



AN EMERGENCY ORDINANCE AMENDING ORDINANCE NO. 91-102, AS AMENDED, THE COLLIER COUNTY LAND DEVELOPMENT CODE, BY PROVIDING FOR SECTION ONE: AMENDMENTS TO SUBSECTION 2.2.24.10, TRANSFER OF DEVELOPMENT RIGHTS; SECTION TWO: AMENDMENTS TO SUBSECTION 2.2.24.11, PROCEDURE FOR OBTAINING TRANSFER OF DEVELOPMENT RIGHTS; SECTION THREE: AMENDMENTS TO SUBSECTION 2.2.24.12, TIME LIMITATIONS ON DEVELOPMENT SERVICES DIRECTOR'S APPROVAL OF TRANSFER OF RESIDENTIAL DEVELOPMENT RIGHTS OR AUTHORIZATION TO PROCEED WITH THE PROCESSING OF A BUILDING CONSTRUCTION PERMIT; SECTION FOUR: AMENDMENTS TO SUBSECTION 2.2.24.13, SEQUENTIAL USE OF RESIDENTIAL UNITS APPROVED FOR TRANSFER BY THE DEVELOPMENT SERVICES DIRECTOR; SECTION FIVE: CONFLICT AND SEVERABILITY; SECTION SIX: INCLUSION IN THE COLLIER COUNTY LAND DEVELOPMENT CODE; SECTION SEVEN: DECLARATION OF EMERGENCY PURSUANT TO SEC. 125.66(3), *FLORIDA STATUTES*; SECTION EIGHT: EFFECTIVE DATE.

SECRETARY OF STATE

JUL 1 2 22 PM '89

FILED

WHEREAS, Collier County, pursuant to Sec. 163.3161, *et seq.*, *Florida Statutes*, the Florida Local Government Comprehensive Planning and Land Development Regulation Act (hereinafter the "Act"), is required to prepare and adopt a comprehensive plan; and

WHEREAS, 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 Act; and

WHEREAS, after adoption of the comprehensive plan, the Act and in particular Sec. 163.3202(1), *Florida Statutes*, mandates that Collier County adopt

land development regulations that are consistent with and implement the adopted comprehensive plan; and

WHEREAS, Collier County adopted its Land Development Code containing its land development regulations, on October 30, 1991; and

WHEREAS, subsection 125.066(3), *Florida Statutes*, provides an emergency procedure for the enactment or amendment of ordinances except for those ordinances which establish or amend the actual zoning map designation of a parcel or parcels of land or change the actual list of permitted, conditional or prohibited uses within a zoning category; and

WHEREAS, the amendments to subsections 2.2.24.10, 2.2.24.11, 2.2.24.12 and 2.2.24.13, dealing with transfers of development rights of Ordinance 91-102, as amended, the Collier County Land Development Code, neither amend the actual zoning map designation of any parcel or parcels of land nor change the actual list of permitted, conditional or prohibited uses; and

WHEREAS, the Board of County Commissioners at its June 11, 1996 and June 25, 1996 regularly scheduled meetings declared that an emergency exists by virtue of a property owner's ability to transfer density from properties already severely restricted for development purposes to higher density properties in the urban area of the County and that such could be accomplished without the Board's approval pursuant to subsection 2.2.24.10.4 of the Land Development Code and that immediate enactment of an amendment to said subsection of the Land Development Code is required to alleviate the condition of emergency of unchecked increases in density in the urban areas of the County that are subject to flooding and other hazards associated with hurricanes and tropical storms as well as the negative impact to quality of life associated with such increased densities; and

WHEREAS, by four-fifths vote, the Board of County Commissioners waived the notice requirements of subsection 125.066(2), *Florida Statutes*, and directed its Planning Staff to prepare the appropriate amendments to the Land Development Code; and

WHEREAS, Planning Staff has prepared the necessary amendments to alleviate the emergency condition.

WHEREAS, subsection 1.19.1.3 of the Collier County Land Development Code provides that in the case of an emergency the additional code amendment must receive unanimous approval by the Board of County Commissioners; and

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

**SECTION ONE: Amendments to Subsection 2.2.24.10, Transfer of Development Rights.**

Subsection 2.2.24.10, "Transfer of Development rights," of Ordinance No. 91-102, as amended, the Collier County Land Development Code is hereby amended to read as follows:

2.2.24.10 Transfer of development rights. An owner of land designated as ST may elect to transfer some or all of the residential development rights of his ST land to non-ST property, as provided herein, as an alternative to the development of the ST lands in conformity with the ST regulations.

