANCTIONS. For a violation of any part of this rule, the Agency for Health Care Administration may seek any remedy authorized by Chapter 429, Part I, F.S., or Chapter 408, Part II, F.S., including, but not limited to, license revocation, license suspension, and the imposition of administrative fines.

(7) COMPREHENSIVE EMERGENCY MANAGEMENT PLAN.

(a) Assisted living facilities whose comprehensive emergency management plan is to evacuate must comply with this rule.

(b) Each facility whose plan has been approved shall submit the plan as an addendum with any future submissions for approval of its comprehensive emergency management plan.

(8) NOTIFICATION.

(a) Within five (5) business days, each assisted living facility must notify in writing, unless permission for electronic communication has been granted, each resident and the resident's legal representative:

1. Upon submission of the plan to the local emergency management agency that the plan has been submitted for review and approval;
2. Upon final implementation of the plan by the assisted living facility.

(b) Each assisted living facility must maintain a copy of each notification set forth in paragraph (a), above, in a manner that makes each notification readily available at the licensee's physical address for review by a legally authorized entity. If the notifications are maintained in an electronic format, facility staff must be readily available to access and produce the notifications. For purposes of this section, "readily available" means the ability to immediately produce the notifications, either in electronic or paper format, upon request.

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59A-4.1265 Emergency Environmental Control for Nursing Homes.

(1) DETAILED NURSING HOME EMERGENCY POWER PLAN. Each nursing home shall prepare a detailed plan ("plan"), to serve as a supplement to its Comprehensive Emergency Management Plan, to address emergency power in the event of the loss of primary electrical power in that nursing home, which includes the following information:

(a) The acquisition of a sufficient alternate power source such as a generator(s), maintained at the nursing home, to ensure that current licensees of nursing homes will be equipped to ensure the protection of resident health, safety, welfare, and comfort for a minimum of ninety-six (96) hours in the event of the loss of primary electrical power. Safe indoor air temperatures in resident occupied areas shall be determined by the licensee to meet the clinical needs of residents, but shall not exceed eighty-one (81) degrees Fahrenheit.

1. The required temperature must be maintained in an area or areas determined by the nursing home of sufficient size to maintain all residents safely at all times and is appropriate for the care needs and life safety requirements. For planning purposes, no less than thirty (30) net square feet per resident must be provided. This may include areas that are less than the entire nursing home if the nursing home's comprehensive emergency management plan includes relocating residents to portions of the building where the health, safety, welfare, and comfort of the residents will be maintained as required by this rule. The plan shall include information regarding the area(s) within the nursing home where the required temperature will be maintained.

2. The alternate power source for the equipment necessary to maintain the safe indoor air temperature required by this rule may be provided by the essential electrical system required by the Florida Building Code for Nursing Home design and construction or onsite optional standby system as defined by NFPA 70 National Electrical Code supplying normal power to the nursing home maintained onsite at all times when the building is occupied. If an optional standby system is used, it must be connected and maintained in accordance with the manufacturer's recommendations. The alternate power source and fuel supply shall be located in an area(s) in accordance with local zoning and the Florida Building Code.

3. Each nursing home is unique in size; the types of care provided; the physical and mental capabilities and needs of residents; the type, frequency, and amount of services and care offered; and staffing characteristics. Accordingly, this rule does not limit the types of systems or equipment that may be used to maintain the safe indoor air temperature required by this rule for a minimum of ninety-six (96) hours in the event of the loss of primary electrical power. The plan shall include information regarding the systems and equipment that will be used by the nursing home required to operate the systems and equipment.

a. A nursing home in an evacuation zone pursuant to Chapter 252, F.S., must maintain an alternative power source and fuel as required by this subsection at all times when the facility is occupied but is permitted to utilize a mobile generator(s) to enable portability if evacuation is necessary.

b. Facilities located on a single campus with other facilities licensed by the Agency under common ownership, may share fuel, alternative power resources, and resident space available on the campus if such resources are sufficient to support the requirements of each facility's residents, as specified in this rule. Details regarding how resources will be shared and any necessary movement of residents must be clearly described in the emergency power plan.

c. A multistory facility, whose comprehensive emergency management plan is to move residents to a higher floor during a flood or surge event, must place its alternative power source and all necessary additional equipment so it can safely operate in a location protected from flooding or storm surge damage.

(b) The acquisition of sufficient fuel, and safe maintenance of that fuel onsite at the facility, to ensure that in the event of the loss of primary electrical power there is sufficient fuel available for the alternate power source required in paragraph (1)(a), to power life safety systems, critical systems, and equipment necessary to maintain safe indoor air temperatures as described in this rule for ninety-six (96) hours after the loss of electrical power during a declared state of emergency. The plan shall include information regarding fuel source and fuel storage.

1. A nursing home located in an area in a declared state of emergency area pursuant to Section 252.36, F.S., that may impact primary power delivery must secure ninety-six (96) hours of fuel. The nursing home may utilize portable fuel storage containers for the remaining fuel necessary for ninety-six (96) hours during the period of a declared state of emergency.

2. A nursing home must store a minimum of seventy-two (72) hours of fuel onsite.

3. Piped natural gas is an allowable fuel source and meets the onsite fuel requirement under this rule.

4. If local ordinances or other regulations that limit the amount of onsite fuel storage for the nursing home's location and the nursing home does not have access to piped natural gas, then the nursing home must develop a plan that includes maximum onsite fuel storage allowable by the ordinance or regulation and a reliable method to obtain the maximum additional fuel at least 24 hours

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prior to depletion of onsite fuel.

