

**Staff comments for Captiva - May 17, 2010 draft received on October 26, 2010.**  
**Staff comments prepared on December 27, 2010**

**This is a compilation from various staff members who reviewed the Draft LDC amendments for Captiva Community. Each section has been repeated with the suggested comments HIGHLIGHTED IN YELLOW. STAFF WOULD REQUEST THAT A MEETING WITH COUNTY STAFF BE SCHEDULED PRIOR TO THE NEXT RESUBMITTAL.**

**Captiva Community Panel**  
**Land Development Code language**  
*Working draft*  
**May 17, 2010** **Revise this date at each resubmittal**

~~WHEREAS, the Lee County Board of County Commissioners recognizes that Captiva Island is a place of incomparable beauty and fragile natural resources that are cherished by residents and enjoyed by many visitors; and~~

~~WHEREAS, the Lee County Board of County Commissioners adopted Ordinance 03-01 on January 9, 2003, amending the Lee County Comprehensive Plan by adding Goal 13, Objective 13.1, and Policies 13.1.1 through 13.1.14 inclusive, relating to development on Captiva; and~~

~~WHEREAS, the Lee County Board of County Commissioners adopted Ordinance 07-09 on May 16, 2007, amending the Lee County Comprehensive Plan by adding Objective 13.2 and Policy 13.2.1 relating to mixed use developments on Captiva Island; and~~

~~WHEREAS, the Captiva Community Panel has proposed to amend the Lee County Land Development Code (LDC) to include new language related to development on Captiva Island pursuant to the provisions of the Lee County Comprehensive Plan, and have specifically provided recommended changes relating to building heights, signage, water quality, mangrove protection, and accessory dwelling units;~~

~~NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Lee County, Florida as follows:~~ **COUNTY ATTORNEY WILL PREPARE THIS SECTION AT TIME OF ORDINANCE IS PREPARED.**

**SECTION 1. PURPOSE AND INTENT.**

~~This ordinance is adopted to carry out the purpose and intent of, and exercise the authority set out in, the Local Government Comprehensive Planning and Land Development Regulation Act, Sections 163.3161 through 163.3215, Florida Statutes, and Chapter 125, Florida Statutes, as amended; and to implement Goal 13 of the Lee County Comprehensive Plan and its subordinate objectives and policies.~~ **NO NEED TO REPEAT THIS SECTION - ALREADY STATED IN SECTION 33-1**

**SECTION 2. ADOPTION OF AMENDMENT TO LAND DEVELOPMENT CODE**

The Lee County Board of County Commissioners hereby adopts the following amendment to the Lee County Land Development Code. **NOT NECESSARY**

**Chapter 33**

**Article ~~IV~~ – Captiva Planning Community- THIS ARTICLE IS ASSIGNED TO PAGE PARK - RENUMBER**

**DIVISION 1 – IN GENERAL**

**Section 33-~~511~~: Purpose and intent LEAVE SECTION NUMBERS BLANK -THEY WILL BE NUMBER AT TIME OF ORDINANCE**

(A) The purpose of this article is to ~~establish~~ **CREATE** standards for Captiva Island that support the carefree, unhurried lifestyle and incomparable aesthetics of one of most beautiful and unspoiled islands on the Florida Gulf Coast. ~~The Board of County Commissioners finds that~~ Captiva Island is a place unlike any other in Lee County and is determined to maintain its unique natural environment and appealing built features. These standards are intended to maintain and enhance the historic pattern of development on Captiva Island, consisting of unobtrusive, low-density residential uses in an environment characterized by diverse and healthy native vegetation, clean offshore water with diverse and healthy marine life, and limited commercial development and traffic.

~~(B) It is specifically the intent of the Board of County Commissioners to assure that future residential dwelling units on Captiva Island may be constructed to accommodate two (2) habitable floors, located over an uninhabitable space; that building height restrictions shall not be so severe as to require low ceilings that result in cramped interior spaces; and that height restrictions shall discourage the design of boxy dwelling units with flat roofs by encouraging the use of pitched roofs or roofline articulations which provide visual relief from a horizontal roof ridge, e.g. parapets, widow’s walks, cupolas, and lanterns.~~

**THIS LANGUAGE SHOULD BE IN THE PROPERTY DEVELOPMENT SECTION**

**Section 33-~~512~~: Applicability and boundaries**

(A) Scope. The provisions of Article ~~IV~~ apply to all development located on Captiva Island, ~~but~~ not specifically exempted per Sec. 33-~~513~~, “Existing development” ~~below~~, as defined in Goal 13 of the Lee County Comprehensive Plan, but exclusive of Upper Captiva, Cayo Costa, Useppa, Buck Key, and Cabbage Key. The provisions of this Article apply to all development and redevelopment located on Captiva Island unless specifically stated otherwise.

~~(B) In case of conflicts between provisions of the general Land Development Code and this article, the more restrictive provision shall control.~~ **THIS IS ALREADY STATED IN SECTION 33-4- NO NEED TO REPEAT.**

**Section 33-513: Existing development**

Development within the area defined as South Seas Resort is exempt from the provisions of this section so long as it complies with the Administrative Interpretation, ADD2002-00098, as adopted by the Board of County Commissioners in 2002

**Section 33-514: Definitions**

The following words, terms and phrases, when used in this article, are in addition to the definitions appearing in Section 34-2, and shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Cupola:** A covered tower or vault, without a separate source of heating or air-conditioning, which may contain an underlying floor, which rises from a roof ridge, and is typically enclosed by opaque walls. (See Lantern.)

