



## FLORIDA DEPARTMENT *of* STATE

**RICK SCOTT**  
Governor

**KEN DETZNER**  
Secretary of State

June 27, 2018

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

Attention: Ann Jennejohn

Dear Mr. Brock:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Collier County Ordinance No. 18-32, which was filed in this office on June 27, 2018.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb

ORDINANCE NO. 18 – 32

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 PROVIDE FOR ASSISTED LIVING FACILITIES OR NURSING HOMES TO INCLUDE ADDITIONAL REQUIREMENTS FOR EMERGENCY ENVIRONMENTAL CONTROL PLANS, AND TO ALLOW YARD ENCROACHMENTS AND REDUCED PLANTING AREAS FOR PERMANENT EMERGENCY GENERATORS AT FACILITIES WITH FUEL PUMPS AND ASSISTED LIVING FACILITIES OR NURSING HOMES, BY PROVIDING FOR: SECTION ONE, RECITALS; SECTION TWO, FINDINGS OF FACT; SECTION THREE, ADOPTION OF AMENDMENTS TO THE LAND DEVELOPMENT CODE, MORE SPECIFICALLY AMENDING THE FOLLOWING: CHAPTER FOUR – SITE DESIGN AND DEVELOPMENT STANDARDS, INCLUDING SECTION 4.02.01 DIMENSIONAL STANDARDS FOR PRINCIPAL USES IN BASE ZONING DISTRICTS, SECTION 4.05.04 PARKING SPACE REQUIREMENTS, SECTION 4.06.05 GENERAL LANDSCAPING REQUIREMENTS; CHAPTER FIVE – SUPPLEMENTAL STANDARDS, INCLUDING SECTION 5.05.04 GROUP HOUSING; CHAPTER TEN – APPLICATION, REVIEW, AND DECISION-MAKING PROCEDURES, INCLUDING SECTION 10.02.03 REQUIREMENTS FOR SITE DEVELOPMENT, SITE IMPROVEMENT PLANS AND AMENDMENTS THEREOF; SECTION FOUR, CONFLICT AND SEVERABILITY; SECTION FIVE, INCLUSION IN THE COLLIER COUNTY LAND DEVELOPMENT CODE; AND SECTION SIX, EFFECTIVE DATE.

**Recitals**

WHEREAS, on October 30, 1991, the Collier County Board of County Commissioners adopted Ordinance No. 91-102, the Collier County Land Development Code (hereinafter LDC), which was subsequently amended; and

WHEREAS, the Collier County Board of County Commissioners (Board) on June 22, 2004, adopted Ordinance No. 04-41, which repealed and superseded Ordinance No. 91-102, as amended, the Collier County Land Development Code, which had an effective date of October 18, 2004; and

WHEREAS, on March 18, 1997, the Board adopted Resolution 97-177 establishing local requirements and procedures for amending the LDC; and

WHEREAS, all requirements of Resolution 97-177 have been met; and

WHEREAS, the Collier County Planning Commission, sitting as the land planning agency, did hold advertised public hearings on May 3, 2018 and May 17, 2018, and reviewed the proposed amendments for consistency with the Comprehensive Plan and did recommend approval; and

WHEREAS, the Board of County Commissioners, in a manner prescribed by law, did hold an advertised public hearing on June 26, 2018, and did take action concerning these amendments to the LDC; and

WHEREAS, the subject amendments to the LDC are hereby determined by this Board to be consistent with and to implement the Collier County Growth Management Plan as required by Subsections 163.3194 (1) and 163.3202 (1), Florida Statutes; and

WHEREAS, this ordinance is adopted in compliance with and pursuant to the Community Planning Act (F.S. § 163.3161 *et seq.*), and F.S. § 125.01(1)(t) and (1)(w); and

WHEREAS, this ordinance is adopted pursuant to the constitutional and home rule powers of Fla. Const. Art. VIII, § 1(g); and

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

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

**SECTION ONE: RECITALS**

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

**SECTION TWO: FINDINGS OF FACT**

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

1. Collier County, pursuant to § 163.3161, *et seq.*, F.S., the Florida Community Planning Act (herein after the "Act"), is required to prepare and adopt a comprehensive plan.
2. After adoption of the Comprehensive Plan, the Act and in particular § 163.3202(1). F.S., mandates that Collier County adopt land development regulations that are consistent with and implement the adopted comprehensive plan.