(c) The acquisition of services necessary to install, maintain, and test the equipment and its functions to ensure the safe and sufficient operation of the alternate power source installed in the nursing home.

(2) SUBMISSION OF THE PLAN.

(a) Each nursing home licensed prior to the effective date of this rule shall submit its plan to the local emergency management agency for review and approval within thirty (30) days of the effective date of the rule. Nursing Home plans previously received and approved under Emergency Rule 59AER17-1, F.A.C., will require resubmission only if changes are made.

(b) Each new nursing home shall submit the plan required under this rule prior to obtaining a license.

(c) Each existing nursing home that undergoes additions, modifications, alterations, refurbishment, reconstruction or renovations that require modification of the systems or equipment affecting the nursing home's compliance with this rule shall amend its plan and submit it to the local emergency management agency for review and approval.

(3) PLAN REVIEW. Architectural and engineering plans are subject to review by the Agency's Office of Plans and Construction. The local emergency management agency shall review the emergency power plan for compliance with the subsection and may rely on the technical review of the Office of Plans and Construction. Once the review is complete, the local emergency management agency shall:

(a) Report deficiencies in the plan to the nursing home for resolution. The nursing home must resubmit the plan within ten (10) business days.

(b) Report approval or denial of the plan to the Agency and the nursing home.

(4) APPROVED PLANS.

(a) Each nursing home must maintain a copy of its plan in a manner that makes the plan readily available at the licensee's physical address for review by the authority having jurisdiction. If the plan is maintained in an electronic format, nursing home staff must be readily available to access and produce the plan. For purposes of this section, "readily available" means the ability to immediately produce the plan, either in electronic or paper format, upon request.

(b) Within two (2) business days of the approval of the plan from the local emergency management agency, the nursing home shall submit in writing proof of the approval to the Agency for Health Care Administration.

(c) The nursing home shall submit a consumer friendly summary of the emergency power plan to the Agency. The Agency shall post the summary and notice of the approval and implementation of the nursing home emergency power plans on its website within ten (10) business days of the plan's approval by the local emergency management agency and update within ten (10) business days of implementation.

(5) IMPLEMENTATION OF THE PLAN.

(a) Each nursing home licensed prior to the effective date of this rule shall, no later than June 1, 2018 have implemented the plan required under this rule.

(b) The Agency shall grant an extension up to January 1, 2019 to providers in compliance with paragraph (c), below, and who can show delays caused by necessary construction, delivery of ordered equipment, zoning or other regulatory approval processes. Nursing homes granted an extension must keep the Agency apprised of progress on a monthly basis to ensure there are no unnecessary delays.

(c) During the extension period, a nursing home must make arrangements pending full implementation of its plan that the residents are housed in an area that meets the safe indoor air temperature requirements of paragraph (1)(a), for a minimum of ninety-six (96) hours.

1. A nursing home not located in an evacuation zone must either have an alternative power source onsite or have a contract in place for delivery of an alternative power source and fuel when requested. Within twenty-four (24) hours of the issuance of a state of emergency for an event that may impact primary power delivery for the area of the nursing home, it must have the alternative power source and no less than ninety-six (96) hours of fuel stored onsite.

2. A nursing home located in an evacuation zone pursuant to Chapter 252, F.S., must either:

a. Fully and safely evacuate its residents prior to the arrival of the event, or

b. Have an alternative power source and no less than ninety-six (96) hours of fuel stored onsite, within twenty-four (24) hours of the issuance of a state of emergency for the area of the nursing home,

(d) Each new nursing home shall implement the plan prior to obtaining a license.

(e) Each nursing home that undergoes any additions, modifications, alterations, refurbishment, reconstruction or renovations

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that require modification of the systems or equipment affecting the nursing home's compliance with this rule shall implement its amended plan subsequent with the completion of construction.

(f) The Agency may request cooperation from the State Fire Marshal to conduct inspections to ensure implementation of the plan in compliance with this rule.

(6) POLICIES AND PROCEDURES.

(a) Each nursing home shall develop and implement written policies and procedures to ensure that each nursing home can effectively and immediately activate, operate and maintain the alternate power source and any fuel required for the operation of the alternate power source. The procedures shall be resident-focused to ensure that residents do not experience complications from heat exposure, and shall include a contingency plan to transport residents to a safe facility if the current nursing home's plan to keep the residents in a safe and comfortable location within the nursing home at or below the indoor air temperature required by this rule becomes compromised.

(b) Each nursing home shall maintain its written policies and procedures in a manner that makes them readily available at the licensee's physical address for review by the authority having jurisdiction. If the policies and procedures are maintained in an electronic format, nursing home staff must be readily available to access the policies and procedures and produce the requested information.

(c) The written policies and procedures must be readily available for inspection by each resident; each resident's legal representative, designee, surrogate, guardian, attorney in fact, or case manager; each resident's estate; and all parties authorized in writing or by law.

(7) REVOCATION OF LICENSE, FINES OR SANCTIONS. For a violation of any part of this rule, the Agency may seek any remedy authorized by Chapter 400, Part II, or Chapter 408, Part II, F.S., including but not limited to, license revocation, license suspension, and the imposition of administrative fines.

(8) COMPREHENSIVE EMERGENCY MANAGEMENT PLAN.

(a) Nursing homes whose comprehensive emergency management plan is to evacuate must comply with this rule.

(b) Once the plan has been approved, the nursing home shall submit the plan as an addendum with any future submissions for approval of its Comprehensive Emergency Management Plan.

(9) NOTIFICATION.

(a) Within three (3) business days, each nursing home must notify in writing, unless permission for electronic communication has been granted, each resident and the resident's legal representative:

1. Upon submission of the plan to the local emergency management agency that the plan has been submitted for review and approval;

2. Upon final implementation of the plan by the nursing home following review by the State Fire Marshal or the Agency's Office of Plans and Construction.

(b) The nursing home shall keep a copy of each written or electronic notification sent by the nursing home to the resident and resident's representative on file.

Rulemaking Authority 400.23 FS. Law Implemented 400.23 FS. History--New 3-26-18.

Land Development Code Amendment Request

ORIGIN: Hurricane Irma After-Action Report to the Board of County Commissioners

AUTHOR: Zoning Division Staff

LDC SECTIONS: 5.05.17 Residential Developments with Clubhouses or Community Center Buildings (New Section)

SUMMARY: This amendment establishes new standards for clubhouses or community center buildings in residential developments, to aid in the County's emergency response and recovery after an emergency event, such as a tropical storm or a hurricane.

DESCRIPTION: At the Board's Work Session on November 7, 2017, Staff presented several regulatory responses to the After-Action Findings regarding the County's Hurricane Irma Response. Regulatory Action #2 suggested establishing a local ordinance to help address evacuation shelter deficits.

This amendment proposes to allow clubhouses or community center buildings within private residential developments to be used in the post-event response and recovery efforts by requiring permanent emergency generators to be installed at new facilities that are at least 10,000 square feet. Existing facilities would also be subject to these standards if they undergo a substantial addition or renovation and are at least 10,000 square feet or if the addition or renovation results in a building exceeding 10,000 square feet. The amendment also sets forth minimum operating standards for permanent emergency generators at clubhouses or community center buildings.

Lastly, at the time of generator installation, this amendment requires coordination between the property owner and the Bureau of Emergency Services-Emergency Management Division to allow the Bureau to consider the use of the private clubhouses or community center buildings for post-emergency response activities.

The intent of this amendment is to provide an option for residents to use the facility as a post-disaster point of distribution for supplies, such as water, shelf-stable meals, or to deliver tarps. The facility may also be used as a place for residents to obtain updated emergency information, gain comfort/respite from the heat, maintain hygiene, or operate their personal communication devices.

DSAC-LDR RECOMMENDATION: The DSAC-LDR Subcommittee reviewed the amendment on April 18, 2018. Lacking a quorum, the Subcommittee member present, as well as a regular member of the DSAC, made several suggestions and observations for further review at the regular DSAC meeting.

DSAC RECOMMENDATION: The DSAC recommended denial of the LDC amendment as proposed on May 2, 2018. However, the DSAC indicated they may be amenable to a more limited amendment that requires a generator transfer switch to establish back up connectivity.

FISCAL & OPERATIONAL IMPACTS: This amendment will result in additional costs to residential developments that install an emergency generator. There are no anticipated fiscal or operational impacts to the County associated with this amendment.

GROWTH MANAGEMENT PLAN IMPACT: This amendment supports Goal 12 of the Conservation and Coastal Management Element of the GMP, “to make every reasonable effort to ensure the public safety, health and welfare of people and property from the effects of hurricane storm damage.”

Amend the LDC as follows:

5.05.17 – Residential Developments with Clubhouses or Community Center Buildings

- A. Purpose and intent. The purpose of this section is to protect the public health, safety and welfare and aid in the implementation of the County’s emergency response and recovery activities at the community level by requiring permanent emergency generators at community clubhouses or community center buildings. The requirements are also intended to improve communication to residents before, during, and after emergency events.
- B. Applicability. Permanent emergency generators shall be required at clubhouses or community center buildings in any of the following circumstances:
1. A newly constructed building with a floor area of 10,000 square feet or greater; or
 2. An existing building with a floor area of 10,000 square feet or greater undergoes an addition or renovation that exceeds 50 percent of the assessed value of the existing building; or
 3. An existing building with a floor area less than 10,000 square feet undergoes an addition or renovation that exceeds 50 percent of the assessed value of the existing building and results in the building having a floor area of 10,000 square feet or greater.
- C. Exemption. Residential developments with more than one clubhouse or community center building with a floor area of 10,000 square feet or greater are only required to install one permanent emergency generator at one of the clubhouses or community center buildings. Any additional clubhouses or community center buildings are exempt from the requirements for permanent emergency generators under this section.
- D. Standards.
1. Generator Capacity. Permanent emergency generators shall at a minimum provide service for the following:
 - a. Essential electrical systems within the building, including but not limited to exit lighting, emergency lighting, elevators, fire alarm systems, bathroom exhaust fans, bathroom hot water heaters, and water and sewer lift stations.
 - b. Lighting for a minimum of 30 percent of the building’s floor area, including but not limited to the main meeting or gathering areas, hallways, and bathrooms.
 - c. Air-conditioning for a minimum of 30 percent of the building’s floor area, including the largest meeting or gathering area.
 2. Fuel Capacity. There shall be sufficient fuel to operate the generator for a minimum of 72 hours at the full load capacity.
 3. Setbacks. Permanent emergency generators shall comply with the dimensional standards in LDC section 4.02.03.

