

AN ORDINANCE AMENDING ORDINANCE 91-102, THE COLLIER COUNTY LAND DEVELOPMENT CODE; ADOPTING AND INCORPORATING ENVIRONMENTAL LAND DEVELOPMENT REGULATIONS MANDATED BY THE GROWTH MANAGEMENT PLAN AND RECOMMENDED IN THE COASTAL ZONE MANAGEMENT PLAN-1991 AND CORRECTING LEGAL DEFICIENCIES IN ARTICLES ONE, TWO, THREE, FIVE AND SIX OF ORDINANCE 91-102 AND ADDRESSING AN AMENDMENT TO SECTION 2.2.16.2.1 RELATING TO PERMITTED USES IN THE INDUSTRIAL ZONING DISTRICT; MORE PARTICULARLY PROVIDING FOR SECTION ONE, RECITALS; PROVIDING FOR SECTION TWO, FINDINGS OF FACT; PROVIDING FOR SECTION THREE, ADOPTION OF AMENDMENTS TO THE LAND DEVELOPMENT CODE; PROVIDING FOR SECTION FOUR, CONFLICT AND SEVERABILITY; PROVIDING FOR SECTION FIVE, EFFECTIVE DATE.

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SECRETARY OF STATE

Whereas, the Land Development Code may not be amended more than two times in each calendar year pursuant to Section 1.19.1, LDC; and

Whereas, this is the first amendment to the Land Development Code, Ordinance, 91-102, in this calendar year; and

Whereas, on March 23, 1993 the Board of County Commissioners adopted Resolution 93-124 establishing local requirements and procedures for amending the LDC; and

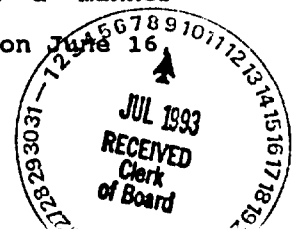
Whereas, all requirements of Resolution 93-124 have been met; and

Whereas, on April 6, 1993 the Board of County Commissioners adopted Resolution 93-144 limiting the subject matter of amendments and establishing deadlines for the first LDC amendment cycle of the 1993 calendar year; and

Whereas, Resolution 93-144 limits the subject matter of these amendments to environmental land development regulations mandated by the Growth Management Plan and recommended by the CZMP, to identified legal deficiencies and to cases of hardship; and

Whereas, the Collier County Planning Commission in a manner prescribed by law did hold an advertised public hearing on May 6, 1993 and on June 10, 1993 concerning these amendments to the LDC; and

Whereas, the Board of County Commissioners in a manner prescribed by law did hold advertised public hearings on July 16,



1993 and on June 29, 1993 and did take action concerning these amendments to the LDC; and

Whereas, all applicable substantive and procedural requirements of the law have been met.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA that:

SECTION 1: RECITALS

The foregoing recitals are true and correct and incorporated by reference herein as if fully set forth.

SECTION 2: FINDINGS OF FACT

The Board of County Commissioners of Collier County, Florida, hereby makes the following findings of fact:

1. Collier County, pursuant to Sec. 163.3161, et seq., Fla. Stat., the Florida Local Government Comprehensive Planning and Land Development Regulation Act (hereinafter the "Act"), is required to prepare and adopt a Comprehensive Plan.

2. After Adoption of the Comprehensive Plan, the Act, and in particular Sec. 163.3202(1), Fla. Stat., mandates that Collier County adopt land development regulations that are consistent with and implement the adopted Comprehensive Plan.

3. Sec. 163.3201, Fla. Stat., 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 as required by the Act.

4. Sec. 163.3194(1)(b), Fla. Stat., requires that all land development regulations enacted or amended by Collier County shall be consistent with the adopted Comprehensive Plan, or element or portion thereof, and any land development 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. Sec. 163.3202(3), Fla. Stat., 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 Sec. 1634.3161 et seq. Fla. Stat., and Rule 9J-5, F.A.C.

7. Section 163.3194(1)(a), Fla. Stat., 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 shall be consistent with such Comprehensive Plan or element as adopted.

8. Pursuant to Sec. 163.3194(3)(a), Fla. Stat., a development order or land development regulations shall be consistent with the Comprehensive Plan if the land uses, densities or intensities, and other aspects of development permitted by such order or regulation are compatible with and further the objectives, policies, land uses, and 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), Fla. Stat., requires 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 and was amended on October 14, 1992, effective October 30, 1992.

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; encourage the most appropriate use of land, water, and resources, consistent with the public interest; overcome present handicaps; and 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; prevent the overcrowding of land and avoid undue concentration of population; facilitate the adequate and efficient provision of transportation, water, sewerage, schools, parks, recreational facilities, housing, and other requirements and services; conserve, develop, utilize, and protect natural resources within the jurisdiction of Collier County; and to protect human, environmental, social, and economic resources; and 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 Growth Management Plan, Chapter 125, Fla. Stat., and Chapter 163, Fla. Stat., and through these amendments to the Code.

SECTION 3: ADOPTION OF AMENDMENTS TO THE LAND DEVELOPMENT CODE

The Collier County Land Development Code is hereby amended as shown on the side sheets which comprise Exhibit A, attached hereto and incorporated by reference herein.

SECTION 4: CONFLICT AND SEVERABILITY

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 5: 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.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida this 29th day of June, 1993.

DATE:

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

ATTEST:
DWIGHT E. BROCK

BY: [Signature]
BURT L. SAUNDERS, CHAIRMAN

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

[Signature]
MARTHA N. HOWELL
ASSISTANT COUNTY ATTORNEY

This ordinance filed with the Secretary of State's Office the 6th day of July, 1993 and acknowledgement of that filing received this 9th day of July, 1993.
By: [Signature]
Deputy Clerk

APPENDIX A

SEC. 1.9.9 NOTICE AND APPEAL.

All administrative decisions concerning the issuance, revocation, suspension, or stop work order, or other remedy pertaining to Building Permits, Certificates of Occupancy, Development Orders, Development Permits, or Development Approvals, whatsoever, shall be stated in official written notice sent by registered mail to the permit applicant. Decisions of the County Manager may be appealed to the Board of County Commissioners.

SEC. 1.9.11 APPEAL OF ADMINISTRATIVE DECISION.

Appeal of any administrative decision of the County Manager or his designee not remedied by Sec. 1.9.9 herein shall be in accordance with the procedure set forth in Sec. 1.6.6 for appeal of written interpretations and shall be reviewed by the Board of Zoning Appeals.

2.2.16.2.1 Permitted Uses:

1. Agricultural Services (groups 0711, except that chemical treatment of soil for crops, fertilizer application for crops and lime spreading for crops shall be a minimum of five hundred feet (500') from a residential zoning district, 0721, except that aerial dusting and spraying, disease control for crops, spraying crops, dusting crops, and insect control for crops (with or without fertilizing) shall be a minimum of five hundred feet (500') from a residential zoning district, 0722-0724, 0761, 0782, 0783).
2. Apparel and Other Finished Products (groups 2311-2399).
3. Automotive Repair, Service, and Parking (groups 7513-7549).
4. Building Construction (groups 1521-1542).
5. Business Services (groups 7312, 7313, 7319, 7334-7336, 7342-7389, including auction rooms (5999), subject to parking and landscaping for retail use).
6. Communications (groups 4812-4899 including communications towers up to specified heights, subject to Sec. 2.6.35.).
7. Construction-Special Trade Contractors (groups 1711-1799).
8. Depository and Non-Depository Institutions Groups (6011-6163).
9. Eating Places (5812).
10. Educational Services (8243-8249)
11. Electronic and Other Electrical Equipment (groups 3612-3699).
12. Engineering, Accounting, Research, Management and Related Services (groups 8711-8748).
13. Fabricated Metal Products (groups 3411-3479, 3491-3499).
14. Food and Kindred Products (groups 2011-2099 except slaughtering plants).
15. Furniture and Fixture (groups 2511-2599).
16. Heavy Construction (groups 1611-1629).
17. Health Services (8011 accessory to industrial activities conducted on-site only)
18. Industrial and Commercial Machinery and Computer Equipment (3511-3599).
19. Leather and Leather Products (groups 3131-3199).
20. Local and Suburban Transit (groups 4111-4173).
21. Lumber and Wood Products (groups 2426, 2431-2499).
22. Measuring, Analyzing, and Controlling Instruments, Photographic, Medical and Optical Goods; Watches and Clocks (groups 3812-3873).
23. Membership Organizations (groups 8611, 8631).
24. Miscellaneous Manufacturing Industries (groups 3911-3999).
25. Motor Freight Transportation and Warehousing (groups 4212, 4213-4225, 4226 except oil and gas storage, and petroleum and chemical bulk stations).
26. Paper and Allied Products (2621-2679).
27. Personal Services (groups 7211-7219).
28. Printing, Publishing and Allied Industries (groups 2711-2796).
29. Railroad Transportation (4011, 4013).
30. Rubber and Miscellaneous Plastic Products (groups 3021, 3052, 3053).

- 30 31. Stone, Clay, Glass, and Concrete Products
(groups 3221, 3251, 3253, 3255-3273, 3275,
3281).
- 31 32. Textile Mill Products (groups 2211-2221,
2241-2259, 2273-2289, 2297, 2298).
- 32 33. Transportation Equipment (groups 3714, 3716,
3731, 3732, 3751, 3761, 3764, 3769, 3792,
3799).
- 33 34. Transportation by Air (groups 4512-4581 except
airports and flying fields).
- 34 35. Transportation Services (groups 4731-4783,
4789 except stockyards).
- 35 36. United States Postal Service (4311).
- 36 37. Welding Repair (7692)
- 37 38. Wholesale Trade-Durable Goods (groups
5012-5014, 5021-5049, 5063-5092, 5094-5099).
- 38 39. Wholesale Trade-Nondurable Goods (groups 5111-
5159, 5181, 5182, 5191 except that wholesale
distribution of chemicals, fertilizers,
insecticides, and pesticides shall be a
minimum of 500 feet from a residential zoning
district, 5192-5199).

Staff Side Sheet
LDC page 2-81

SEC. 2.2.24 "ST" as Zoning Overlay District; Designation of "P-ST" Lands, Designation of "ACSC-ST" Lands.

2.2.24.2.1 Establishment of ST Overlay District. An overlay zoning district classification to be known as the "ST" Special Treatment Overlay District, and to be designated on the Official Zoning Atlas by the symbol "ST" together with the symbol of the basic zoning district which it overlays, is hereby established. This overlay district classification will be used for those lands of environmental sensitivity and historical and archaeological significance where the essential ecological or cultural value of the land is not adequately protected under the basic zoning district regulations established by this code or by ordinance. The placement or removal of this overlay zoning district shall be governed by the procedure for amending the Zoning Code and the Official Zoning Atlas as prescribed in Div. 2.7. All land within the ST overlay district shall be designated as environmentally sensitive.

NOTE: required by the Growth Management Plan.

Staff Side Sheet
LDC page 2-85

2.2.24.6 Procedures for Site Alteration Plan or Site Development Plan Approval for Development in "ST" or "ACSC-ST" Designated Land.

2.2.24.6.1 Pre-application Conference. Prior to filing a petition for site alteration or site development approval of "ST" or "ACSC-ST" land, the petitioner shall request and hold a pre-application conference with the Development Services Director and appropriate County Staff. The pre-application conference is for the purpose of guidance and information, and for insuring insofar as is possible, that the petition is in conformity with these regulations. No petition for the site alteration or site development approval will be accepted for formal processing until the Development Services Director has reviewed the petition to determine that all required data is included; a minimum of thirty (30) days shall be allowed for this phase of the review process. County Staff shall visit the site, where appropriate.

NOTE: required by the Growth Management Plan.

2.2.24.7 Submission Requirements for Site Alteration plan or Site Development Plan Approval for Development in "ST" or "ACSC-ST" Designated Land. The following shall be submitted in a petition for site alteration or site development approval of "ST" or "ACSC-ST" land:

2.2.24.7.1 Submission and approval of a Site Alteration Plan or Site Development Plan containing the following as determined applicable to the petition by the Development Services Director:

5. Exact survey showing the project boundaries, any existing street, water courses or easements within or adjacent to the proposed development. Developments shall identify, protect, and conserve native vegetative communities and wildlife habitat. Habitats and their boundaries will be consistent with the Florida Department of Transportation Florida Land Use Cover and Forms Classification Systems and shall be depicted on an aerial photograph having a scale of one inch equal to at least 200 feet when available from the County, otherwise, a scale of at least one inch equal to 400 feet is acceptable. Information obtained by ground-truthing surveys shall have precedence over information presented through photographic evidence. For proposed site alteration(s) within on shorelines and/or undeveloped or developed coastal barriers habitat identification shall comply with the siting criteria in accordance 3.12.5.1.

SEC. 2.4.4 PLANT MATERIAL STANDARDS AND INSTALLATION STANDARDS

2.4.4.1 Quality. Plant materials used to meet the requirements of this Section shall meet the Standards for Florida No. 1 or better, as set out in "Grades and Standards for Nursery Plants", Part I, and Part II, Department of Agriculture, State of Florida (as amended). Root ball sizes on all transplanted plant materials shall also meet State standards.

At least seventy-five (75) percent of the trees and fifty (50) percent of the shrubs used to fulfill these requirements shall be native Southern Floridian species, as determined by accepted valid scientific reference. For sites that are north and east of U.S. Highway 41, at least thirty-five percent (35%) of the shrubs used to fulfill these requirements shall be native Floridian species, as determined by accepted valid scientific reference. In addition, for all sites, at least seventy-five percent (75%) of the trees and shrubs used to fulfill these requirements shall be drought tolerant species as listed in the Xeriscape Plant Guide and Native Trees and Trees for South Florida (IFAS). References to be used in the native determination may include, but not be limited to:

Long, R.W. and O. Lakela, 1976. A Flora of Tropical Florida.