**Dormer:** A projection from a sloping roof that includes a window.

**Façade articulation:** An extrusive architectural element or decorative feature which provides visual relief from an exterior wall, e.g. a buttress, pilaster, bay window, or oriel.

**Lantern:** A covered tower or vault, without heating or air-conditioning, rising from a roof ridge, which may contain an underlying floor and is typically enclosed by windows to admit light in order to function as a solarium, observatory, viewing area, or similar use. (See Cupola.)

**Lock-off accommodations:** A portion of a main house or accessory unit, typically without a kitchen, that is separated from the unit and made available for long-or short-term rental or other use. Where the floor area of a dwelling unit contains lock-off accommodations which can be occupied separately from the main living unit, such lock-off accommodations shall be counted as a full dwelling unit when computing the allowable density as provided in section 34-1546. To be counted as a dwelling unit, such lock-off accommodations shall contain at least one bedroom with a bathroom and be accessible from a separate door, entering from outside the dwelling unit or a common foyer.

**Roofline articulation:** An architectural element or decorative feature which provides visual relief from a horizontal roof ridge, e.g. a parapet or widow’s walk.

**Onsite Treatment and Disposal System (OSTDS):** Consistent with Chapter 381.0065(2)(j), Florida Statutes, means a system that contains a standard subsurface, filled, or mound drainfield system; an aerobic treatment unit; a graywater system tank; a laundry wastewater system tank; a septic tank; a grease interceptor; a pump tank; a solids or effluent pump; a waterless, incinerating, or organic waste-composting toilet; or a sanitary pit privy that is installed or proposed to be installed beyond the building sewer on land of the owner or on other land to which the owner has the legal right to install a system. The term includes any item placed within, or intended to be used as a part of or in conjunction with, the system. This term does not include package sewage treatment facilities and other treatment works regulated under Chapter 403, F. S.

**Section 33-515: Deviations and variances**

(A) An applicant who proposes to deviate from any architectural, site design, landscaping or signage guidelines in this article may request to do so at the time of development order in accordance with section 10-104. A rendered drawing to scale, showing the design, and clearly demonstrating the nature of

the requested deviation must be submitted as part of the development order application. However, such deviation requests shall be held to the same standards as variance requests, and must be reviewed by the Captiva public at a public meeting held on Captiva Island in accordance with section 33-542.

(B) Variances shall be limited to unique, specifically authorized circumstances and will be allowed only in situations where unnecessary hardship would otherwise occur; i.e., where all of the following are met:

- 1) Where the hardship cannot be corrected by other means allowed in the ordinances;
- 2) Where strict compliance of the regulations allows the property owner no reasonable use of the property, building or structure;
- 3) Where the variance will not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties located on the same street and within the same Future Land Use category, unless denial of the variance would allow no reasonable use of the property, building or structure;
- 4) Where the applicant did not cause the need for the variance;
- 5) Where the variance to be granted is the minimum variance that will make possible the reasonable use of the property, building or structure; and
- 6) Where the variance is not specifically prohibited in this article and not otherwise contrary to the spirit of the ordinance.

**STAFF IS CONCERNED WITH THE ABOVE CRITERIA FOR A VARIANCE, ESPECIALLY HOW TO INTERPRET WHAT THE SPIRIT OF THE ORDINANCE IS. WHO DECIDES THIS AND MAKES THESE INTERPRETATION ARE?**

## **DIVISION 2 – ENVIRONMENTAL STANDARDS**

### **Section 33-521: Mangrove protection**

(A) Mangroves on Captiva Island will be protected to the greatest extent possible in a manner consistent with Florida law and policy. This provision shall be interpreted to preserve existing mangroves and to limit mangrove removal to those situations in which the non-issuance of a permit would result in an inverse condemnation.

(B) If unlawful mangrove destruction is conclusively documented on a property, such destroyed mangroves shall be promptly restored to the property in quantities and to the sites existing prior to the unlawful removal. No county permits or licenses shall be issued for activities on that property until all such required restoration shall be completed. This provision is not intended to limit the ability of a property owner to engage in mangrove trimming when such trimming is consistent with federal, state, and local regulations and all appropriate permits are obtained.

**Under the Division 2 Environmental Standards it references mangrove protection and retention. Staff suggested including a setback to insure protection of mangroves or provide some standard or quantity for retention.**

**Otherwise, the term “greatest extent possible” will not be enforceable and problematic for staff to implement. A setback may be more appropriate to insure mangrove protection. Currently, mangrove protection is regulated by the state and Lee County has not sought delegation to allow enforcement in the manner as proposed by this LDC.**

### **Section 33-522: Water quality**

(A) Prior to the approval or issuance of any development order, zoning action, or building permit which would result in the expansion of an existing permitted use, or for a use not previously permitted, the addition of an accessory unit, or the net increase of one or more rooms to an existing residential unit for a property or for the lawful conveyance of a residential or commercial property by a seller which

includes an existing onsite treatment and disposal system (OSTDS), the applicant or seller must provide written documentation of an inspection and maintenance by a qualified professional in compliance with current standards-prior to approval of or issuance of a development order, zoning approval, or conveyance.