1 E. Coordination with Emergency Management. At the time of generator installation,
2 residential communities shall coordinate with the Bureau of Emergency Services-
3 Emergency Management Division to consider allowing the County to use their private
4 clubhouses or community center buildings for post-emergency response activities.
5 # # # # # # # # # # # #

DRAFT

Land Development Code Amendment Request

ORIGIN: Hurricane Irma After-Action Report to the Board of County Commissioners

AUTHOR: Growth Management Department, Zoning Division Staff

LDC SECTION: 5.05.05 Facilities with Fuel Pumps

SUMMARY: This amendment clarifies the requirement to install a generator transfer switch at facilities with fuel pumps and introduces the requirement to install a permanent emergency generator.

DESCRIPTON: At the Board of County Commissioners Work Session on November 7, 2017, Staff presented several regulatory responses to the After-Action Findings regarding the County's Hurricane Irma Response. Regulatory Action #3 suggested strengthening the emergency generator requirements for commercial gas stations located near the interstate highway and multi-pump stations located further inland. The recommendation also stated the need for annual testing of permanent on-site generators and operational certificates.

Currently, F.S. 526.143, requires newly constructed and substantially renovated gas stations be capable of operating under an alternate form of generated power. These standards require gas stations be pre-wired with a generator transfer switch. Corporations or other entities owning 10 or more gas stations within the County are required to have at least one portable generator for every 10 gas stations. The statute also requires a written statement attesting to the periodic testing of the equipment.

This LDC amendment models the standards from F.S. 526.143 and includes additional requirements based on the Board's After-Action Findings recommended regulatory action. This amendment proposes the following changes to LDC section 5.05.05 I.:

- 1) Modifies an existing LDC provision that requires all facilities with fuel pumps to be pre-wired with a generator transfer switch. This requirement only applies to motor fuel retail outlets for which a certificate of occupancy is issued on or after July 1, 2006, in F.S. 526.143;
- 2) Identifies certain facilities with fuel pumps that are required to install a permanent emergency generator. While F.S. 526.143 requires corporations owning 10 or more gas stations within a County to have a portable generator, this requirement would be unique to Collier County;
- 3) Facilities with fuel pumps with a permanent emergency generator or transfer switches shall conduct testing of the equipment under load and according to manufacturer's specifications, and keep a written statement on the site attesting to the periodic testing of the equipment. The requirement for testing is also found in F.S. 526.143. However, the requirement to perform testing "under load," would be unique to Collier County; and
- 4) Exempts certain uses, such as automotive vehicle dealers (SIC 5511), establishments operating a fleet of motor vehicles, and certain establishments that have a written agreement with a public hospital. These exemptions are also found in F.S. 526.143.

DSAC-LDR RECOMMENDATION: The DSAC-LDR Subcommittee reviewed the amendment on April 18, 2018. Lacking a quorum, the Subcommittee member present, as well as a regular member of the DSAC, made several suggestions and observations for further review at the regular DSAC meeting.

DSAC RECOMMENDATION: The DSAC reviewed the amendment on May 2, 2018. Prior to a recommendation being made, the DSAC requested additional information regarding the evacuation routes referenced in the amendment. The DSAC also suggested updating the applicability for this amendment to apply only to larger facilities with fuel pumps (i.e. more than 8 fueling stations). This amendment will be reviewed for a second time at the June 6, 2018, DSAC meeting.

FISCAL & OPERATIONAL IMPACTS: This amendment will result in additional costs to comply with those requirements that differ from existing State requirements. The land area necessary to accommodate the required generator and associated equipment may cause the site to become non-conforming with other LDC standards, such as off-street parking, required setbacks, landscaping, etc., which may cause further complications when transferring ownership of real property. Also, if adopted, a facility with fuel pumps may experience unanticipated costs when contemplating future expansions or renovations when discovering that a non-conformity exists because the site lacks the required generator.

GROWTH MANAGEMENT PLAN IMPACTS: This amendment supports Goal 12 of the Conservation and Coastal Management Element of the GMP which requires the County, “to make every reasonable effort to ensure the public safety, health and welfare of people and property from the effects of hurricane storm damage.”

Amend the LDC as follows:

5.05.05 – Facilities with Fuel Pumps

* * * * *

I. Permanent emergency generators.

1. Purpose and intent. The following provisions are intended to protect the public health, safety, and welfare through improved evacuation capability and commercial fuel availability during a state of emergency.

2. Generator Connection. Each facility with fuel pumps that does not meet the criteria in subsection 3 below, shall provide the necessary infrastructure and pre-wiring in order to provide the capabilities for generator service to the following in case of emergencies: all fuel pumps, dispensing equipment, life-safety systems, and payment-acceptance equipment.

3. Permanent emergency generator. Facilities with fuel pumps shall install a permanent emergency generator capable of operating all fuel pumps, dispensing equipment, life-safety systems, and payment-acceptance equipment for use in case of emergencies under the following circumstances:

a. Newly constructed,

b. Located within one-half mile to an interstate highway or state or federally designated evacuation route, or

- 1 c. Additions or substantial renovations exceeding 50 percent of the
2 assessed value of the existing facility with fuel pump, including land and
3 improvements.
- 4 4. Permanent emergency generators and transfer switches must be tested under
5 load and according to manufacturer's specifications. Each facility with fuel pumps
6 must keep a written statement on site attesting to the periodic testing of the
7 equipment.
- 8 5. The following are exempt from LDC section 5.05.05 I:
- 9 a. Automotive vehicle dealers (SIC Code 5511);
- 10 b. Establishments operating a fleet of motor vehicles;
- 11 c. Establishments which sell motor fuel exclusively to a fleet of motor vehicles;
12 or
- 13 d. Establishments that have a written agreement with a public hospital in a
14 form approved by the Florida Division of Emergency Management, wherein
15 the public hospital agrees to provide the establishment with an alternative
16 means of power generation on-site so that the establishment's fuel pumps
17 may be operated in the event of a power outage.

