

AN ORDINANCE AMENDING ORDINANCE NUMBER 82-2, THE COMPREHENSIVE ZONING REGULATIONS FOR THE INCORPORATED AREA OF COLLIER COUNTY BY AMENDING SUBSECTION 6.10, "NON-CONFORMING STRUCTURES", OF SECTION SIX, "NON-CONFORMING LOTS, NON-CONFORMING USES OF LAND AND WATER, NON-CONFORMING USES OF STRUCTURES AND PREMISES, AND NON-CONFORMING CHARACTERISTICS OF USES", TO PROVIDE CLEARER REVIEW CRITERIA FOR THE GRANTING OF CERTAIN EXEMPTED NON-CONFORMING USES BY THE BOARD OF ZONING APPEALS; BY PROVIDING FOR CONFLICT AND SEVERABILITY; AND BY PROVIDING AN EFFECTIVE DATE.

FILED
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DEPARTMENT OF RECORDS
TALLAHASSEE, FLORIDA

WHEREAS, Chapter 125, Florida Statutes, establishes the right and power of counties to provide for the health, right and power of counties to provide for the health, welfare and safety of existing and future residents by enacting and enforcing zoning and business regulations necessary for the protection of and public; and

WHEREAS, on November 14, 1989, the Board of County Commissioners approved Ordinance Number 89-75, which established Section 6.10 d. of the Collier County Zoning Ordinance; and

WHEREAS, the Community Development Services Division has become aware that language in this subsection is not clear which makes review of Non-Conforming Use Alteration petitions difficult and changes necessary; and

WHEREAS, the Community Development Services Division, petitioned the Board of County Commissioners of Collier County, Florida, to amend Ordinance Number 82-2, the Collier County Zoning Ordinance as set forth below:

NOW, THEREFORE BE IT ORDAINED by the Board of County Commissioners of Collier County, Florida:

SECTION ONE: AMENDMENTS TO SECTION SIX OF COLLIER COUNTY ORDINANCE NO. 82-2, as amended.

Subsection 6.10, "Non-Conforming Structures", of Section Six, "Non-conforming Lots, Non-Conforming Uses of Land or Water, Non-Conforming Uses of Structures and Premises, and Non-conforming Characteristics of Uses", of Ordinance 82-2, the Zoning Ordinance of Collier County, Florida, is hereby amended to read as follows:

6.10 Non-Conforming Structures: Where a structure exists lawfully under this Zoning Ordinance at the effective date of its adoption or relevant amendment that could not be built under this Zoning Ordinance by reason of restrictions on lot area,

Words-struck-through are deleted; words underlined are added.

lot coverage, height, yards, location on the lot, or requirements other than use concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- a. No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity; provided, however, that the alteration, expansion, or replacement of non-conforming single family dwellings, duplexes or mobile homes shall be permitted in accordance with subsection 6.10(d).
- b. Should such non-conforming structure or non-conforming portion of structure be destroyed by any means to an extent of more than fifty (50) percent of its actual replacement cost at time of destruction, as determined by a cost-estimate submitted to the Zoning Director, it shall not be reconstructed except in conformity with provisions of this Zoning Ordinance.

Notwithstanding the foregoing restrictions as to reconstruction, any residential structure or structures in any residential zone district may be rebuilt after destruction to the prior extent, height and density of units per acre regardless of the percentage of destruction. In the event of such rebuilding, all setbacks and other applicable district requirements shall be met unless a variance therefore is obtained from the Board of Zoning Appeals. For the purpose of this Section, a hotel, motel, or boatel shall be considered to be a residential structure.

- c. Should such structure be moved for any reason for any distance whatever, other than as a result of governmental action, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- d. Alteration, expansion or replacement of non-conforming single family dwellings, duplexes or mobile homes: Non-conforming residential structures, which for the purpose of this section shall mean detached single family dwellings, duplexes or mobile homes in existence at the effective date of this Zoning Ordinance or its relevant amendment and in continuous residential use thereafter, may be altered, expanded, or replaced upon recommendation of the Collier County Planning Commission and approval of the Board of Zoning Appeals by Resolution.
 1. Standards for permitting alteration, expansion and replacement of non-conforming single family dwellings, duplexes or mobile homes: Since the size and nature of the alteration, expansion or replacement of such non-conforming structures may vary widely, a site plan and, and if applicable, preliminary building plans indicating the proposed alteration, expansion or replacement shall be presented with each petition. Prior to granting such alteration, expansion or replacement of a non-conforming single family dwelling, duplex or mobile home, the CCPC and the Board of County Commissioners shall consider and base its approval on the following standards and criteria:
 - a. The alteration, expansion or replacement will not increase the density of the parcel or lot on which the non-conforming single family dwelling, duplex or mobile home is located;

Words-struck-through are deleted; words underlined are added.

- b. The alteration, expansion or replacement will not exceed the building height requirements of the district most closely associated with the subject non-conforming use;
- c. The alteration, expansion or replacement will meet or will not further encroach upon any non-conforming set-backs of the district most closely associated with the subject non-conforming use;
- d. The alteration, expansion or replacement will not decrease or further decrease the existing parking areas for the structure;
- e. The alteration, expansion or replacement will not damage the character or quality of the neighborhood in which it is located or hinder the proper future development of the surrounding properties; and
- f. Such alteration, expansion or replacement will not present a threat to the health, safety or welfare of the community or its residents.

SECTION TWO: CONFLICT AND SEVERABILITY

In the event this Ordinance conflicts with any other Ordinance of Collier County and other applicable law, the more restrictive shall apply. If any phrase or portion of the Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

SECTION THREE: EFFECTIVE DATE

This Ordinance shall become effective upon receipt of notice from the Secretary of State that this Ordinance has been filed with the Secretary of State.

DATE: May 22, 1990

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

ATTEST:
JAMES C. GILES, CLERK

BY: Max A. Hasse, Jr.
MAX A. HASSE, JR., CHAIRMAN

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Marjorie M. Student
MARJORIE M. STUDENT
ASSISTANT COUNTY ATTORNEY

ZO-90-5 ZONING ORDINANCE AMENDMENT

This ordinance filed with the Secretary of State's Office the 22nd day of May, 1990 and acknowledgement of that filing received this 19th day of June, 1990

By: Juanita Chasani
Deputy Clerk

Words-~~struck-through~~ are deleted; words underlined are added.

STATE OF FLORIDA)
COUNTY OF COLLIER)

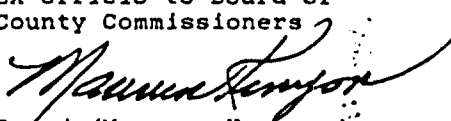
I, JAMES C. GILES, Clerk of Courts in and for the
Twentieth Judicial Circuit, Collier County, Florida, do
hereby certify that the foregoing is a true copy of:

Ordinance No. 90-38

which was adopted by the Board of County Commissioners on
the 22nd day of May, 1990, during Regular Session.

WITNESS my hand and the official seal of the Board of
County Commissioners of Collier County, Florida, this 24th
day of May, 1990.

JAMES C. GILES
Clerk of Courts and Clerk,
Ex-officio to Board of
County Commissioners


By /s/ Maureen Kenyon
Deputy Clerk