(B) Consistent with Sec. 381.0065(4)(e) 6. and 7, Florida Statutes, and its implementing administrative rules, no OSTDS may be constructed within 75 feet of a tidally influenced water body, except that a minimum setback of 50 feet shall apply to lots created before 1972 as provided in Sec. 381.0065(4)(g)2, Florida Statutes. Only performance-based OSTDS may be constructed in excess of 75 feet, (or 50 feet in the case of lots created before 1972) to a maximum of 300 feet away from a tidally influenced water body. Constituent loadings must be considered to protect any potable water supply wells; wastewater treatment in OSTDS must demonstrate control of pathogenic microbes and nitrates. OSTDS must demonstrate control of nitrogen and nitrogen compounds, phosphorus, toxic organics, and heavy metals in all areas. If the wastewater constituent loadings are too high at the water table boundary, pretreatment or some other pollutant reduction may be required.

(C) Sizing of any new OSTDS must reflect the designed size and expected use of any new residential or commercial structure on Captiva, sized to accommodate the number of bathrooms or expected annual usage, in order to facilitate efficient performance and minimize the need for frequent pumpouts.

ES STAFF SUGGEST removal of 33-521 (B) as this has not standard. And who is conclusively document the unlawful mangrove destruction. ES staff adding a setback from mangrove for construction and recommend the following language: All structure, including accessory structures must be setback 10 feet from any existing mangrove fringe which abuts a natural body of water. This is not intended to preclude dock structures from allowing a four foot walkway through mangroves. This may be better addressed as a setback during single family permit review and further addressed with the vegetation removal permit.

ES STAFF SUGGESTS LDC language should be provided to implement Objective 13.1 and sequent Policy 13.1.3 for landscaping and protection of existing vegetation. The proposed LDC is lacking in language for landscaping and protection of existing vegetation. The only language included in this LDC is the mangrove protection.

**NATURAL RESOURCES STAFF OFFERS THESE COMMENTS:**

33-522(a) The code requires OSTDS systems be inspected and certified in proper working order prior to issuance of a building permit, DO, zoning action or sale of a property. (Correct?) Does this require repair of failing systems or is that implicit in the State's current requirements? Does this also cover increasing the capacity of an existing septic system in the event that the expansion of a home/commercial facility increases the number of inhabitants who will use the home/facility? I see that this is required of new structures but does not appear to apply to existing structures.

33-522(b) Performance-based OSTDS are only required within 75' of a tidally influenced waterbody (50' if pre-1972)? I'm not sure I understand the 300' set-back... Does this mean that at 300' + a conventional OSTDS can be constructed?

In addition; If the OSTDS rules do not pass this legislative session is the CCP considering requiring pump-out of conventional (non-regulated) OSTDS systems?

**DIVISION 3 – PROPERTY DEVELOPMENT REGULATIONS**

**Section 33-531: ~~Captiva estate zoning~~ RSC-2 RESIDENTIAL SINGLE FAMILY ESTATE DISTRICT**

(A) *Purpose and intent.* ~~RSC-2 residential single-family estate district.~~ It is the intent and purpose of the Board of County Commissioners to maintain an RSC-2 residential single-family estate district to provide for a continuation of the uses created by Resolution No. Z-70-78, adopted June 2, 1970. This resolution created an estate category (EU-1) with minimum lot size of one (1) acre, but also allowed a guest house and caretakers' quarters. All property on Captiva Island formerly zoned RS-2 and subject to Resolution No. Z-70-78, has been converted to RSC-2. It is furthermore the intent of the Board of County Commissioners to assure that property owners may offer their estate-sized properties for rental to responsible renters or lessees. To achieve this balance of interests, it is the intent of the Board that property owners may not rent or lease any combination of principal or accessory units on a single RSC-2 zoned lot to more than one (1) renter or lessee at a time. **DO YOU HAVE SOMETHING FROM THE BCC STATING THEIR INTENT AND WHO IS GOING TO ENFORCE THE NUMBER OF RENTERS AND HOW?**

(B) In order to maintain consistency with the provisions of Resolution No. Z-70-78, for purposes of this district only, the term "family" is defined as one or more persons occupying a dwelling unit and living as a single nonprofit housekeeping unit, provided that a group of three or more persons who are not related by blood, marriage or adoption shall not be deemed to constitute a family, and further provided that domestic servants may be housed on the premises without being counted as a separate or additional family. The term "family" shall not be construed to mean a fraternity, sorority, club, monastery, convent or institutional group.

(C) No subdivisions of parcels that were zoned RSC-2 (Captiva Estate) on Jan. 1, 2002, regardless of their zoning at any time thereafter, may be permitted unless all of the resulting lots comply with all of the minimum lot size and dimensional requirements in the RSC-2 district.

(D) RSC-2 zoning as defined for the ~~Captiva Planning Community~~ includes the following standards:

- 1) Lot area: 43,560 square feet minimum
- 2) Lot width: 100 feet minimum
- 3) Lot depth: 200 feet minimum
- 4) Setbacks:
  - a. Street: 50 feet minimum. In the instance that the property is bisected by the Coastal Construction Control Line, leaving a limited area for development or redevelopment, the Director may authorize a lesser street setback **HOW?**, but in no case may such lesser setback be less than 20 feet from the public street right of way, and such relief must be limited to that which provides a reasonable use of the property in question while not adversely affecting the aesthetics of the neighboring or adjoining lots.
  - b. Side yard: 10 feet minimum
  - c. Rear yard: 20 feet minimum
  - d. Gulf of Mexico: 50 feet minimum
  - e. Other: 20 feet minimum
- 5) Maximum lot coverage: 25 percent
- 6) Allowed structures:
  - a. Main house
  - b. Accessory dwelling unit

**THESE ARE THE SAME REQUIREMENTS AS STATED IN SEC 34-695 & 694.NO NEED TO**

REPEAT UNLESS DIFFERENT FROM CURRENT LDC. ONLY DIFFERENCE IS THE OTHER SETBACK, THIS CODE IS 20 FEET WHILE THE LDC IS 25 FEET.