3. Section 163.3201, F.S., provides that it is the intent of the Act that the adoption and enforcement by Collier County of land development regulations for the total unincorporated area shall be based on, be related to, and be a means of implementation for, the adopted comprehensive plan.

4. Section 163.3194(1)(b), F.S., requires that all land development regulations enacted or amended by Collier County be consistent with the adopted comprehensive plan, or element or portion thereof, and any land regulations existing at the time of adoption which are not consistent with the adopted comprehensive plan, or element or portion thereof, shall be amended so as to be consistent.

5. Section 163.3202(3), F.S., states that the Act shall be construed to encourage the use of innovative land development regulations.

6. On January 10, 1989, Collier County adopted the Collier County Growth Management Plan (hereinafter the "Growth Management Plan" or "GMP") as its comprehensive plan pursuant to the requirements of § 163.3161 *et seq.*, F.S.

7. Section 163.3194(1)(a), F.S., mandates that after a comprehensive plan, or element or portion thereof, has been adopted in conformity with the Act, all development undertaken by, and all actions taken in regard to development orders by, governmental agencies in regard to land covered by such comprehensive plan or element 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 4.02.01 DIMENSIONAL STANDARDS FOR PRINCIPAL USES IN BASE ZONING DISTRICTS**

Section 4.02.01 Dimensional Standards for Principal Uses in Base Zoning Districts, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

**4.02.01 Dimensional Standards for Principal Uses in Base Zoning Districts**

\* \* \* \* \*  
 D. Exemptions and exclusions from design standards.  
 \* \* \* \* \*

13. Permanent emergency generators may be placed within the rear yard with a 10-foot rear yard setback. Permanent emergency generators may encroach into side yards up to 36 inches. Generators are not permitted to encroach into required front yards. Above-ground fuel tanks for the generators are subject to the same setbacks; however, underground tanks are not subject to setback requirements. In order to reduce noise during required routine exercising of the generators, this

exercising is restricted to operating the generator for no more than 30 minutes weekly during the hours of 9:00 a.m. to 5:00 p.m. and shall not exceed sound level limits for Manufacturing and Industrial uses as set forth in Ordinance 90-17, the Noise Ordinance, as amended. All permanent emergency generators must be equipped with sound attenuating housing to reduce noise.

a. Facilities with fuel pumps. Permanent emergency generators and related fuel storage installed at existing facilities with fuel pumps may encroach into any required side or rear yards, provided the encroachment does not create a hazard to pedestrian or vehicular traffic.

b. Assisted living facilities and nursing homes. Permanent emergency generators and related fuel storage installed at existing assisted living facilities or nursing homes that are subject to LDC section 5.05.04 E. may encroach into any required side or rear yards or buffers, provided the encroachment does not create a hazard to pedestrian or vehicular traffic.

\* \* \* \* \*

**SUBSECTION 3.B. AMENDMENTS TO SECTION 4.05.04 PARKING SPACE REQUIREMENTS**

Section 4.05.04 Parking Space Requirements, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

**4.05.04 Parking Space Requirements**

\* \* \* \* \*

- F. Minimum requirement.
1. Irrespective of any other requirement of this LDC, each and every separate individual store, office, or other business shall be provided with at least one (1) off-street parking space, unless specific provision is made to the contrary.
  2. Existing facilities with fuel pumps that meet the off-street parking requirements of LDC section 4.05.04 G. may remove one required off-street parking space to accommodate the installation of a permanent emergency generator and related fuel storage and screening.
  3. Existing assisted living facilities or nursing homes that are subject to LDC section 5.05.04 E. and that meet the required off-street parking requirements of LDC section 4.05.04 G., may remove up to 10 off-street parking spaces to

accommodate the installation of a permanent emergency generator and related fuel storage and screening.