Small, J.K. 1933. A Manual of the Southeastern Flora.

Wunderlin, R.P. 1982. Guide to the Vascular Plants of Central Florida.

Where xeric plants are to be utilized, use the South Florida Water Management District, Xeriscape Plant Guide (as amended) as a reference.

For proposed land development projects on shorelines and/or undeveloped and developed coastal barriers all required landscaping shall be one hundred percent (100%) native southern Floridian species.

SEC. 2.6.21 PRIVATE BOATHOUSES AND DOCKS.

2.6.21.8 ~~Where new boathouses, boatshelters, or docking facilities are proposed or boat dock extensions, the location and presence of seagrass or seagrass beds within two hundred (200) feet of any proposed dock facility or boathouse shall be identified on an aerial photograph having a scale of one inch to 200 feet when available from the county, or a scale of one inch to 400 feet when such photographs are not available from the county. The location of seagrass beds shall be verified by a site visit by the Site Development Review Director or his designee prior to issuance of any project approval or permit.~~

2.6.21.8.1 ~~All proposed boathouses, boatshelters, and dock facilities shall be located and aligned to stay at least ten (10) feet from any existing seagrass beds, except where a continuous bed of seagrasses exists off the shore of the property and adjacent to the property, and to minimize negative impacts to seagrasses and other native shoreline, emergent and submerged vegetation and hard bottom communities.~~

2.6.21.8.2 ~~Where a continuous bed of seagrasses exists off the shore of the property and adjacent to the property the applicant shall be allowed to build a dock across the seagrasses, or a boathouse, boatshelter or docking facility within ten feet of seagrasses. Such boathouses, boatshelters or docking facilities shall comply with the following conditions:~~

1. The boathouse, boatshelter or dock shall be at a height of at least three and one-half (3.5) feet NGVD.
2. The terminal platform of the dock shall not exceed one hundred sixty (160) square feet.
3. The access dock shall not exceed a width of four (4) feet.
4. The access dock and terminal platform shall be sited to impact the smallest area of seagrasses possible.

2.6.21.8.3 ~~The petitioner shall be required to demonstrate how negative impacts to seagrasses and other native shoreline vegetation and hard bottom communities have been minimized prior to any project approval or permit issuance.~~

SEC. 3.2.7 **PRELIMINARY SUBDIVISION PLAT.**

3.2.7.1 **Preliminary Subdivision Plat Submission**
Requirements.

3.2.7.1.1 A preliminary subdivision plat shall consist of a series of mapped information sheets on only standard size 24" x 36" sheets to include, but not to be limited to, the following:

4. Natural Features and Vegetative Cover Map; for proposed site alteration(s) within the coastal zone vegetative cover map shall also comply with Sec. 3.12.5.

SEC. 3.3.5 SITE DEVELOPMENT PLAN REVIEW PROCEDURES.

3.3.5.4.4 Vegetation Inventory. A generalized vegetation inventory of the property shall be required to the extent necessary, as determined by the mandatory pre-application meeting, indicating the approximate location, densities and species of the following:

1. Upland, wetland and estuarine vegetation including exotic vegetation prohibited by Div. 3.9, mapped using FLUCCS terminology.
2. Any type vegetation identified for preservation.
3. Projects containing the following shall provide a survey identifying the species and locations on a current aerial photograph (1" = 200' or larger scale) or be superimposed on the site plan:
 - a. Plants specified in an applicable PUD or petitioners agreement to remain in place or to be transplanted to other locations on the property.
 - b. Specimen trees designated by the Board of County Commissioners, pursuant to Sec. 3.9.6.7.
 - c. State or federal rare, threatened or endangered plant species surveyed according to accepted Florida Game and Fresh Water Fish Commission or U.S. Fish and Wildlife methods.
 - d. Existing trees that may be credited toward the development's landscaping.
4. For proposed site alteration(s) within the coastal zone as depicted on the Future Land Use Map, in addition to the foregoing requirements, the vegetation inventory shall depict the categories of impact in accordance with Sec. 3.12.5.1.

SEC. 3.5.3 APPLICABILITY: PERMIT REQUIRED.

It shall be unlawful for any person, association, corporation or other entity to create, attempt to create, or alter an excavation without having obtained a permit therefore, except as provided herein.

~~3.5.3.1 Excavations on undeveloped coastal barriers shall be prohibited, except as specified in Section 3.12.8.3.~~

DIV. 3.10 **SEA TURTLE PROTECTION.**

SEC. 3.10.2 **PURPOSE.** The purpose of this division is to protect the threatened and endangered sea turtles that nest along the beaches of Collier County, Florida, by safeguarding sea turtle hatchlings from sources of artificial light and adult and hatchling sea turtles from injury or harassment. The County shall adhere to State and Federal guidelines for the protection of sea turtles.

SEC. 3.10.3 **NEW DEVELOPMENT.** For new development, construction and building and electrical plans for construction of single family or multi-family dwellings, commercial or other structures including electrical plans associated with parking lots, dune walkovers or other outdoor lighting for real property if there is lighting associated with such construction or development that is within 300 feet of the line of mean high water, or if there are any light sources or any reflective surfaces illuminated by such sources that will be visible from the beach, shall be in compliance with the following:

3.10.3.1 ~~Floodlights shall be prohibited.~~ Wall mounted light fixtures shall be fitted with hoods so that light shall not illuminate the beach. Outdoor lighting shall be held to the minimum necessary for security and safety. Floodlights and landscape or accent lighting shall be prohibited.

3.10.3.2 ~~Pole lighting shall be shielded in such a way that no light illuminates the beach.~~ Outdoor lighting within 300 feet of a nesting zone shall be held to the minimum necessary for security, convenience and safety. All lighting including wall mounted fixtures, pole lighting, lights on balconies, and any other type of lighting not specifically referenced by this section, shall be of low intensity and shall be fitted with hoods or positioned so that the light sources or any reflective surfaces illuminated by such sources are not visible from the beach.

3.10.3.3 ~~Low profile luminaries shall be used in parking lots and such lighting shall be fitted with hoods or positioned so that the no light illuminates the beach.~~ Light sources or any reflective surfaces illuminated by such sources are not visible from the beach.

3.10.3.4 ~~Dune crosswalks shall utilize low profile shielded luminaries.~~ Directed and positioned so that light sources or any reflective surfaces illuminated by such sources are not visible from the beach. Dune crossover lighting shall be limited to the area landward of the primary dune.