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Land Development Code Amendment Request

ORIGIN: Hurricane Irma After-Action Report to the Board of County Commissioners

AUTHOR: Zoning Division Staff

LDC SECTIONS: 4.02.01 Dimensional Standards for Principal Uses in Base Zoning Districts
4.05.04 Parking Space Requirements
4.06.05 General Landscaping Requirements
10.02.03 Requirements for Site Development, Site Improvement Plans and Amendments thereof

SUMMARY: This amendment creates new exemptions from certain design standards for existing facilities with fuel pumps, assisted living facilities (ALFs), and nursing homes that install permanent emergency generators and related fuel storage for an emergency event.

DESCRIPTON: At the Board of County Commissioners Work Session on November 7, 2017, Staff presented several regulatory responses to the After-Action Findings regarding the County's Hurricane Irma Response. Regulatory Actions #2 and #3 suggested the creation of new requirements to improve the County's recovery efforts after emergencies. Two other companion LDC amendments require permanent emergency generators in certain circumstances at assisted living facilities (ALFs), nursing homes, and facilities with fuel pumps.

This LDC amendment grants relief from certain design standards. The amendment reduces the minimum setbacks, parking requirements, and building foundation planting requirements for existing ALFs, nursing homes, and facilities with fuel pumps that install a permanent emergency generator. These reductions are intended to reduce or remove potential constraints that might limit the ability of existing businesses to install generators. Other requirements applicable to generators and other equipment such as screening requirements in LDC sections 4.06.02 and 5.05.08, and sound attenuation requirements in LDC section 4.02.01 D.13 are unchanged.

Additionally, this amendment also expands the list of items required on a site plan per LDC section 10.02.03 D to ensure that the location of permanent emergency generators and any related equipment is clearly identified on the site plan.

DSAC-LDR RECOMMENDATION: The DSAC-LDR Subcommittee reviewed the amendment on April 18, 2018. Lacking a quorum, the Subcommittee members present, as well as a regular member of the DSAC, made several suggestions and observations for further review at the regular DSAC meeting.

DSAC RECOMMENDATION: The DSAC unanimously recommended approval of this amendment on May 2, 2018, with no changes.

FISCAL & OPERATIONAL IMPACTS: There are no anticipated fiscal or operational impacts associated with this amendment.

GROWTH MANAGEMENT PLAN IMPACTS: There are no anticipated Growth Management Plan impacts associated with this amendment.

Amend the LDC as follows:

4.02.01 – Dimensional Standards for Principal Uses in Base Zoning Districts

D. Exemptions and exclusions from design standards.

13. Permanent emergency generators may be placed within the rear yard with a 10-foot rear yard setback. Permanent emergency generators may encroach into side yards up to 36 inches. Generators are not permitted to encroach into required front yards. Above-ground fuel tanks for the generators are subject to the same setbacks; however, underground tanks are not subject to setback requirements. In order to reduce noise during required routine exercising of the generators, this exercising is restricted to operating the generator for no more than 30 minutes weekly during the hours of 9:00 a.m. to 5:00 p.m. and shall not exceed sound level limits for Manufacturing and Industrial uses as set forth in Ordinance 90-17, the Noise Ordinance, as amended. All permanent emergency generators must be equipped with sound attenuating housing to reduce noise.

a. Facilities with fuel pumps. Permanent emergency generators and related fuel storage installed at existing facilities with fuel pumps may encroach into any required side or rear yards, provided the encroachment does not create a hazard to pedestrian or vehicular traffic.

b. Assisted living facilities and nursing homes. Permanent emergency generators and related fuel storage installed at existing assisted living facilities or nursing homes that are subject to LDC section 5.05.04 E. may encroach into any required side or rear yards or buffers, provided the encroachment does not create a hazard to pedestrian or vehicular traffic.

4.05.04 – Parking Space Requirements

F. Minimum requirement.

1. Irrespective of any other requirement of this LDC, each and every separate individual store, office, or other business shall be provided with at least one (1) off-street parking space, unless specific provision is made to the contrary.
2. Existing facilities with fuel pumps that meet the off-street parking requirements of LDC section 4.05.04 G. may remove one required off-street parking space to accommodate the installation of a permanent emergency generator and related fuel storage and screening.
3. Existing assisted living facilities or nursing homes that are subject to LDC section 5.05.04 E. and that meet the required off-street parking requirements of LDC section 4.05.04 G., may remove up to 10 off-street parking spaces to accommodate the installation of a permanent emergency generator and related fuel storage and screening.
24. The County Manager or designee may determine the minimum parking requirements for a use which is not specifically referenced below or for which an applicant has provided evidence that a specific use is of such a unique nature that the applicable minimum parking ratio listed in this LDC should not be applied.

In making such a determination the County Manager or designee may require submission of parking generation studies; evidence of parking ratios applied by other counties and municipalities for the specific use; reserved parking pursuant to section 4.05.05; and other conditions and safeguards deemed to be appropriate to protect the public health, safety and welfare.