2.2.24.10.1. The development rights shall be considered as interests in real property and be transferred in portions or as a total as provided in this section. Once used, the residential development rights shall not be used again and the residential development rights of the subject ST lands providing them shall be considered severed forever.

2.2.24.10.2. The transfer of development rights to be used for non-ST land shall be from ST designated land to non-ST land and shall be subject to all of the requirements of the basic zoning district to which they are transferred unless specifically approved otherwise as provided by law.

2.2.24.10.3. The minimum area of ST land eligible for the transfer of development rights shall be 0.5 acres of land, excluding submerged land.

2.2.24.10.4. Upon the approval of the transfer of residential development rights for an ST land by the ~~development services director,~~ Board of County

Commissioners, the property owner of the ST land shall dedicate in fee simple the land to the County or a State or federal agency; however, the lands may be dedicated in fee simple to a private, not-for-profit conservation or environmental organization in accordance with F.S. §704.06, as amended, with the approval of the ~~development services director~~, Board of County Commissioners.

2.2.24.10.5. The maximum number of residential units which may be ~~transferred~~ requested for transfer from ST land to non-ST land shall be compiled on the basis of ~~each acre of ST land at the following rate: 0.5 of a residential unit for each one acre of ST land.~~ the permitted density pursuant to the underlying zoning category of the ST land.

2.2.24.10.6. Maximum number of residential units which eligible non-ST lands may receive:

1. Non-ST lands in RMF-6, RMF-12 ~~and~~ RMF-16, and RT zoning districts are eligible to receive residential development units provided that the maximum number of residential units which may be transferred to the non-ST land does not exceed ~~20~~ 10 percent of the maximum number of residential units permitted under the basic zoning of the RMF-6 and RMF-12 district or ~~ten~~ 5 percent of the maximum number of residential units permitted under the basic zoning of the RMF-16 and RT district as the case may be. For the purpose of determining the number of residential units which non-ST land is capable or receiving, the following formula shall apply:

RMF-6 district, up to including six units per acre:

$$6 \text{ units} \times ~~20~~ 10 \% = ~~1.20~~ .6 \text{ units per acre}$$

RMF-12 district, seven to and including 12 units per acre:

$$12 \text{ units} \times ~~20~~ 10 \% = ~~2.40~~ 1.20 \text{ units per acre}$$

RMF-16 district:

$$16 \text{ units} \times ~~10~~ 5 \% = ~~1.60~~ .80 \text{ units per acre}$$

RT district:

$$16 \text{ units} \times ~~10~~ 5 \% = ~~1.60~~ .80 \text{ units per acre}$$

$$26 \text{ units} \times ~~10~~ 5 \% = ~~2.60~~ 1.30 \text{ units per acre}$$

2. For the purpose of calculating the final fractional residential unit of the total number of residential units eligible for transfer to a non-ST property, the following shall apply: Any fractional residential unit shall be converted upward if one-half or more of a whole unit, or downward if less than one-half of a whole unit, to the nearest whole unit value.

**SECTION TWO: Amendments to Subsection 2.2.24.11, Procedure for Obtaining Transfer of Residential Development Rights.**

Subsection 2.2.24.11, "Procedure for Obtaining Transfer of Residential Development Rights" of Ordinance No. 91-102, as amended, the Collier County Land Development Code is hereby amended to read as follows:

2.2.24.11. Procedure for obtaining transfer of residential development rights. Any owner of ST land may apply for a transfer of development rights either separately or concurrently with rezoning, zoning ordinance amendments, preliminary subdivision plat or development plan. Prior to the approval of any transfer of development rights or the issuance of any building permits in connection with the use of any transfer of development rights, the petitioner shall submit the following information and data, as applicable to the petition, to the development services director for his review and subsequent action by the Board of County Commissioners.

1. Name and address of ST property owner.
2. Name and address of non-ST property owner.
3. Legal description of ST land from which transfer of residential development rights is petitioned.
4. Survey of ST property from which transfer of residential development rights is requested.
5. Legal description of non-ST land which receives the transfer of residential development rights.
6. Survey of the non-ST land which receives the transfer of residential development rights.
7. Three copies of an executed deed of transfer of ownership of the ST property to the County or a State or federal agency; however, the lands may be dedicated in fee simple to a private, not-for-profit conservation or environmental

organization in accordance with F.S., §704.06, as amended, with the approval of the ~~development services director~~ Board of County Commissioners in a form approved by the County Attorney.