3.10.3.5 ~~Lights on balconies shall be fitted with hoods so that lights will not illuminate the beach.~~ If high intensity lighting is necessary, low pressure sodium vapor luminaries shall be used and fitted with a hood or positioned so that the light sources or any reflective surfaces illuminated by such sources are not be visible from the beach, between May 01, and October 31st of each year.

3.10.3.6 Plates of tinted or filmed glass are recommended in windows facing the ocean above the first floor of multi-story structures. Plates of tinted glass are required for windows that are visible from the beach. The tinted glass shall be any window or glazing that has an industry approved light transmittance value of 45% or less. Such transmittance shall be limited to the visible spectrum (400 to 700 nanometers) and shall be measured as the percentage of light that is transmitted through the glass, inside to outside.

3.10.3.7 Temporary security lights at construction sites shall not be mounted more than fifteen (15) feet above the ground. Illumination from the lights shall not illuminate the beach. Light sources or any reflective surfaces illuminated by such sources shall not be visible from the beach.

~~SEC. 3.10.4~~ EXEMPTIONS. The provisions of 3.10.3 shall not apply to any structure for which a building permit has been issued by the Collier County Building Department prior to the effective date of this division. ~~However,~~ all other provisions of this division shall be applicable to such structures. Coastal areas that do not have a beach landward of the line of mean high water shall be exempt from the provisions of ~~Sec. 3.10.3.~~

SEC. 3.10.4.5 EXISTING DEVELOPMENT. For existing development, within four months of the effective date of this Division, lighting from existing structures which can be seen from the beach existing structures with any light sources or reflective surfaces illuminated by such sources that are visible from the beach, shall be in compliance with the following:

3.10.54.1 Lights illuminating buildings or associated grounds for decorative or recreational purposes shall be shielded or screened such that they are not visible from the beach, or shall be turned off at 9:30 P.M. between May 1st and October 31st of each year. All lights shall be turned off after 9:00 p.m. between May 1st and October 31st, of each year, or fitted with a hood or positioned so that the light sources or any reflective surfaces illuminated by such sources are not be visible from the beach.

3.10.54.2 Lights illuminating dune crosswalks of any areas seaward of the dune shall be turned off after 9:30 9:00 P.M. between May 1st and October 31st, of each year, or, and must be modified to conform to the requirements for new development in accordance with Sec 3.10.3 of this Division.

3.10.54.3 Security and emergency exit lighting shall be permitted throughout the night so long as the low profile luminaries are used and shielded in such a way that those lights do not illuminate the beach. Security and emergency exit lighting shall follow the same requirements stated in Sec. 3.10.4.1 of this Division. If high intensity lighting is necessary, low pressure sodium vapor luminaries shall be used and fitted with a hood or positioned so that the light sources or any reflective surfaces illuminated by such sources are not be visible from the beach.

3.10.5.4

3.10.4.4

At least one of the following measures shall be taken, where applicable, to reduce or eliminate the negative effects of interior light emanating from doors or windows within line-of-sight of the beach, where lights currently illuminate the beach:

- a. Window treatments in In windows facing the ocean above the first floor of multi-story structures Gulf of Mexico and all inlet shorelines of these beaches, tinted window treatments are required for windows that are visible from the beach so that indoor lights do not illuminate the beach. The tinted glass shall be any window or glazing that has an industry approved light transmittance value of 45% or less. Such transmittance shall be limited to the visible spectrum (400 to 700 nanometers) and shall be measured as the percentage of light that is transmitted through the glass, inside to outside.
- b. Rearrange lamps and other and other movable fixtures away from windows.
- c. Use window treatments, including, but not limited to blinds and curtains, to shield interior lights from the beach.
- d. Turn off unnecessary lights.

SEC. 3.10.56 PUBLICLY OWNED LIGHTING. Street lights and lighting at parks and other publicly owned beach access areas shall be subject to the following: All publicly owned lighting with light sources that are visible from the beach or that illuminate reflective surfaces that are visible from the beach, shall be turned off after 9:00 p.m. between May 1st and October 31st, of each year, or shall be fitted with a hood or positioned so that the light sources or any reflective surfaces illuminated by such sources are not visible from the beach.

3.10.6.1 Street lights shall be located so that the bulk of their illumination will travel away from the beach. These lights shall be equipped with shades or shields that will prevent backlighting and render them not visible from the beach.

3.10.6.2 Lights at parks or other beach access points shall be shielded or shaded or shall not be utilized after 9:30 P.M. between May 1st and October 31, of each year.

SEC. 3.10.67 UNLAWFUL TO KILL, MOLEST, OR INJURE SEA TURTLES. It shall be unlawful for any person to kill, molest, or cause direct or indirect injury to any species of sea turtle in Collier County or within its jurisdictional waters. It shall be unlawful to collect or possess any part of an ~~injured or~~ dead sea turtle.

SEC. 3.10.78 CONSTRUCTION DURING NESTING SEASON. It shall be unlawful to construct any structure, add any fill, mechanically clean any beach, or grade any dirt within 100 feet of the nesting zone of a beach where sea turtles nest or may nest, during the nesting season without obtaining a Construction in

Sea Turtle Nesting Area Permit from the Development Services Director. If sea turtle nesting occurs within 100 yards of the construction measured parallel to the shoreline during permitted construction activities, the nest area will be flagged by the permittee and the Development Services Director informed within 8 hours Natural Resources Director informed prior to 9:00 A.M. of that morning. Depending on nest location in relation to intensive construction activities, the Development Services Director Natural Resources Director may require that the nest(s) be relocated by the applicant pursuant to Sec. 3.10.89.2 and Se. 3.10.89.3.

3.10.7.1 Construction activities shall not interfere with sea turtle nesting, shall preserve or replace any native vegetation on the site, and shall maintain the natural existing beach profile and minimize interference with the natural beach dynamics and function.

3.10.7.2 Construction or repair of any structure, including but not limited to, dune walkovers, seawalls or other revetments, sandbags, groins or jetties shall not be permitted during sea turtle nesting season on any Collier County beaches.

SEC. 3.10.9 PERMITS AND FEES.

3.10.9.3 Nest Relocation. If the Development Services Director Natural Resources Director or his or her designee finds it necessary for a nest to be relocated away from a construction area, then only the Development Services Director or Natural Resources Director or his or her designee or an individual possessing a Turtle Handling Permit shall move the nest. If the Development Services Director Natural Resources Director or his or her designee who possess a Florida Marine Turtle permit, moves a sea turtle nest the cost shall be \$100.00 to the landowner. A nest that is more than 12 hours old shall not be relocated under any circumstances.

DIV. 3.12 COASTAL ZONE MANAGEMENT.

SEC. 3.12.2 PURPOSE. The purpose of this division is to manage and conserve the habitats, and species, natural shoreline, and dune systems in the Collier County Coastal Zone as defined in the Collier County Growth Management Plan and Div. 6.3 herein through the identification, protection, conservation, and appropriate use of native vegetative communities and wildlife habitats.