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4.06.05 – General Landscaping Requirements

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C. Building foundation plantings. All commercial buildings, residential buildings with 3 or more units, and retail and office uses in industrial buildings shall provide building foundation plantings in the amount set forth in table 4.06.05.C. and illustration 4.06.05.C. These planting areas shall be located adjacent to building entrance(s), primary façades, and/or along façades facing a street. For projects subject to architectural design standards, see LDC sections 5.05.08 E.—F. for related provisions.

* * * * *

10. Existing facilities with fuel pumps may reduce the required building foundation planting area to accommodate the installation of a permanent emergency generator and related fuel storage and screening. The reduction in building foundation planting area shall be less than or equal to the total area that is required to accommodate the generator and related fuel storage and screening.

11. Existing assisted living facilities or nursing homes subject to LDC section 5.05.04 E. may reduce the required building foundation planting area to accommodate the installation of a permanent emergency generator and related fuel storage and screening. The reduction in building foundation planting area shall be less than or equal to the square feet required to accommodate the generator and related fuel storage and screening.

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10.02.03 – Requirements for Site Development, Site Improvement Plans and Amendments thereof

* * * * *

D. *Site Development Plan Requirements (SDP)*. A pre-application meeting shall be conducted by the County Manager or designee prior to the submission of any site development plan for review. This meeting may be waived by the County Manager or designee upon the request of the applicant.

1. Application. The Administrative Code shall establish the process and submittal requirements for a site development plan. A site development plan application shall include, but not be limited to, the following information in order to illustrate compliance with LDC standards and other State, Federal, and local agency requirements.

a. Zoning designation of the subject and adjacent properties.

b. Site plan with existing and proposed buildings and structures, including equipment, permanent emergency generators and related fuel storage and screening, dimensions, heights, setbacks, and separations. Parking, open space, preserves, and other applicable land uses shall be identified on the site plan.

c. Architectural plans.

d. Environmental Data, as applicable.

e. Landscape plans.

f. Streetlight plans.

- 1 g. Transportation system, sidewalks, and pathways, including all ADA
2 information.
3 h. Stormwater management plan including all technical specifications and
4 design computations.
5 i. Utility information, including existing and proposed facilities.
6 j. Trash and recycling information.
7 k. Building plans.
8 l. Information from the Fire Code, including Fire Hydrant Flow test report,
9 if applicable.
10 m. Information from the Standard Building Code, including type of
11 construction, number of stories, total square footage under roof,
12 occupancy/use and fire sprinkler intentions of all proposed structures so
13 that a fire flow may be determined.
14 n. Site construction plans, including all technical specifications and design
15 computations.
16 o. Any additional relevant information as may be required by the County
17 Manager or designee.
18 # # # # # # # # # # # #

Land Development Code Amendment Request

ORIGIN: Board of County Commissioners

AUTHOR: Zoning Division Staff

LDC SECTIONS: 4.06.01 Generally
4.06.02 Buffer Requirements
4.06.03 Landscaping Requirements for Vehicular Use Areas and Rights-of-Way
4.06.05 General Landscaping Requirements

SUMMARY: This amendment increases the size of required landscaping trees and modifies the standards at shopping centers that remove mature canopy trees within the vehicular use areas (VUAs) and “Type D” buffers through a landscaping plan change.

DESCRIPTION:

Board Direction:

Over several years, residents have petitioned the Board regarding perceived aesthetic impacts on surrounding residential neighborhoods when mature canopy trees are removed from shopping centers and replaced with the LDC’s minimum tree planting requirements.

On January 23, 2018, Zoning Division staff presented to the Board background information regarding landscaping changes in shopping centers, and potential LDC changes that could mitigate the perceived impacts due to the loss of mature canopy trees on the surrounding community. The Board directed staff to draft LDC standards that maintain the ability to change existing landscaping plans while also ensuring any changes would maintain a favorable tree canopy and an aesthetically pleasing community appearance.

Existing standards:

When trees are replaced in the VUAs or “Type D” buffers at shopping centers, the replacement trees are required to meet the same minimum standards for landscaping material required for new developments. The minimum tree height, caliper, and canopy spread required at the time of installation are:

- Height: 10 feet,
- Caliper: 1 ¾ inches, and
- Canopy spread: four feet.

Additionally, for buildings that are a minimum of 20,000 square feet, LDC section 4.06.03 B.9 requires that trees in the VUAs be a minimum of:

- Height: 14 to 16 feet,
- Caliper: three to four inches,
- Canopy spread: six to eight feet, and
- Clear trunk height: six feet high.

Proposed changes:

The proposed standards for shopping centers when replacing non-palm species trees through a landscaping plan change are as follows:

- A new table to determine the minimum size of replacement trees is provided. The replacement trees shall have a caliper of approximately 50 percent of the removed tree(s) within the VUAs and “Type D” buffers.
 - The new minimum sizes for replacement trees may be satisfied by providing either a single tree or a combination of multiple smaller trees, which would provide the equivalent total caliper inches.
- New tree spacing standards within “Type D” buffers to provide better visibility to shopping center buildings and wall signage. This new standard would:
 - Allow an increase to tree spacing from 30 feet on-center to 60 feet on-center in limited situations, per the new LDC Section 4.06.03 D.3.
 - Require three trees on both sides of the 60 foot on-center spacing within the “Type D” buffer to have a minimum of a 30-foot crown spread per tree.
- Slash pine and bald cypress trees shall be prohibited in new landscape plans and changes to existing landscape plans within the VUA and “Type D” buffer area due to their ineffectiveness to provide an adequate canopy and flourish in irrigated areas of a site.
- Adds submittal requirements to the landscaping plan to include the caliper of existing trees to facilitate review of these new requirements.
- Lastly, the amendment adds cross-references to the new standards in LDC section 4.06.02.