2-4. The County Manager or designee may determine the minimum parking requirements for a use which is not specifically referenced below or for which an applicant has provided evidence that a specific use is of such a unique nature that the applicable minimum parking ratio listed in this LDC should not be applied. In making such a determination the County Manager or designee may require submission of parking generation studies; evidence of parking ratios applied by other counties and municipalities for the specific use; reserved parking pursuant to section 4.05.05; and other conditions and safeguards deemed to be appropriate to protect the public health, safety and welfare.

\* \* \* \* \*

**SUBSECTION 3.C. AMENDMENTS TO SECTION 4.06.05 GENERAL LANDSCAPING REQUIREMENTS**

Section 4.06.05 General Landscaping Requirements, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

**4.06.05 General Landscaping Requirements**

\* \* \* \* \*

C. Building foundation plantings. All commercial buildings, residential buildings with 3 or more units, and retail and office uses in industrial buildings shall provide building foundation plantings in the amount set forth in table 4.06.05.C. and illustration 4.06.05.C. These planting areas shall be located adjacent to building entrance(s), primary façades, and/or along façades facing a street. For projects subject to architectural design standards, see LDC sections 5.05.08 E.—F. for related provisions.

\* \* \* \* \*

10. Existing facilities with fuel pumps may reduce the required building foundation planting area to accommodate the installation of a permanent emergency generator and related fuel storage and screening. The reduction in building foundation planting area shall be less than or equal to the total area that is required to accommodate the generator and related fuel storage and screening.

11. Existing assisted living facilities or nursing homes subject to LDC section 5.05.04 E. may reduce the required building foundation planting area to accommodate the

installation of a permanent emergency generator and related fuel storage and screening. The reduction in building foundation planting area shall be less than or equal to the square feet required to accommodate the generator and related fuel storage and screening.

\* \* \* \* \*

**SUBSECTION 3.D. AMENDMENTS TO SECTION 5.05.04 GROUP HOUSING**

Section 5.05.04 Group Housing, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

**5.05.04 Group Housing**

\* \* \* \* \*

E. Emergency Environmental Control Plans. In accordance with Rules 58A-5.036 and 59A-4.1265, F.A.C., as amended, Emergency Environmental Control Plans for assisted living facilities and nursing homes, as defined by §§ 400 and 429 F.S., shall be submitted as a supplement to its Comprehensive Emergency Management Plan, to the Bureau of Emergency Services - Emergency Management Division.

1. The Emergency Environmental Control Plans shall include the following information, in addition to the requirements identified in Rules 58A-5.036 and 59A-4.1265, F.A.C., as amended:

a. Primary evacuation locations, either within or outside the county, and a secondary location outside of the county.

b. Finished floor elevation of the first and second floors of all structures.

c. Permanent emergency generator or alternate power sources. Assisted living facilities or nursing homes, as defined by §§ 400 and 429 F.S., shall install permanent emergency generators or an alternate power source to ensure ambient air temperatures will be maintained at or below 81 degrees Fahrenheit for a minimum of 96 hours in the event of the loss of primary electrical power.

i. If a permanent emergency generator is used the following shall be required:

a) Permanent emergency generator specifications.

i) Permanent emergency generators and the associated fuel supply shall be sized to ensure

compliance with §§ 58A-5.036 F.A.C., as amended, for assisted living facilities and 59A-4.1265 F.A.C., as amended, for nursing homes.

ii) Permanent emergency generators shall be installed, tested and maintained in accordance with NFPA 99 Health Care Facilities Code, and NFPA 110, Standard for Emergency and Standby Power Systems.

b) Regular testing and inspections required. Permanent emergency generators shall be tested under load as required by §§ 58A-5.036 F.A.C., as amended, for assisted living facilities and 59A-4.1265 F.A.C., as amended, for nursing homes, and by manufacturer's specifications, and be inspected a minimum of once per year. Each facility shall keep a written statement on site attesting to the regular maintenance, third-party testing and inspection of the generator and fuel system by a service organization authorized by the manufacturer.