SEC. 3.12.3 NEW AND EXISTING DEVELOPMENT. New and existing development in the coastal zone shall be in compliance with the goals, objectives and policies of the Conservation and Coastal Management Element (CCME) of the Collier County Growth Management Plan (GMP) and with these land development regulations until the formal adoption by Collier County of all land development regulations, ordinances, policies and programs which implement the Coastal Zone Management Plan-1991, as adopted by the Board of County Commissioners and as prescribed by Policies 1.3.2, 2.5.1, 2.5.3, 6.1.2, 11.6.1, 11.6.2, 11.6.3, 11.6.4 of the Conservation and Coastal Management Element of the Collier County Growth Management Plan.

SEC. 3.12.4 APPLICABILITY. For all new and existing development and construction pursuant to Division 3.2 and 3.3 and the building code of Collier County.

SEC. 3.12.5 DEVELOPMENT STANDARDS AND REGULATIONS. In addition to these coastal zone regulations all land development activities on shorelines, and/or undeveloped and developed coastal barriers, shall comply with Collier County environmental land development regulations, including, but not limited to: Sec. 2.2.24 Special Treatment Overlay District (ST); Div. 3.7 Soil Erosion Control; Div. 3.8 Environmental Impact Statements (EIS); Div. 3.9 Vegetation Removal, Protection and Preservation; Div. 3.10 Sea Turtle Protection; Div. 3.11 Endangered, Threatened or Listed Species Protection; Div. 3.13 Coastal Construction Setback Line Variance; Div. 3.14 Vehicle on the Beach Regulation.

3.12.5.1 Siting Criteria and Process. Any proposed structure or site alteration on a shoreline shall be located within the boundaries of the subject parcel with the most impacted coastal habitats existing on the subject parcel receiving the highest priority for siting of the proposed structure or site alteration. The following categories of impacts, A. through G. shall be used to determine the priority for location of development or site alteration:

A. Areas presently developed

B. Disturbed uplands

C. Disturbed freshwater wetlands

D. Disturbed brackish water and marine wetlands

E. Viable unaltered uplands

F. Viable unaltered freshwater wetlands

G. Viable unaltered brackish water and marine wetlands.

3.12.5.1.1 ~~Where, if "A. Areas presently developed" exists on the subject parcel, it shall be the preferred site for the proposed structure or site alteration. Where, if "A" is not present, and "B. Disturbed uplands" exists on the subject parcel, "B" shall be the preferred site for development or site alteration. This siting process shall continue in the same manner through "G.", until a specific area is identified as an appropriate location for the proposed structure or site alteration on the subject parcel.~~

In the event that the proposed development or site alteration requires a larger area than is available in the highest category of impacted habitat, then any adjoining land in the next highest category of impacted habitat shall, in addition, be allocated for location of the proposed development or site alteration. Where there is a mixture of categories of impacted habitat and it is not possible to follow the procedure noted above, the proposed development or site alteration shall be planned to maximize the use of land for development in the highest ranked categories and to minimize the use of land in the lowest ranked categories. The burden of proof shall be on the petitioner, that a higher ranked category of impacted habitat is not feasible siting the proposed development or site alteration.

3.12.5.1.2 ~~If the proposed development is determined to be a subdivision, as defined in Div. 6.3, the categories of impacts, A through G, shall be conceptually illustrated on the required preliminary subdivision plat and completely detailed on the final subdivision improvement plans, with any required protected/preserve areas illustrated on the final subdivision plat, in accordance with the provisions of Div. 3.2. If the proposed development does not constitute a subdivision, the categories of impact, A through G, shall be illustrated on a site development plan for any form of development, including single family or duplex residential structures in accordance with the provision of Div. 3.3.~~

3.12.5.2 ~~Review by Environmental Advisory Board. All preliminary subdivision plat and/or site development plan submissions for development or site alteration on a shoreline and/or undeveloped coastal barrier shall be reviewed and a recommendation shall be made for approval, approval with conditions or denial by the Environmental Advisory Board.~~

3.12.5.2.1 ~~An applicant aggrieved by action of the Environmental Advisory Board may appeal to the Board of Zoning Appeals. Said appeal shall be in accordance with the procedure and standards of Sec. 1.6.6 for appeal of written interpretations.~~

3.12.5.3 ~~SEA LEVEL RISE. An analysis shall be required demonstrating the impact of a six inch rise in sea level above NGVD for development projects on a shoreline. This requirement shall be met by inclusion of this analysis in an environmental impact statement (EIS). This requirement shall be waived when an EIS is not required.~~

This analysis shall demonstrate that the development will remain fully functional for its intended use after a six inch rise in sea level. In the event that the petitioner cannot meet this requirement a list shall be provided by the petitioner of the changes necessary in order for the development to meet the standard.

3.12.5.4 NATIVE VEGETATION RETENTION ON COASTAL BARRIERS. Native vegetation retention or revegetation shall be in compliance with the requirements of Div. 3.9 and shall incorporate at a minimum the preservation and revegetation standards as follows:

3.12.5.4.1 Native vegetation shall be preserved to the maximum extent possible. To the extent that native vegetation cannot be retained on site and the remaining native vegetation can be supplemented without degrading or damaging its natural function, then the existing native vegetation shall be supplemented with compatible vegetation on site.

3.12.5.4.2 All beachfront land development projects shall be required to revegetate the dune where the dune is devoid of coastal dune vegetation.

3.12.5.4.3 All land development projects shall provide 100% native southern Floridian species within their required landscaping and buffering standards as established within Division 2.4.

3.12.5.4.4 Appropriate coastal dune or strand vegetation shall be required as the only stabilizing medium in any coastal barrier dune or strand vegetation restoration program.

SEC. 3.12.6 UNDEVELOPED COASTAL BARRIERS. In addition to the regulations contained in Sec. 3.12.5, the following standards shall apply to any proposed structure or site alteration within all undeveloped coastal barriers.

3.12.6.1 Density. The County shall not approve any plan of development of an undeveloped coastal barrier which would exceed a density of one structure per five acres of fastland, either individually or in combination with adjacent developments.

3.12.6.2. Prohibitions. The following land development activities shall be prohibited:

1. Bridges and causeways to or on undeveloped coastal barrier islands;
2. paved roads;
3. commercial marinas;
4. shore hardening structures.

3.12.6.3 Filling and Excavation. Filling and excavation are prohibited on undeveloped coastal barriers except as follows:

1. When part of a dune or beach restoration program as permitted by governmental agencies having jurisdiction.
2. When part of a Wastewater treatment system as permitted by governmental agencies having jurisdiction.
3. When part of a Public Development Plan as permitted by governmental agencies having jurisdiction.

SEC. 3.12.7 PERMITS REQUIRED. No applicable County permit shall be issued by the Community Development Administrator or his designee, for any development project which impacts wetlands and/or waters of the coastal zone, until the appropriate state or federal permit(s) have been issued, including, for example, permits from U.S. Army Corps of Engineers, Florida Department of Environmental Regulation, and South Florida Water Management District, and provided to the Collier county Project Plan Review Environmental staff.