(E) Two (2) accessory dwelling units, which may include accommodations for guests, family members, or live-in employees and their families, per residential lot may be permitted on property zoned RSC-2, subject to the following:

- 1) The accessory units are in addition to a principal single-family detached dwelling.
- 2) All units will comply with all setback requirements for accessory structures.
- 3) Both the principal and accessory units on a site may be rented or leased at any given time for periods of less than 30 days or 1 (one) month, whichever is less, to a single renter or lessee.

WHO ENFORCES THIS AND HOW?

IS THIS SECTION REPLACING LDC SECTION 34-1178? IS PROPOSING TO ALLOW A PRINCIPAL (MAIN HOUSE) AND 2 ACCESSORY UNITS? WHAT IS THIS EXCEEDS THE DENSITY REQUIREMENTS?

(F) Temporary residences for guests and employees, including tents, lean-tos, motor vehicles, and similar accommodations, are prohibited. For purposes of this section, employees are understood to include temporary workers and construction and landscape crews.

### **Section 33-532: Height restrictions on Captiva Island**

(A) Consistent with Policy 13.1.2 of the Lee Plan, no building or structure may be erected or altered so that the peak of the roof, or the mean height level between eaves and ridge in the case of gable, hip and gambrel roofs, exceeds 28 feet above the lowest horizontal member at or below the lawful base elevation. ~~The provisions of section 34-2174(a) do not apply to Captiva Island.~~ Deviations or variances from this section are prohibited, except that architectural features, including but not limited to cupolas, lanterns, dormers, façade or roofline articulations, etc., and mechanical appurtenances may extend an additional four (4) feet above the roof peak or eight (8) feet above the mean height level in the case of gable, hip, and gambrel roofs, whichever is lower, so long as such details do not account for more than 20% of the total front façade area and any mechanical appurtenances are fully screened from visibility from adjoining properties. THIS SECTION IS CONFUSING AND COULD BE DIFFICULT FOR THE REVIEWERS. SECTION 34-2174(A) SHOULD BE REPEALED FROM THE CURRENT CODE.

~~(B) Due to the unique degree of public interest attached to it regarding emergency communications services,~~ the existing telecommunications tower facility located in the maintenance and engineering area of South Seas Resort may be replaced in such area to a height not to exceed 170 feet, provided that said new facility makes space available to the county for adequate emergency communications service coverage for Captiva, as well as co-location capability for all wireless carriers desirous of serving Captiva. Destruction of mangroves will not be allowed in order to build or operate such a tower or related tower facilities. The telecommunication tower will be a monopole, unless public safety is compromised.

(C) Buildings or structures in which the lawful base elevation, as articulated by the Flood Insurance Rate Map (FIRM) of the Federal Emergency Management Agency (FEMA) or its successor agency, is at sea level, shall be erected or altered so that the peak of the roof may not exceed 35 feet above the average grade of the lot in question or 42 feet above sea level, whichever is lower. DOES THIS MEAN EXISTING HOUSES HAVE TO BE ALTERED?

### **Section 33-533: Rezoning & density**

#### *(A) Purpose and intent.*

The Board of County Commissioners is mindful that Captiva Island is subject to hurricanes and tropical storm events and that the rapid and orderly evacuation of the island is necessary to the protection of life and limb. The Board of County Commissioners is also mindful that Captiva Island is an extraordinary community of great natural and built beauty and exceptional environmental resources. It is therefore the purpose and intent of the Board of County Commissioners, as articulated in the Lee Plan provisions concerning Captiva Island, to maintain a low density of population and to restrict building heights throughout the island. **THIS IS LEE PLAN LANGUAGE AND DOES NOT BELONG IN THE LDC.**

#### *(B) Penalty for violation of subdivision; additional remedies.*

Any violation of this subdivision shall be punishable as prescribed by law. The violation of any of the provisions of this subdivision may be restricted in injunction.

#### *(C) Conflicting provisions.*

~~This subdivision is intended to be complementary to any other ordinance, regulation or law which is currently in effect for the county. Where any provision of this subdivision imposes a regulation different from that imposed by any other ordinance, regulation or law, then the provisions of this subdivision shall apply; otherwise all other ordinances, regulations and laws shall apply.~~ **THIS LANGUAGE IS IN THE CURRENT LDC, SECTION 33-4. NO NEED TO REPEAT.**

*(D) Nonconforming uses.* A structure or the use of a structure where the use of the land which was lawfully existing on December 13, 1982, but which does not conform to the provisions of this subdivision, will be considered an existing nonconforming use. Any existing nonconforming use may be continued after December 13, 1982; provided, however, no such existing nonconforming use may be expanded, changed, enlarged or altered in a way which increases its nonconformity. The redevelopment of nonconforming hotels and motels may not result in an increase in the number of rental units. The average unit size of rental units in those redeveloped structures may not exceed 550 square feet.

