

ORDINANCE NO. 21-10

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, AMENDING THE LEE COUNTY LAND DEVELOPMENT CODE, CHAPTER 33, RELATING TO THE CAPTIVA PLANNING COMMUNITY; REQUIRING BEACH FURNITURE AND EQUIPMENT TO BE REMOVED OVERNIGHT; ENACTING LIGHTING AND LANDSCAPING STANDARDS; AMENDING SIGN REGULATIONS; MAKING OTHER MINOR CLARIFICATIONS; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION AND SCRIVENER'S ERRORS; PROVIDING FOR MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; AND AN EFFECTIVE DATE

WHEREAS, Florida Statutes Section 125.01(1)(h) authorizes counties to establish, coordinate, and enforce zoning regulations necessary for the protection of the public; and,

WHEREAS, the Board of County Commissioners adopted the Lee County Land Development Code which contains regulations applicable to the development of land in Lee County; and,

WHEREAS, the Board of County Commissioners of Lee County, Florida, has adopted a comprehensive Land Development Code (LDC); and,

WHEREAS, Article IX of LDC Chapter 33 provides centralized regulations designed specifically for Captiva that will respond to the Lee Plan policies and objectives that take into account the unique characteristics of the community; and,

WHEREAS, the Land Development Code Advisory Committee (LDCAC) was created by the Board of County Commissioners to explore amendments to the LDC; and,

WHEREAS, the LDCAC has reviewed the proposed amendments to the LDC on July 9, 2021, and recommended approval of the proposed amendments as modified; and,

WHEREAS, the Executive Regulatory Oversight Committee reviewed the proposed amendments to the Code on July 14, 2021, and recommended their adoption; and,

WHEREAS, the Local Planning Agency reviewed the proposed amendments on July 26, 2021, and found them consistent with the Lee Plan, as indicated.

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

**SECTION ONE: AMENDMENT TO LDC CHAPTER 33**

Lee County Land Development Code Chapter 33 is amended as follows with strike through identifying deleted text and underline identifying new text.

## ARTICLE IX - CAPTIVA

### DIVISION 1. - IN GENERAL

#### **Sec. 33-1614. - Definitions.**

The following definitions are in addition to those set forth in other chapters of this LDC and are applicable to the provisions set forth in this article only. If, when construing the specific provisions contained in this article, these definitions conflict with definitions found elsewhere in this LDC, then the definitions set forth below will take precedence.

*Beach furniture or equipment:* As defined by Section 14-170 of the Land Development Code.

~~*Caretaker:* A person employed to look after a public building or a house in the owner's absence.~~

*Cupola through Lessee remain unchanged.*

*Light trespass:* As defined by Section 34-2 of the Land Development Code.

*Remainder of Section remains unchanged.*

### DIVISION 2. – ENVIRONMENTAL STANDARDS

#### **Sec. 33-1622. – Tree requirements.**

- (a) ~~*Trees adjacent to Captiva Drive.* For projects requiring a local development order with frontage on Captiva Drive, only trees that are indigenous to Captiva or native to South Florida, and that are not prohibited invasive exotics, may be planted within the minimum required right-of-way buffer.~~
- (b) ~~*Heritage trees.* For projects requiring a local development order, heritage trees, as defined in chapter 10, will be preserved or when possible, may be relocated on-site. If a heritage tree must be removed from the site, then a replacement tree with a minimum 20-foot height must be planted within an appropriate open space.~~

#### **Sec. 33-1622. – Beach Furniture and Equipment.**

- (a) All beach furniture and equipment when not in use and unoccupied must be removed from the beach to behind the foredune or vegetation line, whichever is most seaward, between the hours of 9:00 p.m. and 8:00 a.m. at all times of the year between Alison Hagerup Park and the south end of Wiles Drive. Beach furniture and equipment not removed pursuant to this provision shall be considered abandoned property and subject to removal. [The additional provisions of Sec. 14-173 also apply from May 1 through October 31].
- (b) Enforcement of this section is authorized in accordance with Section 14-73(b) and Section 14-177 of the Land Development Code.

**Sec. 33-1623. - Outdoor Lighting.**

(a) Outdoor lighting standards. The following standards to prevent light trespass apply to outdoor lighting on Captiva in addition to the sea turtle lighting standards found in Sections 14-71 through 79, and the outdoor lighting standards found in Section 34-625 of this Code. Enforcement shall be pursuant to Section 14-73(b) of this Code.

(1) All new outdoor lighting, including lighting on docks and bulkheads, shall be hooded or shielded so that the direct horizontal surface of the light source is masked, shall not shine directly beyond or above the structure or property to be illuminated, and shall not otherwise constitute light trespass.