SEC. 3.12.8 UNDEVELOPED COASTAL BARRIERS. In addition to the regulations contained in Sec. 3.12.5, the following standards shall apply to any proposed structure or site alteration within all undeveloped coastal barriers.

3.12.8.1 Density. The County shall not approve any plan of development of an undeveloped coastal barrier which would exceed a density of one structure per five acres of fastland, except for legal non conforming lots of record, either individually or in combination with adjacent developments.

3.12.8.2 Prohibitions. The following land development activities shall be prohibited:

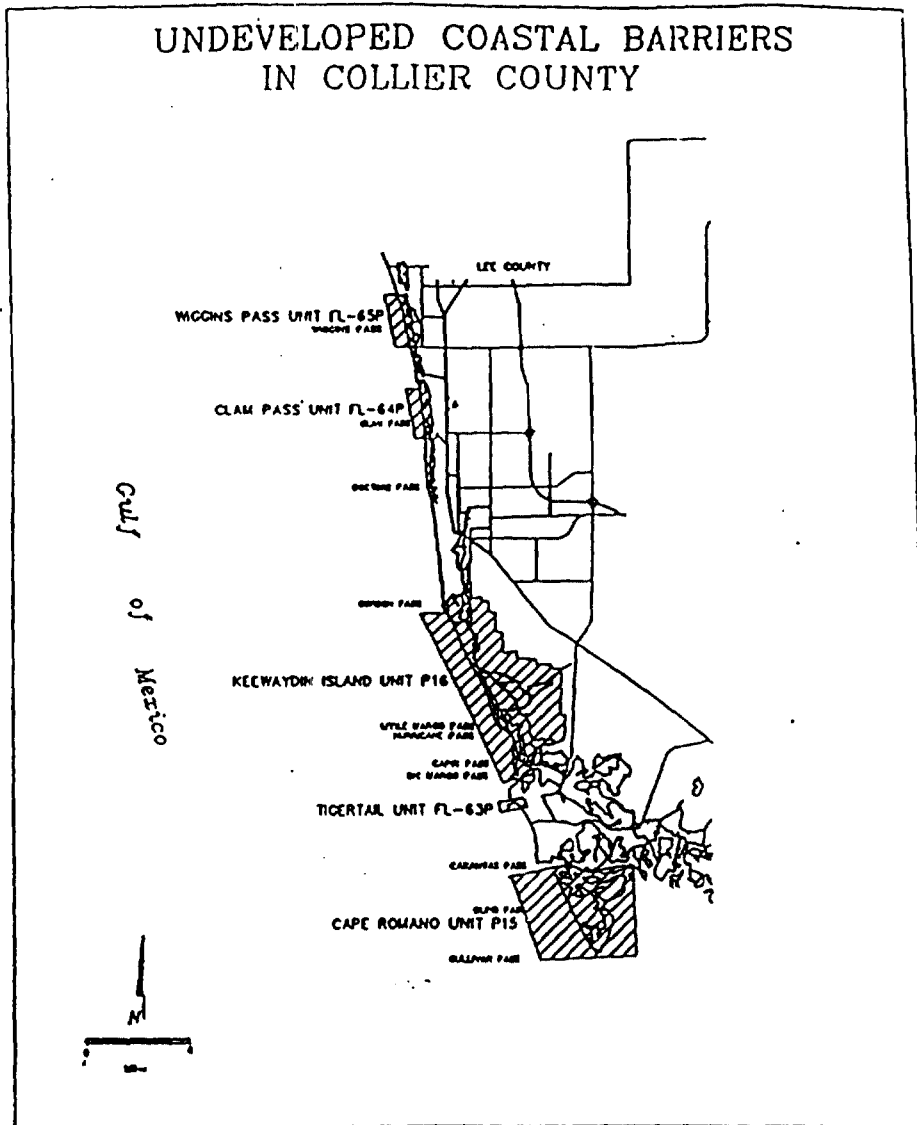
1. Bridges and causeways to or on undeveloped coastal barrier islands;
2. paved roads;
3. commercial marinas;
4. shore and hardening structures.

3.12.8.3 Filling and Excavation. Filling and excavation are prohibited on undeveloped coastal barriers except as follows:

1. When part of a dune or beach restoration program as permitted by governmental agencies having jurisdiction.
2. When part of a wastewater treatment system as permitted by governmental agencies having jurisdiction.
3. When part of a public development plan as permitted by governmental agencies having jurisdiction.

SEC. 3.12.9 EXEMPTIONS. The provisions of this section shall not be applicable to any development, structure or site alteration for which a building permit has been issued or final site development plan approval granted prior to the effective date of this Division as amended by the first LDC amendment cycle of the 1993 calendar year.