**NEED TO REPEAL CURRENT LDC SECTION 34-1805**

#### *(E) Density limitations.*

Except as may be specifically permitted by the Lee Plan, no building or development permits shall be issued for any development on Captiva Island at a density greater than the following:

- (1) Three units per acre for dwelling units, including condominiums and apartments; or
- (2) Three units per acre for motels or hotels, including lock-off units, shall be counted as a full dwelling unit when computing the allowable density. To be counted as a dwelling unit, such lock-off accommodations shall contain at least one (1) bedroom with a bathroom and be accessible from a separate door, entering from outside the dwelling unit.

#### *(F) Exceptions.*

County Zoning Resolution No. Z-70-78, adopted on June 2, 1970, is to remain in full force and effect and be binding on all present and future property owners affected by the resolution. All zoning maps and records of the division of community development and division of code enforcement shall so indicate the zoning for the lands affected by Resolution No. Z-70-78 to be estate zoning requiring each lot or

parcel to contain a minimum square footage of 43,560 square feet for the issuance of a building or development permit or order. Each parcel or lot containing a minimum of 43,560 square feet may also obtain a permit for **no more than two (2) accessory dwelling units in addition to the primary dwelling unit** as provided in Sec. 33-534(E)-above. **DOES THIS EXCEED DENSITY FROM THE LEE PLAN?**

**Section 33-534. Temporary use permits**

(A) Temporary use permits under Sec. 34-3042, “Carnivals, fairs, circuses and amusement devices,” are prohibited for Captiva Island. This section shall not be construed to prohibit civic events or not-for-profit fundraising events.

(B) Temporary use permits for temporary parking lots under Sec. 34-2022, “Temporary parking lots,” are prohibited for Captiva Island.

**DIVISION 4 — PLANNING PROCEDURES**

**Section 33-541. Information clearinghouse**

Consistent with Lee Plan Policy 13.1.6, the Captiva Island community hereby establishes a “document clearing house” on Captiva, where copies of zoning submittal documents, staff reports, Hearing Examiner recommendations and resolutions will be provided for public inspection. This requirement shall also be applied to development orders or county permits for work whose value exceeds \$500,000 or for work which exceeds the 50% threshold for improvements to existing structures.

The county’s failure to provide or to timely provide documents to the document clearing house, or failure of the document clearing house to receive documents, will not constitute a defect in notice or bar a public hearing from occurring as scheduled.

**Format:** Printed, or PDF or Word files and JPF Links to documents stored on publicly accessible Web sites shall be deemed as fulfilling this requirement.

**Timing:** Submittals: Seven (7) days prior to public information session Official county documents: Within 60 days of issuance

**Location of files:** For printed documents for review prior to a public information session: Captiva Memorial Library, 11560 Chapin Lane. For electronic clearinghouse documents: A Web site established and maintained by either the Captiva Community Panel or Lee County.

**Relationship to public informational meeting:** Available to the public seven (7) days prior to meeting.

**Length of time files should be maintained:** Submittals – 30 days after submittal is received by Lee County. Official documents – Five (5) years after issuance, electronic online documents only.

**THIS WHOLE SECTION SHOULD BE DELETED SINCE THIS IS IN THE LEE PLAN. NO NEED TO REPEAT.**

**Section 33-542: ~~Public information meeting standards~~ **COMMUNITY REVIEW****

The owner or agent applying for the following types of county approvals must conduct at least one public information meeting within the Captiva Planning Community prior to obtaining a finding of sufficiency.

(A) Development orders, including all applications for development orders and Type 1, 2, 4, 5, 6, 7, 9, 10, and 11 limited review development orders requested within the Captiva Planning Community. **DO YOU REALLY WANT TO SEE ALL OF THE TYPE OF LIMITED REVIEW DO'S?**

(B) Planned development zoning actions, including administrative deviations amending the approved master concept plan or other provisions of the applicable zoning resolution.

(C) Special exception and variance requests, including all requests that will be decided by the hearing examiner.

(D) Conventional rezoning actions.

Meeting requirements. The owner or agent submitting the application requiring review under this section must conduct at least one (1) public informational meeting within the boundaries of the Captiva Planning Community where the agent will provide a general overview of the project for any interested citizens. The applicant shall be fully responsible for providing the meeting space and security measures as needed. Subsequent to this meeting, the applicant must provide county staff with a meeting summary document that contains the following information: the date, time and location of the meeting; a list of attendees; a summary of the concerns or issues that were raised at the meeting; and a proposal for how the applicant will respond to any issues that were raised.

## **DIVISION 5—DESIGN STANDARDS; SIGNS**

**CAPTIVA SIGNS REGULATIONS ARE CURRENTLY INCLUDED IN LDC SECTION 30-221 et.al. THESE SECTIONS SHOULD BE REPEALED.**

### **Section 33-551. Purpose and intent**

(A) It is the purpose of this section to protect and preserve the character and appearance of Captiva Island by preventing excessive advertising which would have a detrimental effect on the character and appearance of the island, and to limit signs to essential uses primarily for purposes of identification and information.

(B) The Board of County Commissioners hereby finds and declares that the island of Captiva possesses natural beauty, wildlife, present and future land usage characteristics of low population density, low-intensity business and commercial development, and road systems unable to accommodate high commercial usage and the attendant profusion of signs, making this island unique within the county and warranting the control of commercial advertising signs by ordinance separate from the balance of the county and in keeping with its unique character, and that such separate ordinance will promote the beauty, safety and general welfare of the community. It is the purpose of this article to protect and preserve the character and appearance of Captiva Island by preventing excessive advertising which would have a detrimental effect on the character and appearance of the island, and to limit signs to essential uses primarily for purposes of identification and information in order to protect the residential character and appearance of such district.