ii. Submittal Requirements.

a) Manufacturer's specifications of the permanent emergency generator.

b) Calculations demonstrating adequacy of fuel supply to comply with §§ 58A-5.036 F.A.C., as amended, for assisted living facilities and 59A-4.1265 F.A.C., as amended, for nursing homes.

d. Backup connectivity. A power transfer switch or automatic transfer switch shall be installed to accommodate a secondary or back-up generator connection point in the event of failure for the permanent emergency generator or alternate power source.

2. Emergency Environmental Control Plans shall be reviewed and approved by the Bureau of Emergency Services - Emergency Management Division.

3. The Plan shall be resubmitted to the County annually from the date of original submittal, or at the time of a change of ownership of the facility, or after a modification to a previously approved Plan.

4. Notification of Plan submittal shall be in accordance with Rules 58A-5.036 and 59A-4.1265, F.A.C., as amended.

\* \* \* \* \*

**SUBSECTION 3.E. AMENDMENTS TO SECTION 10.02.03 REQUIREMENTS FOR SITE DEVELOPMENT, SITE IMPROVEMENT PLANS AND AMENDMENTS THEREOF**

Section 10.02.03 Requirements for Site Development, Site Improvement Plans and Amendments thereof, of Ordinance 04-41, as amended, the Collier County Land Development Code, is hereby amended to read as follows:

10.02.03 Requirements for Site Development, Site Improvement Plans and Amendments Thereof

\* \* \* \* \*

D. *Site Development Plan Requirements (SDP)*. A pre-application meeting shall be conducted by the County Manager or designee prior to the submission of any site development plan for review. This meeting may be waived by the County Manager or designee upon the request of the applicant.

1. Application. The Administrative Code shall establish the process and submittal requirements for a site development plan. A site development plan application shall include, but not be limited to, the following information in order to illustrate compliance with LDC standards and other State, Federal, and local agency requirements.

- a. Zoning designation of the subject and adjacent properties.
- b. Site plan with existing and proposed buildings and structures, including equipment, permanent emergency generators and related fuel storage and screening, dimensions, heights, setbacks, and separations. Parking, open space, preserves, and other applicable land uses shall be identified on the site plan.
- c. Architectural plans.

\* \* \* \* \*

**SECTION FOUR: CONFLICT AND SEVERABILITY**

In the event that any provisions of this ordinance should result in an unresolved conflict with the provisions of the Land Development Code (LDC) or Growth Management Plan (GMP), the applicable provisions of the LDC or GMP shall prevail. In the event this Ordinance conflicts with any other Ordinance of Collier County or other applicable law, the more restrictive shall apply.

If any phrase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

**SECTION FIVE: INCLUSION IN THE COLLIER COUNTY LAND DEVELOPMENT CODE**

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

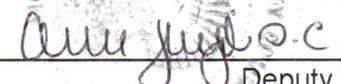
**SECTION SIX: EFFECTIVE DATE**

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

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida, this 26<sup>th</sup> day of June, 2018.

ATTEST:  
CRYSTAL K. KINZEL, INTERIM CLERK

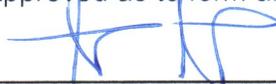
BOARD OF COUNTY COMMISSIONERS  
OF COLLIER COUNTY, FLORIDA

By:   
Deputy Clerk

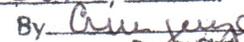
By:   
ANDY SOLIS, Chairman

Attest as to Chairman's  
signature only.

Approved as to form and legality:

  
Scott A. Stone  
Assistant County Attorney

04-CMD-01077/1782 (6/26/18)

This ordinance filed with the  
Secretary of State's Office the  
27<sup>th</sup> day of June, 2018  
and acknowledgement of that  
filing received this 27<sup>th</sup> day  
of June, 2018  
By:   
Deputy Clerk