8. The ST owner shall provide a guarantee, agreeable to and approved by ordinance of the Board of County Commissioners, that the ST land will be forever retained in its natural condition and will never be developed in any manner whatsoever by anyone. For the purpose of this requirement, natural conditions shall include minor nature-related improvements such as nature paths, boardwalks, outdoor educational learning areas, and removal of exotic vegetation. Such a guarantee shall be recorded with the Clerk of Circuit Court of Collier County, Florida as a recorded restriction of the use of such land and shall be binding to upon all present and subsequent owners, heirs, or assigns of such property. Such restrictions may not be amended, deleted or otherwise altered.

**SECTION THREE: Amendments to Subsection 2.2.24.12, Time Limitations on Development Services Director's Approval of Transfer of Residential Development Rights or Authorization to Proceed with Processing of a Building Construction Permit.**

Subsection 2.2.24.12, "Time Limitations on Development Services Director's Approval of Transfer of Residential Development Rights or Authorization to Proceed with Processing of a Building Construction Permit" of Ordinance No. 91-102, as amended, the Collier County Land Development Code is hereby amended to read as follows:

2.2.24.12 Time limitations on ~~development services director's~~ Board of County Commissioners' approval of transfer of residential development rights or authorization to proceed with the processing of a building construction permit. The ~~development services director's~~ Board of County Commissioners' approval of a transfer of residential development rights or the development services director's authorization to proceed with the processing of a building or construction permit shall be valid so long as such approval is permitted by law. The failure to act on the part of the petitioner to exercise the transfer of residential development rights or obtain and exercise an authorized building or construction permit within the time

period provided by law shall automatically terminate such approval and the County shall be held harmless for any damages arising out of petitioner's failure to act.

**SECTION FOUR: Amendments to Subsection 2.2.24.13, Sequential Use of Residential Units Approved for Transfer by the Development Services Director.**

Subsection 2.2.24.13, "Sequential Use of Residential Units Approved for Transfer by the Development Services Director," of Ordinance No. 91-102, as amended, the Collier County Land Development Code is hereby amended to read as follows:

2.2.24.13 Sequential use of residential units approved for transfer by the ~~development services director~~ Board of County Commissioners. Upon the issuance of any permit for the construction of residential unit(s) upon a non-ST receiving land, the first residential units built thereon shall be considered to be the residential units approved for transfer by the ~~development services director~~ Board of County Commissioners for transfer, and the succeeding residential units constructed shall be considered the residential units permitted under the basic zoning district regulations.

**SECTION FIVE: Conflict and Severability.**

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 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 SIX: Inclusion in the Collier County Land Development Code.**

The provisions of this Ordinance shall become and be made a part of the Collier County Land Development Code. The sections of the Ordinance may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

**SECTION SEVEN: Declaration of Emergency.**

This Board does hereby declare that an emergency exists and that immediate enactment of this Ordinance is necessary, and by no less than four-fifths (4/5ths) vote of the membership of the Board does hereby waive notice of intent to consider this Ordinance.

**SECTION EIGHT: Effective Date.**

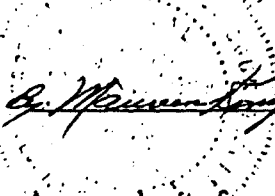
A certified copy of this Ordinance, as enacted, shall be filed by the Clerk to the Board with the Department of State of the State of Florida, as soon after enactment as is practicable by depositing the same with the postal authorities of the government of the United States for special delivery by registered mail, postage prepaid, to the Florida Department of State.

This Ordinance shall become effective as provided in §125.66(3), *Florida Statutes*.

**PASSED AND DULY ADOPTED** by the Board of County Commissioners of Collier County, Florida, this 25 day of June, 1996.

ATTEST:  
DWIGHT BROCK, CLERK

BOARD OF COUNTY COMMISSIONERS  
COLLIER COUNTY, FLORIDA



*D. M. Student*  
D. C.

By:   
JOHN C. NORRIS, CHAIRMAN

Approved as to form and  
legal sufficiency:

*Marjorie M. Student*  
Marjorie M. Student  
Assistant County Attorney

This ordinance filed with the  
Secretary of State's Office the  
1st day of July, 1996  
and acknowledgement of that  
filing received this 5th day  
of July, 1996  
By: *Collier*  
Deputy Clerk

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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. 96-37

Which was adopted by the Board of County Commissioners via Emergency Procedures on the 25th day of June, 1996, during Regular Session.

WITNESS my hand and the official seal of the Board of County Commissioners of Collier County, Florida, this 26th day of June, 1996.

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

  
By: Maureen Kenyon  
Deputy Clerk