These changes are intended to balance the aesthetical value of mature canopy trees with the surrounding neighborhoods, and property owners with the need to redesign and update the appearance of shopping centers. The standards are intended to provide options for compliance, and flexibility in site design and an alternative to replacing trees or maintaining the existing mature trees.

Public comments received by County staff to date are included in Attachment A.

DSAC-LDR RECOMMENDATION: The DSAC-LDR Subcommittee reviewed the amendment on April 18, 2018. Lacking a quorum, the Subcommittee members present, as well as a regular member of the DSAC, made several suggestions and observations for further review at the regular DSAC meeting.

DSAC RECOMMENDATION: The DSAC unanimously recommended denial of this amendment on May 2, 2018. The DSAC members indicated that the amendment was too problematic for adoption.

FISCAL & OPERATIONAL IMPACTS: The amendment will increase costs to shopping center owners when updating landscaping plans by virtue of replacing non-palm tree species with trees that are larger than the existing minimum tree planting requirements of the LDC.

GROWTH MANAGEMENT PLAN IMPACT: There are no anticipated growth management plan impacts associated with this amendment.

Amend the LDC as follows:

4.06.01 Generally

E. Landscaping Plans Required.

1. Landscape summary. A landscape summary in matrix form which shall include:
 - a. Graphic symbol to indicate each type of plant material.
 - b. Botanical name.
 - c. Common name.
 - d. Total number of each type of plant material.
 - e. Height and spread of each type of plant material.
 - f. Spacing of each type of plant material.
 - g. In accordance with LDC section 4.06.03 D., caliper of existing and replacement trees for shopping centers when replacing non-palm tree species within the vehicular use areas and Type D landscape buffers through a landscaping plan change.

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4.06.02 Buffer Requirements

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C. Types of buffers. Within a required buffer strip, the following types of buffers shall be used based on the matrix in table 2.4. (See Figure 4.06.02.C-1)

* * * * *

4. *Type D Buffer:* A landscape buffer shall be required adjacent to any road right-of-way external to the development project and adjacent to any primary access roads internal to a commercial development. Said landscape buffer shall be consistent with the provisions of the Collier County Streetscape Master Plan, which is incorporated by reference herein. The minimum width of the perimeter landscape buffer shall vary according to the ultimate width of the abutting right-of-way. Where the ultimate width of the right-of-way is zero to 99 feet, the corresponding landscape buffer shall measure at least ten feet in width. Where the ultimate width of the right-of-way is 100 or more feet, the corresponding landscape buffer shall measure at least 15 feet in width. Developments of 15 acres or more and developments within an activity center shall provide a perimeter landscape buffer of at least 20 feet in width regardless of the width of the right-of-way. Activity center right-of-way buffer width requirements shall not be applicable to roadways internal to the development.

- a. Trees shall be spaced no more than 30 feet on center in the landscape buffer abutting a right-of-way or primary access road internal to a commercial development. However, for shopping centers replacing non-palm tree species within a Type D buffer through a landscaping plan change, see LDC section 4.06.03 D.

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4.06.03 Landscaping Requirements for Vehicular Use Areas and Rights-of-Way

* * * * *

D. Standards for shopping centers. The following standards apply when replacing non-palm tree species within the vehicular use areas and Type D landscape buffers through a landscaping plan change.

1. The following table shall determine the minimum size of replacement trees at time of installation.

- a. Table 4.06.03 D.1.a. – Required minimum caliper for replacement trees.

1

<u>Existing tree (DBH)</u>	<u>Required minimum caliper for replacement tree</u>
<u>9 to 10 inches</u>	<u>5 inches</u>
<u>11 to 12 inches</u>	<u>6 inches</u>
<u>13 to 14 inches</u>	<u>7 inches</u>
<u>15 inches and above</u>	<u>8 inches</u>

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2. Multiple trees with a caliper smaller than the required minimum caliper for a replacement tree may be substituted to create the equivalent total caliper inches required by LDC section 4.06.03 D.1.

3. To provide additional visibility into shopping centers, the required trees within Type D buffers may be spaced no more than 60 feet on center and shall have at least three consecutive trees, spaced no more than 30 feet on center with at least a 30-foot crown spread per tree, on both sides of any spacing greater than 30 feet.

#

4.06.05 – General Landscaping Requirements

D. Plant Material Standards

* * * * *

2. Trees and palms. All required new individual trees, shall be species having an average mature spread or crown of greater than 20 feet in the Collier County area and having trunk(s) which can be maintained in a clean condition over five feet of clear wood. Trees adjacent to walkways, bike paths and rights-of-way shall be maintained in a clean condition over eight feet of clear wood. Trees having an average mature spread or crown less than 20 feet may be substituted by grouping the same so as to create the equivalent of 20-foot crown spread. For code-required trees, the trees at the time of installation shall be a minimum of 25 gallon, ten feet in height, have a 1¼-inch caliper (at 12 inches above the ground) and a four-foot spread.