(Ord. No. 71-2, § I, 2-24-71)

### **Sec. 33-552. Definitions**

The following words, terms and phrases, when used in this article are in addition to the definitions

appearing in Section 30-2, and shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Animated sign** means any sign of which all or any part thereof revolves or moves in any fashion whatsoever, and any sign which contains or uses for illustration any lights or lighting devices which change color, flash or alternate, show movement or motion, or change the appearance of the sign or any part thereof automatically, including wind-operated devices. Animated signs shall include flashing signs and a beacon light.

**Banner sign** means a sign possessing characters, letters, illustrations or ornamentations applied to cloth, paper or fabric of any kind, either with or without frames, including awning signs.

**Directional sign** means signs used for public information or directions, such as “one way,” “entrance,” or “exit.”

**Identification sign** means a sign intended to distinguish a particular residential or non-residential property or estate, using the name of the owner or owners, the street address, or some form of artwork, lettering, fanciful naming, or other device.

**Illuminated sign.** See Lighted sign in this section.

**Lighted sign** means a sign which has characters, letters, figures, designs or outlines illuminated by electric lights or luminous tubes as part of the sign proper.

**Quasi public body** includes churches and organizations operating as a nonprofit activity serving a public purpose or service, and includes such organizations as noncommercial clubs and lodges, theater groups, recreational and neighborhood associations, cultural activities and chambers of commerce.

**Wall sign** means an outdoor advertising display sign affixed to or painted on the wall of any building, where such sign projects not more than 12 inches from the building.

(Ord. No. 71-2, § I, 2-24-71)

Cross references: Definitions and rules of construction generally, § 1-2.

**Sec. 33-553. Penalty for violation of article.**

~~Any person who shall intentionally violate any of the terms or provisions of this article shall be punished as provided in section 1-5. For the purposes of this section, each day that a violation of such provision is permitted to exist shall constitute a separate offense.(Ord. No. 71-2, § VI, 2-24-71)~~

**THIS HAS ALREADY BEEN STATED. NO NEED TO REPEAT.**

**Sec. 33-554. Exceptions to article**

The regulations and restrictions contained in this article do not apply to the following signs in accordance with the following terms and conditions: **THIS IS CONFUSING - DO THEY OR DON'T THEY APPLY?**

(A) Identification signs not exceeding 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 shall not exceed four (4) feet above grade and may be placed in rights-of-way and subject to the following standards and restrictions:

1. Identification signs may be illuminated only in accordance with the following standards:
  - a. The area occupied by the luminaire and its supports will not be included when calculating the square footage of the sign.
  - b. Sign lighting shall be designed and located so as not to cause confusion with traffic control devices.
  - c. Full cutoff fixtures must be used. Uplighting is prohibited. No sign shall have internal illumination.
  - d. Illumination shall be with white light only, using fluorescent lamps or bulbs. Fluorescent fixtures shall be of the enclosed type with a gasketed lens and a wet location label.
  - e. A maximum of one fixture shall be allowed per sign face.
  - f. The maximum wattage shall not exceed 36 watts per sign face.

In Section 33-554 (A) 1 and Section 33-55 (12) and anywhere else appropriate - add that they must be in compliance with LDC 14-76 and 34-625.

Section 33-554 (A) 1. d. "Illumination shall be with white light only, using fluorescent lamps or bulbs." Add mercury vapor and metal halide lighting is prohibited. LED bulbs are recommended and if visible from the beach, they must be amber LED used in properly shielded fixtures.

Section 33-554 (A) 1 c. "Full cutoff fixtures with non-reflective interior surfaces must be used."

2. The identification sign shall **MUST** include the street number of the property with numerals sufficiently large to be legible to emergency vehicles traveling in either direction.

3. The sign support must be of a suitable breakaway or yielding design. Any identification sign placed in an unsafe or hazardous location, as determined by the **LEE COUNTY** Department of Transportation, must be relocated or removed at the owner's expense. Identification signs in existence at the time of the adoption of this ordinance which exceed the square footage or height requirements, but are not otherwise deemed to be located in an unsafe or hazardous location, shall **WILL** be considered nonconforming uses for purposes of this paragraph and may remain in place until removed or destroyed.

(B) Bulletin boards for public, charitable or religious institutions, to be located on the same premises as the institution and not exceeding 32 square feet in area.

(C) Signs denoting the architect, engineer, contractor or subcontractor on the premises of work under construction and not exceeding four (4) square feet in area; provided, however, that such signs shall not be allowed to remain on the premises for more than 30 days after the ~~acceptance of the building under construction by the owner thereof.~~ **ISSUANCE OF THE CERTIFICATE OF OCCUPANCY.**

(D) Occupational signs denoting only the name, street number or occupation of an occupant in a commercial building, a public or institutional building, or a dwelling house (except dwelling houses in C-1, CS-1 and CT districts), and not exceeding four (4) square feet in area.

(E) Memorial signs or tablets, names of buildings and dates of erection when cut into any masonry surface or when constructed of bronze or other noncombustible materials.

(F) Traffic or other municipal, county, state or federal signs, legal notices, and other such temporary emergency or non-advertising signs.

(G) Temporary real estate signs, which for the purposes of this section include "for sale," "open house," "open for inspection," "by appointment only," "model home" and similar signs, shall be located in a front yard and a minimum of two feet from any property line, parallel to the frontage and conforming to the following restrictions:

1. They shall be located only on the property advertised.
2. In all districts **not of residential character (WHAT DOES THIS MEAN? IN COMMERCIAL DISTRICTS?)** such signs shall **MUST** not exceed four (4) square feet in area, and ~~shall not exceed~~ two (2) square feet in areas classified as RSC-2, RS-1, TFC-2 and RM-2. The bottom edge of such signs shall not be greater than 12 inches above average grade of the sign's location. Such signs shall be limited to one (1) sign per parcel.
3. Temporary real estate signs shall **MUST** be sturdily constructed, neat in appearance, ground signs only, with prongs not exceeding one-half inch in diameter and designed to be inserted and, removed without tools.
4. Temporary real estate signs may be erected only upon the property's being placed on the market for sale and shall be removed no more than five (5) days after the property is **SOLD** ~~no longer for sale~~.

(H) Signs erected entirely within the interior of a business establishment and not designed to be visible from the outside.

(I) Signs, ~~no dimension of which~~ **DO NOT** exceed 12 inches **(IS THIS HEIGHT, LENGTH OR DEPTH?)**, upon business premises, which are informational or directory in nature and ~~neither~~ **DO NOT** contain the name of the business nor advertise any product or service.

(Ord. No. 71-2, § V, 2-24-71; Ord. No. 01-03, § 4, 2-27-01)

### **Sec. 33-555. Applicability of general sign ordinance; conflicting provisions**

This article is adopted as an addendum to the general sign ordinance of the county set out in articles ~~I through IV~~ of this chapter. The general sign ordinance or any successor thereto shall remain in force as to Captiva Island. In case of conflicts between provisions of the general sign ordinance and this article, the more restrictive provision shall control.

(Ord. No. 71-2, § VIII, 2-24-71)

**THIS HAS ALREADY BEEN STATED. NO NEED TO REPEAT.**

### **Sec. 33-556. Prohibited signs**

~~No~~ Commercial advertising signs ~~whatsoever shall be erected on Captiva Island~~ except those signs specifically authorized by the provisions of this article **ARE PROHIBITED**. The following specific types of signs are expressly prohibited: ~~but this enumeration shall not be construed as to limit the general prohibition contained in this section:~~

- (A) Banner signs or any sign of similar type, including pennants as defined in Sec.30-2.

- (B) Sandwich signs.
  - (C) Billboard signs.
  - (D) Snipe signs.
  - (E) Animated signs as defined in this section, and including all signs which employ a beacon light or flashing light.
  - (F) Neon signs or signs of similar effect.
  - (G) "Sold" signs.
  - (H) "For rent" signs and signs advertising the services of rental agents.
- (Ord. No. 71-2, § I, 2-24-71)

**YOU MAY WANT TO ADD THAT VARIANCES OR DEVIATIONS ARE PROHIBITED.**

**Sec. 33-557. Construction standards**

In addition to the provisions of this article, all signs erected on lands included on Captiva Island shall be erected so as to conform with the applicable provisions of the Southern Standard Building Code.  
(Ord. No. 71-2, § I, 2-24-71)

**Sec. 33-558. Consent of property owner required; posting signs on trees or utility poles.**

(A) It shall be unlawful for any person to post any bills, handbills, notices or advertisements or to brand, write, mark or paint any sign, letters or characters upon a building, wall, fence or other property of another person on lands located upon Captiva Island without first obtaining the consent of the owner of such property or his/her duly authorized agent.

(B) It shall be unlawful for any person to post bills, notices or advertisements or to brand, write, mark or paint any sign, letters or characters upon or on any tree or telephone, telegraph (**DO WE STILL HAVE THESE?**) or power pole located on Captiva Island.

(C) The provisions of this section to the contrary notwithstanding, nothing contained in this section shall be construed to prohibit the distribution of literature in the locations described in this section by an agency of the government of the United States, the state or the county, or by any quasi public body as defined in this article, or to prohibit the erection of signs which comply with this article.  
(Ord. No. 71-2, § III, 2-24-71)

**Sec. 33-559. Nonconforming signs**

With the exception of nonconforming identification signs as provided in Section 33-554(A), every existing sign of every type located upon Captiva Island which does not comply with this article shall be deemed nonconforming upon the effective date of this ordinance. For purposes of this ordinance, prohibited signs, as identified in Sec. 33-556 shall not be considered nonconforming.  
(Ord. No. 71-2, § IV, 2-24-71)

**Sec. 33-55(10). Removal of prohibited signs**

All prohibited signs shall **MUST** be removed upon direction of the appropriate County code enforcement officer and shall not be replaced.

**Sec. 33-55(11). Maintenance of nonconforming signs**

(A) A nonconforming sign may be maintained in its condition as of the time it becomes nonconforming, but may not be structurally or mechanically extended or altered except in such a manner as to make it conform more closely to the provisions of this article.