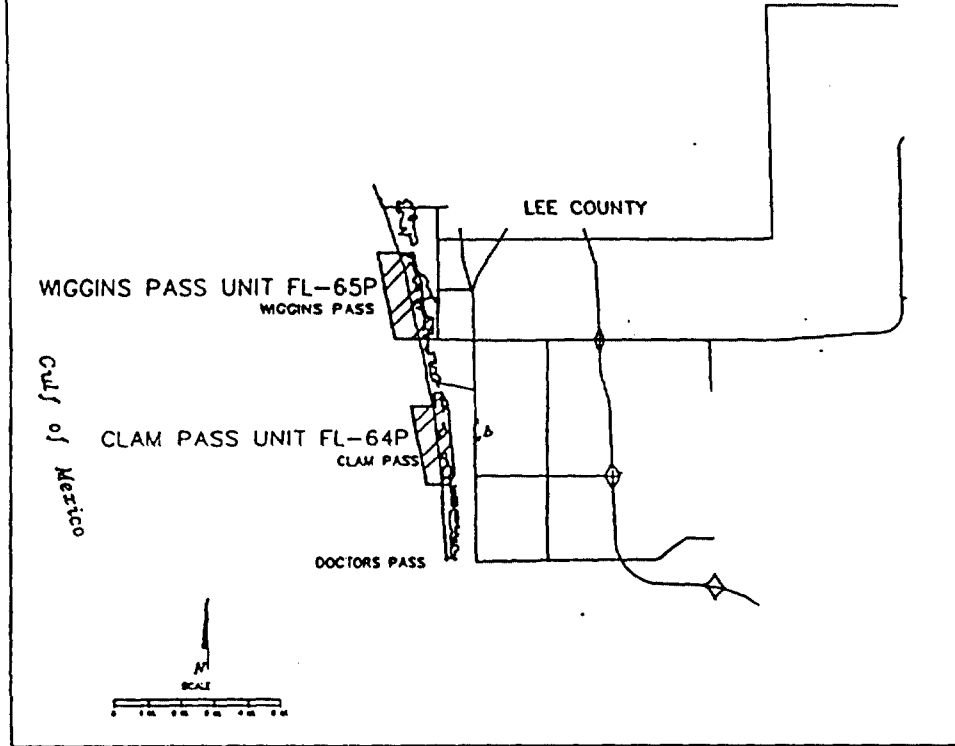
UNDEVELOPED COASTAL BARRIERS IN COLLIER COUNTY



3-142A

UNDEVELOPED COASTAL BARRIERS
OF COLLIER COUNTY

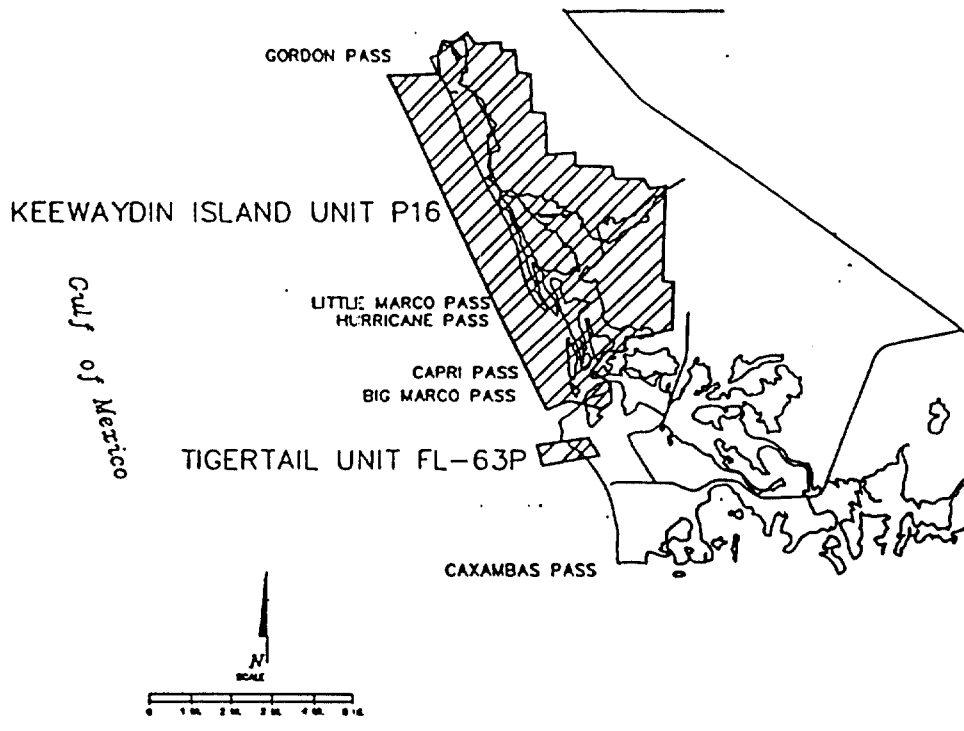
WIGGINS PASS UNIT FL-65P
CLAM PASS UNIT FL-64P



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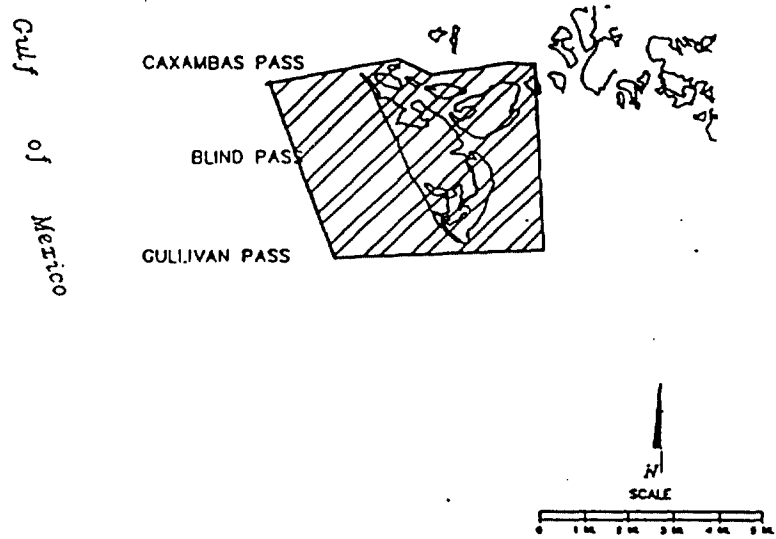
UNDEVELOPED COASTAL BARRIERS
OF COLLIER COUNTY

KEEWAYDIN ISLAND UNIT P16
TIGERTAIL UNIT FL63P



3-142C

UNDEVELOPED COASTAL BARRIERS
of COLLIER COUNTY
CAPE ROMANO UNIT P-15



3-142D

DIV. 3.14 VEHICLES ON THE BEACH REGULATIONS.

SEC. 3.14.3 EXCEPTIONS; EXEMPTION CERTIFICATE. All exemption certificates to allow operation of vehicles on County beaches shall expire on April 30th, of each year, to coincide with the beginning of sea turtle nesting season. During sea turtle nesting season, May 1st through October 31st, of each year, all exemption certificates shall be subject to Sec. 3.14.6 of this Division.

3.14.3.1 1) Sheriff, City, State and Federal Police and Game and Fish Commission vehicles operated or authorized by officers of these departments operating under orders in the normal course of their duties shall be exempt from the provisions of this division.

3.14.3.2 2) Vehicles which must travel on the beaches in connection with environmental maintenance, conservation, environmental work, and/or for purposes allowed by Collier County Ordinance No. 89-16, providing that the vehicles remain stationary, except to access and egress the beach, shall be exempt from the provisions of this division if an Exemption Certificate has been obtained from the Development Services Director of Collier County, Florida, or his designee, and said Exemption Certificate is prominently displayed on the windshield of such vehicle. The procedure for obtaining such an Exemption Certificate shall be by application to the Development Services Director in writing stating the reason or reasons why it is necessary for such vehicle or vehicles to be operated on the beaches in connection with an environmental maintenance, conservation, environmental purpose and/or for purposes allowed by Collier County Ordinance 89-16, taking into consideration the vehicular use restriction previously stated as a criterion for an exception, and Exemption Certificate for such vehicle or vehicles shall be issued by the Development Services Director if the Development Services Director is satisfied that a lawful and proper environmental maintenance, conservation, environmental purpose and/or purpose as described above and allowed by Collier County Ordinance No. 89-16 will be served thereby.

3.14.3.3 3) Baby buggies (perambulators), toy vehicles, toy wagons, wheelchairs or similar devices to aid disabled or non-ambulatory persons shall be exempt from the provisions of this division.

SEC. 3.14.4 PERMIT FOR CONSTRUCTION.

Prior to beginning construction in proximity to a sand dune for any purpose whatsoever, including conservation, a temporary protective fence shall be installed a minimum of ten (10) feet landward of the dune. It shall be unlawful to cause or allow construction and related activity seaward of such fence. Each permit for work shall clearly indicate the provisions of this Code and the protective measures to be taken and shall be subject to the provisions of Section 3.14.6 of this division.