- a. A grouping of three palm trees will be the equivalent of one canopy tree. Exceptions will be made for Roystonea spp. and Phoenix spp. (not including roebelenii) which shall count one palm for one canopy tree. Palms may be substituted for up to 30 percent of required canopy trees with the following exceptions. No more than 30% of canopy trees may be substituted by palms (or palm equivalent) within the interior of a vehicular use area and within each individual Type D road right-of-way landscape buffer. Palms must have a minimum of 10 feet of clear trunk at planting.
- b. All new trees, including palms, shall be of a species having an average mature height of 15 feet or greater.
- c. As of {Date of Ordinance Approval}, all new landscaping plans or existing landscaping plans that are replacing or removing required trees within the vehicle use areas or "Type D" buffers shall not include slash pine (Pinus elliottii) or bald cypress (Taxodium distichum).

#

Attachment A

From: StrainMark
Sent: Wednesday, May 02, 2018 11:08 AM
To: FrantzJeremy
Subject: FW: CCPC Meeting May 3, 2018--Agenda Item 9H

Please distribute as typical.

Also, during your discussion at the CCPC on this issue, please address the issue raised I the last sentence.

thanks

Mark

239.252.4446

Under Florida Law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by telephone or in writing.

From: Joseph Doyle [<mailto:naplespatriots@comcast.net>]
Sent: Wednesday, May 02, 2018 10:48 AM
To: StrainMark <Mark.Strain@colliercountyfl.gov>
Cc: HomiakKaren <Karen.Homiak@colliercountyfl.gov>; pdearborn@johnrwood.com; EbertDiane <Diane.Ebert@colliercountyfl.gov>; FryerEdwin <Edwin.Fryer@colliercountyfl.gov>
Subject: CCPC Meeting May 3, 2018--Agenda Item 9H

Chairman Strain:

Please see the email chain below as well as the links to the petition with photos and Naples Daily News articles as background information. I am writing in support of the need to "amend landscape requirements to provide minimum size of replacement trees in shopping centers and prohibit slash pine and bald cypress..." Quite frankly, this provision is long overdue and should have been implemented after the July 2012 carnage at Riverchase Plaza in North Naples wherein the mature live oaks were replaced with slash pine and bald cypress. In my opinion, both Commissioner Fiala and then-Growth Mgmt Dept Head Nick Casalanguida "dropped the ball" by not making these much needed amendments at that time. Consequently, the Marketplace at Pelican Bay experienced the same carnage in December 2017 when 139 mature live oaks, which has survived Hurricane Irma, were slaughtered; the canopy that took 20 years to grow was replaced with seedlings, 54 of which are new replacement live oaks that look like twigs. I agree with the new proposed requirements. However, the proposal does not go far enough. As part of the administrative review process for an SDPI application, there is currently no provision for public input or public information sessions. I would like to see public input added to the proposed ordinance changes before an applicant is granted approval to proceed with renovations.

Attachment A

Joseph T. Doyle, MD

Naples, FL

----- Original Message -----

From: naplespatriots@comcast.net

To: naplespatriots <naplespatriots@comcast.net>

Date: December 4, 2017 at 8:01 AM

Subject: Late Breaking ALERT: Save the Trees in the Marketplace at Pelican Bay

****Monday December 4th****

Greetings:

You are receiving this email because you have expressed an interest in the proposed landscape renovations at Markeplace (SW corner of US 41 at Vanderbilt Beach Road within the Pelican Bay PUD) or have been identified as a community leader/stakeholder. We learned late Sunday evening that the landscape renovations begin today, Monday, December 4th.

The management company and landscape designer are proceeding with their plans to remove 140 mature live oaks from the parking lots of Tract 1 (CVS, GNC), Tract 2 (Publix) and Tract 3 (Stein Mart, LuLu B's, Wilford & Lee), thereby destroying the tree canopy that so many of us enjoy. These trees survived Hurricane Irma on September 10, 2017. It is noteworthy that 54 of the replacement trees will be new, immature live oaks. Perhaps we can save at least 54 mature trees from replacement. We do not want have a re-run of the carnage that occurred at Riverchase Plaza (NE corner of US 41 at Immokalee Rd) in June/July 2012. Let your voice be heard--contact the thought leaders and sign the petition to save the oak trees in the link below.

The link to the petition and contact information

is: <https://www.ipetitions.com/petition/save-the-trees-in-the-marketplace-at-pelican-bay>

Background:

The plaza property manager, AJS Realty Group, received approval from PB Foundation on April 28th for the proposed landscape renovations. The SDPI application was filed with Collier County on July 3rd and approved on August 10th. (You can follow the application at the County public portal by the following

link: <http://cvportal.colliergov.net/CityViewWeb/Planning/Locator> Enter PL20170002432 into the search field and all the associated application

Attachment A

documents can be found by clicking through the application folders or by clicking expand all.) The Pelican Bay Foundation made an effort in mid-August to ask the property manager to reverse their plans, but to no avail. The 30-day waiting period to allow for any concerned citizens/organizations to file an appeal ended on September 8, 2017. No one filed an appeal, which required a \$1,000 review fee. Then, Hurricane Irma struck Naples and the project was placed on hold. The trees will be cut down beginning Monday, December 4th.

Make calls....Sign the petition....And have your friends, family, and neighbors help us, too!

Thank you,

Joe Doyle, MD
Sandy Doyle
Laurel Oaks/Pelican Bay