(B) Any such nonconforming sign which is suddenly damaged or destroyed by act of God or vandalism

may be re-erected according to the standards in place at that time. (Ord. No. 71-2, § IV, 2-24-71)

**Sec. 33-55(12). Permitted signs**

Lighted signs, roof signs, ground signs, marquee signs, projecting signs and wall signs shall be permitted when erected on lands of Captiva Island zoned under the C-1, CS-1 and CT categories or the RM-2 category, subject to the following restrictions: **DO YOU WANT ROOF SIGNS ON CAPTIVA?**

- (A) No such signs shall be erected any closer than 30 feet to the boundary line dividing such district from a district in which they are prohibited.
- (B) Roof signs, wall signs, marquee signs, projecting signs and ground signs shall each be limited to a maximum size of 32 square feet. In addition, no such sign shall be erected with any dimension of height, width or depth exceeding ten feet.
- (C) No part of any roof sign shall extend more than 35 feet above average grade.
- (D) Wall signs, ground signs, marquee signs and projecting signs may be lighted by methods not prohibited by this article; provided, however, any lighted sign located within 100 feet of any residential zoning district shall **MUST** be shielded in such a manner that no direct rays of light are cast into any residential premises.
- (E) The total height of ground signs from average grade to the top of the sign shall not exceed 35 feet. **ARE YOU SURE YOU WANT A GROUND SIGN AT A HEIGHT OF 35 FEET? THE MAXIMUM HEIGHT OF GROUND SIGN IN LDC SEC 30 IS 24 FEET.**  
(Ord. No. 71-2, § I, 2-24-71)

**In Section 33-554 (A) 1 and Section 33-55 (12) and anywhere else appropriate - add that they must be in compliance with LDC 14-76 and 34-625.**

**Also, add this to Section 33-55 (12) from LDC 14-76 (b) (8) "Illuminated signs must conform to the requirements of section 14-76. Reverse lighting signs are recommended, where the background is opaque and the letters/logo are illuminated from within the sign. If exterior lighting is used to illuminate the sign, the lights must be down lights with shields and louvers to pin point the light. The use of neon is not permitted."**

**Add to Section 33-55 (12): Prior to the issuance of any new illuminated signs, ES staff must review the lighting proposed to insure compliance with sea turtle regulations LDC Section 14-76 and the outdoor lighting standards LDC Section 34-625. Prior to the issuance of a Certificate of Compliance (CC), the sign must be inspected after dark by the county, with all exterior lighting turned on, to determine compliance with an approved lighting plan and this division.**

**Sec. 33-55(13). Number of signs**

No business establishment located upon Captiva Island shall erect more than one (1) commercial advertising sign per driveway or point of access by water.

(Ord. No. 71-2, § I, 2-24-71)

**Sec. 33-55(14). Commercial signs prohibited in certain districts**

No commercial advertising signs whatsoever, whether on- or off-premises, shall be permitted in any RSC-2, RS-1, RS-2 or TFC-2 district. (Ord. No. 71-2, § I, 2-24-71)

**Sec. 33-55(15). Off-premises signs purpose and intent**

By adopting this article, the Board of County Commissioners intends to encourage the practice of using directional signs or programs by public or quasi public bodies in lieu of private commercial advertising signs or private directional signs to direct customers from main roads on Captiva Island to commercial establishments located off of, or not visible from, main roads. Therefore, no off-premises commercial advertising signs or directional signs of any type shall be erected on Captiva Island other than by public or quasi public bodies. Dimensions of directional signs may not exceed 24 by 36 inches and shall be uniform in appearance. Further, no signs shall be erected at the site of information offices or sales offices located on main roads which advertise the sale of goods or services at another location away from the site of the information offices or sales offices.

(Ord. No. 71-2, § I, 2-24-71; Ord. No. 74-5, § 1, 1-30-74)

**LEE COUNTY DOT DID NOT OFFER SPECIFIC COMMENTS BUT STATED THEY HAVE CONCERNS WITH SIGNS IN THE RIGHT-OF-WAY.**

**DIVISION 6. MULTIPLE-UNIT DWELLINGS AND TOURIST ACCOMMODATION**

**Sec. 33-561. Definitions**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**"Outdoor" or "outside sign"** means any sign visible to passersby, whether the sign is located within or without buildings.

**"Owner and operator."** The term "operator" shall include tenants, managers or any person in charge of the operation of hotels, motor courts and like establishments. The word "operator" or "owner" shall include natural persons, firms and corporations.

**"Room rates"** means the rate at which rooms or other rental units are rented to occupants.

(Ord. No. 71-2, § II, 2-24-71)

Cross references: Definitions and rules of construction generally, § 1-2.

**Sec. 33-562. Applicability of division**

This division shall apply to the operators and owners of hotels, motor courts, and motels located upon Captiva Island.

(Ord. No. 71-2, § II, 2-24-71)

**Sec. 33-563. Posting of room rates**

It shall be unlawful for any owner or operator of any establishment within the scope of this division located upon Captiva Island to post or maintain posted, on any outdoor or outside advertising sign pertaining to such establishments, any room rates for accommodations in such establishments.

(Ord. No. 71-2, § II, 2-24-71)

**SECTION 3. SEVERABILITY**

It is declared to be the intent of the Board of County Commissioners that, if any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason 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 portions hereof.

**SECTION 4. CONFLICT**

Any Ordinance or portion thereof in conflict with this Ordinance or any part hereof is hereby repealed to the extent of the conflict.

**SECTION 5. EFFECTIVE DATE**

This Ordinance shall be effective as provided by law.

PASSED AND ADOPTED by Board of County Commissioners of Lee County at its regular meeting this \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**BOARD OF COUNTY COMMISSIONERS  
LEE COUNTY, FLORIDA**

By: \_\_\_\_\_  
Chair/Vice Chair

(SEAL)  
ATTEST:

\_\_\_\_\_  
Clerk of the Board