(2) Spotlights on landscaping and foliage shall be hooded or shielded, shall not shine above the highest foliage to be lit, and shall not spill onto adjacent property.

(3) Fixtures affixed to poles, trees, and other structures shall be no more than 15 feet above grade, hooded or shielded, and directed downward.

(4) Outdoor lighting shall comply with the above standards at the time the existing lighting is replaced. This provision shall not apply to a repair or a partial replacement of a complete and uniform set of light or lighting fixtures.

(5) Lights aimed, directed or focused onto adjacent property, or causing direct light or glare to be projected onto adjacent property are not permitted at any time. Such existing lights shall be corrected immediately and are not subject to Sec. 33-1623(a)(4) above.

(b) Exemptions. The following sources of light are exempt from this section.

(1) Temporary emergency lighting needed by firefighters, police officers, or emergency work crews.

(2) Lights on approved vehicles.

(3) Lights required by government agencies near airstrips or heliports, or on communication towers.

(4) Seasonal and special event decorations with individual lights in place up to 60 days per year.

(5) Lights or lighting that is required by other sections of the Code.

**Secs. 33-1623-33-1624 – 33-1625. – Reserved.**

DIVISION 3. – PROPERTY DEVELOPMENT REGULATIONS

**Sec. 33-1628. - Rezoning and density.**

(a) through (b) remain unchanged.

(c) *Density limitations.* Except as may be specifically permitted by the Lee Plan, no building or development permits will be issued for development on Captiva Island at a density greater than the following:

(1) through (2) remain unchanged.

(3) Lock-off accommodations units will be counted as a full dwelling unit when computing the allowable density. ~~To be counted as a dwelling unit, lock-off accommodations may contain at least one bedroom with a bathroom and be accessible from a separate door, entering from outside the dwelling unit.~~

(d) through (e) remain unchanged.

**Sec. 33-1630. - Tree and landscaping requirements.**

(a) Trees adjacent to Captiva Drive. For projects requiring a local development order with frontage on Captiva Drive, only trees that are indigenous to Captiva, native to South Florida, or Florida Friendly may be planted within the minimum required right-of-way setback. Florida Friendly Landscaping is defined in F.S. 373.185.

(b) Landscaping adjacent to Captiva Drive. No vegetation shall encroach into, onto or over Captiva Drive or its paved shoulder below the height of eight (8) feet, and a setback of at least two feet from the edge of the pavement shall be maintained at all times for all vegetation below the height of eight (8) feet.

**Sec. 33-1631. - Heritage Trees.**

For projects requiring a local development order, heritage trees, as defined in chapter 10, will be preserved or when possible, may be relocated on-site. If a heritage tree must be removed from the site, then a replacement tree with a minimum 20-foot height must be planted within an appropriate open space.

**Secs. 33-1630 – 33-1634 33-1632 – 33-1639. - Reserved.**

DIVISION 4. – DESIGN STANDARDS; SIGNS

**Sec. 33-1642. - Prohibited signs.**

The following types of signs are prohibited, except as exempted in section 33-1645(b), “Signs not requiring a permit”:

(1) through (6) remain unchanged.

(7) Temporary signs for any of the prohibited signs identified in this section.

**Sec. 33-1644. ~~Reserved. Temporary signs.~~**

~~Temporary sign permits for prohibited signs will not be issued.~~

**Sec. 33-1645. - Signs not requiring a permit.**

- (a) *Residential identification sign.* Identification signs not exceeding 6 ~~2-0~~ square feet in area on lots with total frontage of less than 100 feet and 4.0 square feet in area on lots with frontage of 100 feet or more. The height of identification signs may not exceed four feet above grade and may be placed in rights-of-way and subject to the following standards and restrictions:

(1) *through (4) remain unchanged.*

(b) *remains unchanged.*

- (c) Signs denoting the contractor, subcontractor, or design professional on the premises of work under construction and not exceeding 6 ~~four~~ square feet in area. There may be no more than 2 signs per property and provided, however, those signs may not remain on the premises must be removed within for more than 10 ~~30~~ days of ~~after~~ the issuance of the certificate of occupancy or certificate of compliance.

(d) *through (f) remain unchanged.*

- (g) Temporary real estate signs, ~~which for the purposes of advertising the property for sale or rent, including short term rentals, which this section include "for sale," "open house," "open for inspection," "by appointment only," "model home," and similar signs, must be located in a front yard and a minimum of two feet from the property line, parallel to the frontage and conforming to the following restrictions:~~

(1) Signs They must be located only on the property advertised.

(2) In all districts not of residential character signs may not exceed four square feet in area, and may not exceed two square feet in areas zoned as RSC-2, RS-1, TFC-2 and RM-2. The bottom edge of the signs may not be greater than 12 inches above average grade of the sign's location. ~~The signs must be limited to one sign per parcel; if the parcel includes water access, a second temporary real estate sign not exceeding two square feet in area is allowed either on a permanent dock structure or a minimum of ten feet landward of the property boundary adjacent to the water access or away from the landward edge of the mangrove fringe.~~

(3) *through (4) remain unchanged.*

(5) Signs must be located in a front yard and a minimum of two feet from the property line, parallel to the frontage road.

(6) A property is limited to one temporary real estate sign at any given time. If the parcel includes water access, a second temporary real estate sign not exceeding two square feet in area is allowed either on a permanent dock structure or a minimum of ten feet landward of the property boundary adjacent to the water access or away from the landward edge of the mangrove fringe.

*(h) through (i) remain unchanged.*

**Sec. 33-1648. - Permanent Signs in Commercial Areas.**

Ground-mounted or wall mounted signs located in the C-1, CS-1, CT or RM-2 zoning categories must comply with sections 14-76 and 34-625.

- (a) Ground-mounted identification signs are subject to the following limitations:
  - (1) No signs may be erected closer than 30 feet to the boundary line dividing the zoning district of the property on which the sign is erected from a zoning district in which they are prohibited.
  - (2) Sign area is limited to 32 square feet.
  - (3) Signs cannot exceed a maximum of ten feet in height or ten feet in width.
  - (4) The sign must display the street number/s of the property on the face of the sign. Each numeral must measure four to six inches in height. The copy area of the street number will not be counted toward the allowable sign copy area.
- (b) Wall-mounted signs: Wall signs are limited to ten percent of a tenant's wall area, with a maximum size of 32 square feet.
- (c) Illuminated, ground-mounted, and wall signs: Must comply with lighting requirements set forth in section 14-76 and 34-625. ~~Environmental Sciences (ES) staff must review the lighting proposed to ensure compliance with sea turtle regulations in section 14-76 and the outdoor lighting standards in section 34-625 prior to the issuance of the sign permit. The sign must be inspected after dark by ES staff, with all exterior lighting turned on, to determine compliance with an approved lighting plan and this division prior to final inspection.~~

**SECTION TWO: CONFLICTS OF LAW**

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

**SECTION THREE: SEVERABILITY**

It is the Board of County Commissioner's intent that if any section, subsection, clause or provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will become a separate provision and will not affect the remaining provisions of this ordinance. The Board of County Commissioners further declares its intent that this ordinance would have been adopted if such unconstitutional provision was not included.

**SECTION FOUR: CODIFICATION AND SCRIVENER'S ERRORS**

The Board of County Commissioners intend that this ordinance will be made part of the Lee County Code. Sections of this ordinance can be renumbered or relettered and the word

“ordinance” can be changed to “section”, “article,” or other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Administrator, County Manager or his designee, without the need for a public hearing.

**SECTION FIVE: MODIFICATION**

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

**SECTION SIX: EFFECTIVE DATE**

This ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State. The provisions of this ordinance will apply to all projects or applications subject to the LDC unless the development order application for such project is complete or the zoning request is found sufficient before the effective date.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

Commissioner Hamman made a motion to adopt the foregoing ordinance, seconded by Commissioner Ruane. The vote was as follows:

Kevin Ruane	Aye
Cecil Pendergrass	Aye
Raymond Sandelli	Aye
Brian Hamman	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 21<sup>st</sup> day of September, 2021.

ATTEST:  
LINDA DOGGETT, CLERK

BY:   
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

BY:   
Kevin Ruane, Chair

APPROVED AS TO FORM FOR THE  
RELIANCE OF LEE COUNTY ONLY

By:   
Office of the County Attorney





FLORIDA DEPARTMENT *of* STATE

**RON DESANTIS**  
Governor

**LAUREL M. LEE**  
Secretary of State

September 27, 2021

Honorable Linda Doggett  
Clerk of the Circuit Courts  
Lee County  
Post Office Box 2469  
Fort Myers, Florida 33902-2469

Dear Ms. Doggett:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Lee County Ordinance No. 21-10, which was filed in this office on September 27, 2021.

Sincerely,

Anya Owens  
Program Administrator

AO/lb

**RECEIVED**

*By mbutler at 9:33 am, Sep 28, 2021*