

ORDINANCE NO. 20 - 20

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, TO INCREASE THE SEATING LIMITATIONS TO A MAXIMUM OF 200 SEATS AND EXTEND THE HOURS OF OPERATION FOR RESTAURANTS WITHIN THE GOLF COURSE AND RECREATIONAL USE DISTRICT (GC) WHEN LOCATED WITHIN THE GOLDEN GATE CITY ECONOMIC DEVELOPMENT ZONE, 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 TWO - ZONING DISTRICTS AND USES, INCLUDING SECTION 2.03.09 OPEN SPACE ZONING DISTRICTS; SECTION FOUR, CONFLICT AND SEVERABILITY; SECTION FIVE, INCLUSION IN THE COLLIER COUNTY LAND DEVELOPMENT CODE; AND SECTION SIX, EFFECTIVE DATE. [20190002545]

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WHEREAS, the Collier County Board of County Commissioners (Board) on June 22, 2004, adopted Ordinance No. 04-41, which repealed and superseded Ordinance No. 91-102, as amended, the Collier County Land Development Code, which had an effective date of October 18, 2004; and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 December 3, 2019, and June 16, 2020, and

reviewed the proposed amendments for consistency with the Comprehensive Plan and recommends approval; and

WHEREAS, the Board of County Commissioners, in a manner prescribed by law, did hold advertised public hearings on December 10, 2019, and July 14, 2020, 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 shall be consistent with such comprehensive plan or element as adopted.

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, 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

* * * * *

SUBSECTION 3.A. AMENDMENTS TO SECTION 2.03.09 OPEN SPACE ZONING DISTRICTS

Section 2.03.09, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

Section 2.03.09 Open Space Zoning Districts

A. Golf Course and Recreational Use District "GC". The purpose and intent of "GC" district is to provide lands for golf courses, recreational uses, and normal accessory uses, including certain uses of a commercial nature. Recreational uses should be compatible in scale and manner with residential land uses. The GC district shall be in accordance with the urban mixed use district and the agricultural/rural mixed use district of the future land use element of the Collier County GMP. All uses shall be subject to design standards established in LDC section 5.05.15 H, and other applicable LDC standards.

1. The following subsections identify the uses that are permissible by right and the uses that are allowable as accessory or conditional uses in the GC district.

a. Permitted uses.

1. Golf courses.
2. Hiking trails, walkways, multi-use paths and observation decks.
3. Passive recreation areas.
4. Disc golf.

b. Accessory uses.

1. Uses and structures that are accessory and incidental to uses permitted as of right in the GC district.
2. Recreational facilities that serve as an integral part of a golf course use, including but not limited to clubhouse, community center building, practice driving range, shuffleboard courts, swimming pools and tennis facilities, snack shops and restrooms.
3. Pro shops with equipment sales, no greater than 1,000 square feet, associated with a golf course.
4. Restaurants, associated with a golf course, with a seating capacity of 150 seats or less, provided that the hours of operation are no later than 10:00 p.m. However, the seating capacity shall be limited to 200 seats, and the hours of operation may be extended to 12:00 a.m., within the Golden Gate City Economic Development Zone.
5. A maximum of two residential dwellings units for use by golf course employees in conjunction with the operation of the golf course.
6. Maintenance buildings.

c. Conditional uses. The following uses are permissible as conditional uses in the GC district, subject to the standards and provisions established in LDC section 10.08.00.

1. Commercial establishments oriented to the golf course including gift shops; pro shops with equipment sales in excess of 1,000 square feet; restaurants with seating capacity of greater than 150 seats outside the Golden Gate City Economic Development Zone; cocktail lounges, and similar uses, primarily intended to serve patrons of the golf course.
2. Cemeteries and memorial gardens.
3. Equestrian facilities, including any trails, no closer than 500 feet to residential uses.
4. Museums.
5. Water related activities, including non-motorized boating, boat ramps, docks, and fishing piers.
6. Courts, including bocce ball, basketball, handball, pickle ball, tennis, and racquetball.
7. Neighborhood fitness and community centers.

8. Parks and playgrounds.
9. Pools, indoor or outdoor.
10. Botanical gardens.
11. Any other recreational use which is compatible in nature with the foregoing uses as determined by the Hearing Examiner or Board of Zoning Appeals, as applicable.

* * * * *

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

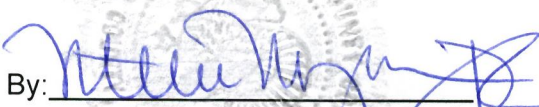
This Ordinance shall become effective upon filing with the Florida Department of State.

Words ~~struck through~~ are deleted, words underlined are added

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida, this 14th day of July, 2020.

ATTEST:
CRYSTAL K. KINZEL, CLERK

BOARD OF COUNTY COMMISSIONERS
OF COLLIER COUNTY, FLORIDA


By: 
Deputy Clerk
Attest as to Chairman's signature only.

By: 
BURT L. SAUNDERS, Chairman

Approved as to form and legality:

 *W/FAC 6-18-20*
Heidi F. Ashton-Cicko
Managing Assistant County Attorney

04-CMD-01077/1829 (6/17/20)

This ordinance filed with the Secretary of State's Office the 21st day of July, 2020 and acknowledgement of that filing received this 21st day of July, 2020
By: 
Deputy Clerk



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

July 21, 2020

Ms. Ann P. Jennejohn, BMR Senior Deputy Clerk
Office of the Clerk of the Circuit Court
& Comptroller of Collier County
3329 Tamiami Trail E, Suite #401
Naples, Florida 34112

Attn: Martha Vergara, BMR & VAB Senior Deputy Clerk

Dear Ms. Jennejohn:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Collier County Ordinance No. 20-20, which was filed in this office on July 21, 2020.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb