



EXECUTIVE REGULATORY OVERSIGHT COMMITTEE

**ADMIN EAST BUILDING
Room 118
2201 Second Street, Fort Myers, FL 33901**

**WEDNESDAY, JULY 14, 2021
2:00 P.M.**

AGENDA

1. Call to Order/Review of Affidavit of Publication
2. Approval of Minutes – March 20, 2021
3. Captiva Land Development Code Amendments
4. Next Meeting date: September 8, 2021
5. Adjournment

To view a copy of the agenda, go to www.leegov.com/dcd/calendar.

For more information, contact Debbie Carpenter, (239) 533-8345 or DCarpenter@leegov.com.

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**MINUTES REPORT
EXECUTIVE REGULATORY OVERSIGHT COMMITTEE
(EROC)**

Wednesday, March 10, 2021

2:00 p.m.

Committee Members Present:

Tracy Hayden, Vice Chair
Matthew Roepstorff
Buck Ward
Carl Barraco Jr.

Victor DuPont
Tim Keene
Bill deDeugd
Bill Ennen

Excused / Absent:

Randal Mercer, Chairman
Sam Hagan
Mike Roeder
Michael Reitmann

Ian Moore
Bob Knight
Jim Ink

Lee County Government Staff Present:

David Loveland, Director, Community Development
Audra Ennis, Manager, Community Development
Jessica Sulzer, Manager, Community Development
Joe Adams, Assistant County Attorney
Michael Jacob, Deputy County Attorney
Dirk Danley, Jr., Sr. Planner, Zoning
Adam Mendez, Planner, Zoning
Deborah Carpenter, DCD Admin, Recorder

Outside Consultants/Members of the Public Present:

Phillip Ford, BIA

CALL TO ORDER AND AFFIDAVIT:

The meeting was held in Commission Chambers, 2120 Main Street, Fort Myers, Florida. Ms. Tracy Hayden, Vice-Chair called the meeting to order at 2:00 p.m.

Mr. Joe Adams reviewed the Affidavit of Publication and found it legally sufficient as to form and content.

APPROVAL OF MINUTES – NOVEMBER 4, 2020

Mr. Buck Ward made a motion to approve the November 4, 2020 minutes. Mr. Bill Ennen seconded. The motion was called and carried unanimously.

LEECARES COVID-19 RELIEF PROGRAMS

Mr. David Loveland reviewed the LeeCares COVID-19 reports through January 2021. Referring to the Executive Summary, just under \$53 million had been disbursed in the forms of rent, mortgage and utility payment assistance, business grants, PPE distribution, food supplies, childcare scholarships and COVID-19 testing. An additional \$6 million of assistance was obligated and payment was pending. Additional funding had been expended for covered government expenses as well. The CARES Act funding has been extended through December 31, 2021 and the Coronavirus Relief Fund direct allocation expenditures are projected to reach \$134,459,744. Mr. Roepstorff asked what kind of demand there was currently for help with rents and mortgages. Mr. Loveland said the need was still there and on March 1st the County again began accepting applications for LeeCares 2021 Emergency Rental Program to help

with rent (not mortgage) and utilities for those impacted by COVID-19. Mr. Ward asked about budget shortfalls as a result of COVID-19 and there was a brief discussion about revenue sources that had been affected by the pandemic. Mr. Bill deDeugd thought the Airport's budget was one of those affected and Mr. Loveland said the Airport received separate grants over and above the \$134M. Mr. Loveland also said that a new Federal Stimulus bill was expected to be signed soon. Mr. Roepstorff asked if the County had any particular plans on how to use that money. Mr. Loveland said it would depend on how the funds were allocated and what direction was provided as to their use.

LDC AMENDMENTS – CLEAN UP AMENDMENTS

Mr. Loveland introduced this agenda item saying that these amendments were the kick-off of the regular two year LDC amendment cycle. This year the process will be a somewhat different approach. The amendments will be split out by topic area and each will go to the Board first in order to provide an opportunity for them to review the amendments before going through Committees. The Board has given authorization to begin the process and these clean-up amendments are intended to eliminate redundancies, discrepancies, provide clarifications and update cross references. Three additional areas have been identified for the Board to review: Hearing Examiner-related changes; Mobile home park buildings and a product called "Casitas", an issue that came up in a zoning hearing recently; and Dock & Shoreline regulations which industry representatives would like to see made consistent across jurisdictions. A number of other topic areas have been identified as well, but are not yet ready to bring forward.

He referred to the summary memo included which provided a list of the specific changes, and to the amendments where staff notes had been added in red to provide an explanation or rationale behind the changes. This would also be where any committee comments, if any, would be added as well.

Ms. Hayden suggested a review of the amendments by section asking that members ask questions or make comments as needed.

Mr. Buck Ward asked if the language added in **Sec 10-424**, which referred to *Section 34-1353* not included in these excerpts, was a change or an omission. Mr. Dirk Danley, Sr. Planner explained that this language was to add a cross reference which was a previous oversight.

Mr. Ward asked if there were any changes to the tables in **Sec 10-695**, or were the changes just to the notes. Staff confirmed the tables had not changed.

Ms. Hayden asked about the Administrative Code included as part of the packet. Staff explained that AC-2-10 had been provided for information only to show that procedural-type language, in this case for the Historic Preservation Boards, had been removed from the Land Development Code and moved into the Administrative Code.

Mr. Tim Keene made a motion to approve the amendments. Mr. deDeugd seconded. The motion was called and passed unanimously.

Mr. Keene had some other topics that he felt the County should consider while looking at this round of amendments. One was the Proportionate Share requirements (Sec 10-7(b)); another was 10-291(2) Roads and Access and the enabling language; Third was about bus stops and what he considered a hidden impact fee and the need to look at the fee-in-lieu calculations. Mr. deDeugd had concerns about sidewalks to nowhere. Mr. Loveland confirmed that all of these things had already been identified as language that needed to be reviewed.

There was no further business. Ms. Hayden adjourned the meeting at 2:40 p.m.

The next meeting was tentatively scheduled for May 12, 2021.

DRAFT

MEMORANDUM

FROM THE DEPARTMENT OF COMMUNITY DEVELOPMENT

**TO: Executive Regulatory Oversight
Committee (EROC)**

DATE: June 29, 2021

**FROM: Brandon Dunn
Principal Planner**

RE: Captiva Land Development Code Revisions

The attached Land Development Code amendments are proposed by the Captiva Community Planning Panel and have been authorized to be brought through committee review by the Board of County Commissioners. Staff seeks a recommendation on whether the proposed amendments should be adopted by the Board of County Commissioners.

BACKGROUND

On March 2, 2021 the Board of County Commissioners directed staff to engage with the Captiva Community Planning Panel to review Land Development Code amendments proposed by the Panel. The Panel is a subcommittee of the Captiva Island Property Owners Association and is not affiliated with Lee County. The amendments attached hereto were reviewed by staff and brought to the Board for direction to proceed through the committee review process at its June 1, 2021 Regular Meeting.

SUMMARY

The proposed amendments can be generally summarized as follows:

- Revise Chapter 33 to:
 - Require removal of furniture from the beach overnight and year round;
 - Add outdoor lighting standards for developments within the community plan area;
 - Specify the types of trees and landscaping allowed adjacent to Captiva Drive;
 - Expand the type and size of signs not requiring a permit; and,
 - Other minor amendments for clarification.

cc: Roger Desjarlais, County Manager
Glen Salyer, Assistant County Manager
David Loveland, AICP, Director, Department of Community Development
Michael Jacob, Deputy County Attorney
Amanda L. Swindle, Assistant County Attorney
Mikki Rozdolski, Manager, Community Development Operations, Planning
Anthony Rodriguez, AICP, Zoning Manager
Kevin Ruane, District One Commissioner
Cecil L. Pendergrass, District Two Commissioner
Ray Sandelli, District Three Commissioner
Brian Hamman, Chairman, District Four Commissioner
Frank Mann, District Five Commissioner

EROC ORDINANCE EVALUATION GUIDELINES

Proposed Ordinance: Amendment to Land Development Code – Chapter 33

1. What is the public interest that the Ordinance is designed to protect?

Designed to implement Goal 23 of the Lee Plan -- including its objectives and policies -- updated and amended by the BOCC on February 7, 2018. It is in the public interest to protect Captiva's beaches, its dark skies, its native trees and vegetation, and its public rights of way for pedestrians and bicyclists.

2. Can the identified public interest be protected by means other than legislation (e.g., better enforcement, education programs, administrative code in lieu of ordinance, etc.)? If so, would other means be more cost effective?

No. The proposed amendments are the least restrictive options available and assume education programs and voluntary compliance -- with enforcement only as necessary last resort.

3. a) Is the regulation required by State or Federal law? b) If so, to what extent does the county have the authority to solve the problem in a different manner?

No.

4. Does the regulation duplicate State or Federal program? If so, why?

No.

5. Does the regulation contain market-based incentives? If not, could that be used effectively?

No.

6. Is the regulation narrowly drafted to avoid imposing a burden on persons or activities that are not affecting the public interest?

Yes.

7. Does the regulation impose a burden on a few property owners for the benefit of the public as a whole? If so, does it provide any form of compensation?

No.

8. Does the regulation impact vested rights?

No.

9. Does the regulation provide prompt and efficient relief mechanism for exceptional cases?

Not applicable.

10. Even though there is an interest to be protected, is it really worth another regulation?

Most of the proposed amendments update existing regulations; the beach protection and dark skies regulations are currently in effect in neighboring communities.

11. Has this approach been tried in other jurisdictions? If so, what was the result? If not, what are the reasons?

Yes. Similar and related amendments are currently in effect and have been successfully implemented on Sanibel, Upper Captiva and in Lee County.

12. If this regulation is enacted, how much will it cost on an annual basis, both public and private? If this regulation is not enacted, what will be the public and private cost?

No meaningful cost associated with proposed amendments.

LAND DEVELOPMENT CODE

CHAPTER 33 – PLANNING COMMUNITY REGULATIONS

ARTICLE IX - CAPTIVA

Division 1. - In General

Sec. 33-1614. - Definitions.

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.~~

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

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 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 when not in use and unoccupied. 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 shining directly 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.

(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~~2~~- 33-1634~~9~~. - 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. ~~or more than two signs at any time; 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," "for rent," "VRBO," "Airbnb," "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. Sign area is limited to 32 square feet.

(2) Signs cannot exceed a maximum of ten feet in height or ten feet in width.

(3) 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.~~