3.14.5 BEACH RAKING AND MECHANICAL BEACH CLEANING

- 3.14.5.1 Beach raking and mechanical beach cleaning shall be prohibited on undeveloped coastal barriers.
- 3.14.5.2 Beach raking and mechanical beach cleaning shall be subject to the provisions of Sec. 3.14.6 of this division.
- 3.14.5.3 Beach Raking and mechanical beach cleaning shall not interfere with sea turtle nesting, shall preserve or replace any native vegetation on the site, and shall maintain the natural existing beach profile and minimize interference with the natural beach dynamics and function.
- 3.14.5.4 Beach raking and mechanical beach cleaning devices shall not disturb or penetrate beach sediments by more than the minimum depth necessary, not to exceed one inch, in order to avoid a potential increase in the rate of erosion. In cases where the one inch depth is not sufficient, a maximum depth of two inches, as allowed by the Department of Natural Resources, will be permitted where approved in writing by the Development Services Director.
- 3.14.5.5 Heavy equipment shall not be used to conduct beach raking and mechanical beach cleaning. Light-weight vehicles having wide, low profile, low-pressure tires shall be used to conduct beach raking and mechanical beach cleaning operations.

SEC. 3.14.6 OPERATION OF VEHICLES ON THE BEACH DURING MARINE TURTLE NESTING SEASON. The operation of motorized vehicles, including but not limited to, any self-propelled, wheeled, tracked, or belted conveyance, shall be prohibited on coastal beaches above mean high water during sea turtle nesting season, May 1st to October 31st, of each year, except in cases of law enforcement, emergency, or conservation of sea turtles.

- 3.14.6.1 Beach raking and mechanical beach cleaning during sea turtle nesting season, May 1st to October 31st, of each year, shall be confined to the area of beach below mean high water or previous high tide mark and only where a State certified sea turtle monitoring program is in place and shall be performed only after daily sea turtle monitoring has been conducted by a State certified sea turtle permit holder.

DIV. 5.2 PLANNING COMMISSION.

SEC. 5.2.3 COMMISSION MEMBERSHIP.

5.2.3.4 Reappointments. All reappointments to the Planning Commission shall be made so as to achieve the following geographical distribution of membership:

One member - County Commission District No. 4
~~(City of Naples)~~

Two members - County Commission District No. 1
~~(Marco and East Naples)~~

Two members - County Commission District No. 2
~~(North Naples)~~

Two members - County Commission District No. 3
~~(Golden Gate)~~

Two members - County Commission District No. 5
~~(Immokalee)~~ (one from Immokalee)

DIV. 5.3 BOARD OF ZONING APPEALS.

SEC. 5.3.2 POWERS AND DUTIES.

5.3.2.2 To hear, review and approve, approve with conditions, or deny appeals from ~~administrative decisions or~~ interpretations made by the Development Services Director or the Long Range Planning Director or administrative decisions pertaining to the Growth Management Plan, the Future Land Use Map, the Land Development Code, or the Official Zoning Atlas by the Development Services Director or the Long Range Planning Director or their designees.

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DIV. 6.3 DEFINITIONS.

Acceptable monitor means any person that is acceptable to monitor alteration or trimming of mangroves under Florida Department of Natural Resources standards.

"Alter" or "Alteration" means to cut, remove, defoliate, or otherwise destroy mangroves.

Coastal Barriers means barrier islands, spits, peninsulas, or similar land-forms, including the Gulf of Mexico, or Straits of Florida which separate estuaries or harbors from the open waters of the Atlantic Ocean, Gulf of Mexico, or Straits of Florida. Rule 9J-5.003(12), F.A.C.

Coastal Zone means all land and territorial waters west of SLOSH zone 1 line (approximately U.S. 41, for most of the County) including water and submerged lands of oceanic water bodies or estuarine water bodies; shorelines adjacent to oceanic waters or estuaries; coastal barriers; living marine resources; marine wetlands water-dependent facilities or water-related facilities on oceanic or estuarine waters; or public access facilities to oceanic beaches or estuarine shorelines; and all lands adjacent to such occurrences where development activities would impact the integrity or quality of the above.

Developed Coastal Barrier shall mean any coastal barrier that is not an undeveloped coastal barrier as defined herein.

Development: Has the meaning given it in Sec. 380.04(1), Fla. Stat. [SEE DIV. 3.15]

Environmentally sensitive area means unique uplands, wetlands, and any natural area which would be adversely impacted by development.

Fastland means that portion of a coastal island above the upper limit of tidal wetland vegetation, or, if such vegetation is not present, that portion of the island above the mean high water line. This area does not include interior wetlands.

Mangrove or mangrove trees shall be defined as any of the following species: red mangrove (Rhizophora mangle), black mangrove (Avicennia germinans), white mangrove (Laguncularia racemosa), and buttonwood (Conocarpus erectus) (reference CCME definition #260, Wetlands).

Seagrass or Seagrass Bed Any intertidal or submerged estuarine or marine habitat that is or could be expected to be at least 20% covered during the growing season by any combination of the following plants: turtle grass (Thalassia testudinum), manatee grass (Syringodium filiforme), shoal grass (Halodule wrightii), widgeon grass (Ruppia maritima), and any species of Halophila.

Trimming means selective pruning of mangrove limbs smaller than one inch in diameter or three inches in circumference that does not prevent the tree from growing, flowering, or developing propagules, however, roots, including prop roots and pneumatophores may not be disturbed and chemical defoliants are not allowed.

Undeveloped Coastal Barrier shall mean:

1. Coastal barriers which contain less than one manmade structure per 5 acres of fastland, and human activities have

not significantly affected natural geomorphic and ecological processes, allowing the area to function naturally, and provided that the ocean side of the barrier island is at least 1/4 mile long, including.

2. For the purposes of Div. 3.12, undeveloped coastal barriers include those areas depicted on the maps produced by the United States Fish and Wildlife Services (USFWS) pursuant to the Coastal Barrier Improvement Act, PL101-591, which supersedes all previous maps prepared by the USFWS, and shown in this Division.

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STATE OF FLORIDA)

COUNTY OF COLLIER)

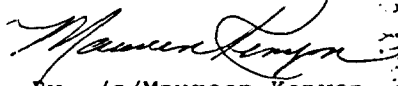
I, DWIGHT E. BROCK, Clerk of Courts in and for the Twentieth Judicial Circuit, Collier County, Florida, do hereby certify that the foregoing is a true copy of:

Ordinance No. 93-37

which was adopted by the Board of County Commissioners on the 29th day of June, 1993, during Special Session.

WITNESS my hand and the official seal of the Board of County Commissioners of Collier County, Florida, this 2nd day of July, 1993.

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


By: /s/Maureen Kenyon
Deputy Clerk

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