

**ORDINANCE NO. 18 – 24**

**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 FOUR – SITE DESIGN AND DEVELOPMENT STANDARDS, INCLUDING SECTION 4.02.06 STANDARDS FOR DEVELOPMENT IN AIRPORT ZONES, TO EXEMPT THE MINI-TRIANGLE SUBDISTRICT OF THE URBAN DESIGNATION, URBAN MIXED USE DISTRICT OF THE GROWTH MANAGEMENT PLAN FROM THE HEIGHT STANDARDS FOR DEVELOPMENT IN AIRPORT ZONES; 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WHEREAS, the Collier County Board of County Commissioners (Board) on June 22, 2004, adopted Ordinance No. 04-41, which repealed and superseded Ordinance No. 91-102, as amended, the Collier County Land Development Code, which had an effective date of October 18, 2004; and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, 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 Collier County Planning Commission, sitting as the land planning agency, did hold advertised public hearings on February 15, 2018, and on March 1, 2018, and on April 5, 2018, and reviewed the proposed amendments for consistency with the Comprehensive Plan and recommended approval; and

WHEREAS, the Board of County Commissioners, in a manner prescribed by law, did hold advertised public hearings on May 8, 2018, 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

Section 4.02.06 Standards for Development in Airport Zones, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

#### Section 4.02.06 Standards for Development in Airport Zones

\* \* \* \* \*

#### L. Exemptions.

1. Development of the Marco Shores Golf Course Community that comports with the location and height requirements of Ordinance No. 81-6, as amended by Ordinance No. 85-56 and Ordinance No. 94-41, is exempted from the provisions of section 4.02.06 only to the following extent:
  - a. 1- The agreement between Johnson Bay Development Corporation Collier County Airport Authority and the BCC, dated August 8, 1995.
  - b. 2- Prior issuance of a Federal Aviation Administration "Determination Of No Hazard To Air Navigation."
2. Development of the Mini-Triangle Mixed Use Subdistrict of the Urban Designation, Urban Mixed Use District of the Growth Management Plan that comports with height requirements of Ordinance 2018-25, is exempted from the maximum allowable horizontal zone height of 150 feet from the established elevation of the Naples Airport, as established in LDC Sections 4.02.06.E. and 4.02.06.F. Buildings are allowed up to 160 feet in height from the established elevation of the Naples Airport. Development within the Mini-Triangle Mixed Use



Subdistrict shall comply with the conditions set forth in the Federal Aviation Administration letters of "Determination Of No Hazard To Air Navigation", dated January 20, 2017, or any subsequent letters or extensions thereof.

- M. Airport land use restrictions. Notwithstanding any other provision of this LDC, no use may be made of land or water within any zones established by this LDC in such a manner as to interfere with the operation of an airborne aircraft. The following special requirements shall apply to each permitted use:

\* \* \* \* \*

**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 8<sup>th</sup> day of May, 2018.

ATTEST:  
DWIGHT E. BROCK, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF COLLIER COUNTY, FLORIDA

By: *Aimee Jeyaraj, PC.*  
Deputy Clerk

By: *Andy Solis*  
ANDY SOLIS, Chairman

Attest as to Chairman's  
signature only.

Approved as to form and legality:

*Heidi F. Ashton-Cicko*

Heidi F. Ashton-Cicko  
Managing Assistant County Attorney

04-CMD-01077/1777 (5/9/18)

This ordinance filed with the  
Secretary of State's Office the  
11<sup>th</sup> day of May, 2018  
and acknowledgement of that  
filing received this 11<sup>th</sup> day  
of May, 2018  
By: *Aimee Jeyaraj*



## FLORIDA DEPARTMENT *of* STATE

**RICK SCOTT**  
Governor

**KEN DETZNER**  
Secretary of State

May 11, 2018

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

Attention: Ann Jennejohn

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. 18-24, which was filed in this office on May 11, 2018.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb