

ARTICLE IX. - CAPTIVA

DIVISION 1. - IN GENERAL

Sec. 33-1611. - Applicability.

- (a) *Scope.* The provisions of article IX apply to development located on Captiva Island not specifically exempted under section 33-1613, "Existing development" below, as defined in Goal 13 of the Lee County Comprehensive Plan, but excluding Upper Captiva, Cayo Costa, Useppa, Buck Key, and Cabbage Key. This Article applies to development and redevelopment located on Captiva Island unless specifically stated otherwise.
- (b) *Zoning.* This article applies to requests to rezone property on Captiva Island.
- (c) *Development orders.* This article applies to development orders and limited review development orders described in sections 10-174(1), 10-174(2) and 10-174(4)a. that are requested on Captiva Island.
- (d) *Demonstrating compliance.* Compliance with the standards set forth in this article must be demonstrated on the drawings or site development plans submitted in conjunction with an application for development order approval or with a building permit application if a development order is not required.
- (e) Unless specifically provided herein, development within the area defined as South Seas Resort is exempt from this article, so long as the development complies with the Administrative Interpretation, ADD2002-00098, adopted by the Board of County Commissioners in 2002.

(Ord. No. 12-19 , § 2, 9-11-12; Ord. No. 13-10 , § 9, 5-28-13)

Sec. 33-1612. - Community review.

- (a) *Applications requiring review.* The owner or agent applying for the following county approvals must conduct at least one public information meeting on Captiva Island prior to obtaining a finding of sufficiency:
 - (1) Development orders.
 - (2) Planned development zoning actions, including administrative deviations amending the approved master concept plan or other provisions of the applicable zoning resolution.
 - (3) Special exception and variance requests.
 - (4) Conventional rezoning actions.
 - (5) Administrative actions.
- (b) *Meeting requirements.* The owner or agent applying for an application requiring review under this section must conduct one public informational meeting. The applicant is fully responsible for providing the meeting space, providing advance notice of the meeting, and providing security measures as needed. The meeting must be held within the community plan boundary. Advance notice of the meeting must be disseminated in a community-based media outlet, physically posted at the post office and provided in writing to citizen groups and civic associations within the community that are registered with Lee County for notification of pending zoning cases. The notice must be published and posted at least one week prior to the scheduled meeting date.

At the meeting, the agent will provide a general overview of the project for any interested citizens. 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 the applicant's response to any issues that were raised. This information must be submitted to the County before an application can be found sufficient.

(Ord. No. 12-19 , § 2, 9-11-12; Ord. No. 13-10 , § 9, 5-28-13; Ord. No. 17-18 , § 2, 11-21-17)

Sec. 33-1613. - Existing development and planned developments.

Existing, approved master concept plans may be voluntarily brought into compliance with the Captiva Community Plan or any regulation contained in this Article through the administrative amendment process. No public hearing will be required if the sole intention is for existing planned developments to comply with these regulations. All other requests to change the zoning designation of a parcel must comply with the notice and hearing requirements under F.S. § 125.66.

(Ord. No. 12-19 , § 2, 9-11-12)

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: Any manmade apparatus or paraphernalia designed or manufactured for use or actually used on the beach or in the adjacent tidal waters. Examples include: chairs, tables, cabanas, lounges, umbrellas, watercraft, concession stands or storage units, sailboards, surfboards, fishing gear, sporting equipment, floatables, tents, canopies, bicycles and swing sets.

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

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.")

Distribution of plastic straws: The sale, giving or delivering for any purpose of a plastic straw, whether or not incident to the sale or provision of any kind of beverage in a container. Distribution does not include provision of a plastic straw with a beverage at private residences; with beverages prepared and packaged outside of Captiva, provided such beverages are not altered, packaged or repackaged within Captiva; used in medical or dental facilities; included with and manufactured as a part of, or in combination with, a re-usable beverage container and is intended for continued and multiple uses with such container; and used by any disabled person that requires or relies on the use of a straw to consume beverages and/or food supplements.

Domestic employee: A person who works within the employer's household providing a variety of household services for an individual or a family.

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

Dwelling unit, accessory: A single-family dwelling unit, intended for use by guests or domestic employees, which is located on a lot or parcel containing one principal dwelling unit, and which is smaller than, and detached from, the principal dwelling unit. For purposes of this definition, guests shall mean persons staying on the property at the invitation of the property owner or lessee.

Dwelling unit, principal: The largest single-family dwelling unit, measured in square feet of enclosed living area, located on a lot or parcel containing more than one single-family dwelling unit. (See "Dwelling unit, accessory.")

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.

Family: One or more persons occupying a dwelling unit and living as a single nonprofit housekeeping unit, provided that a group of three or more adults who are not related by blood, marriage or adoption shall not be deemed to constitute a family, and further provided that domestic employees 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.

Guest: See "Dwelling unit, accessory."

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.")

Lessee: A person renting property under a written lease from an owner (lessor).

Light trespass: Light that shines or illuminates beyond the property on which the light is installed, where the point source of the light is unshielded and clearly visible from the adjoining or nearby property, and where the visible light unduly and unnecessarily intrudes into an area where it does not belong.

Litter: Any garbage, rubbish, trash, refuse, cans, glass or plastic bottles, boxes, wood, cigarettes, cigarette butts, cardboard, glass, tin cans, containers, paper, paper wrappings, tobacco products, tires, appliances, abandoned plastic toys, broken chairs, broken beach paraphernalia, abandoned food, all horticultural debris not left for authorized pickup, or abandoned building or construction material.

Lock-off accommodations: A portion of a principal or accessory dwelling 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 that can be occupied separately from the main living unit, the lock-off accommodations will 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, the lock-off accommodations must 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.

Noise disturbance: Sounds or vibrations in quantities or at levels that unreasonably or unnecessarily interfere with or that disturb the quiet, comfort or repose of persons in any dwelling unit in the vicinity, including, but not limited to, the use of radios, stereo or other music systems, televisions, loudspeakers, or musical instruments, or yelling, shouting, hooting, whistling, singing, or the making of similar noises and which may violate Sec. 33-1622 of this Code.

On-site Treatment and Disposal System (OSTDS): Consistent with F.S. § 381.0065(2)(j), 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 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 items 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 F.S. ch. 403.

Plastic Straw: A straw sold or distributed for the purpose of transferring a beverage from its container to the mouth of the drinker by suction, which is made predominantly of plastic derived from petroleum, a biologically-based source (such as corn or other plants), or polystyrene, polypropylene, or polyethylene and which is primarily intended for a single use. The term excludes food grade paper straws, straws made of compostable plant material, or straws made of metal, wood, ceramic or similar materials and designed for re-use.

Renter: One who pays rent for the use of another's property; a tenant.

Roofline articulation: An architectural element or decorative feature that provides visual relief from a horizontal roof ridge, e.g. a parapet, widow's walk, cupola, or lantern.

(Ord. No. 12-19 , § 2, 9-11-12)

Sec. 33-1615. - Deviations and variances.

- (a) Variances or deviations may be requested in accordance with chapter 34. If an applicant desires to deviate from the architectural, site design or landscaping guidelines in this article, an applicant may do so at the time of development order in accordance with section 10-104(b). A rendered drawing to scale, showing the design, and clearly demonstrating the nature of the requested deviation or variance, must be submitted as part of the application.
- (b) Variances and deviations will only be permitted if all of the findings required by section 34-145 and all of the specific findings below are met:
 - (1) The hardship cannot be corrected by other means allowed in the code;
 - (2) Strict compliance of the regulations allows the property owner no reasonable use of the property, building or structure;
 - (3) The variance or deviation 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 or deviation would allow no reasonable use of the property, building or structure;
 - (4) The applicant did not cause the need for the variance or deviation;
 - (5) The variance or deviation to be granted is the minimum variance or deviation that will make possible the reasonable use of the property, building or structure; and
 - (6) The variance or deviation is not specifically prohibited in this article and not otherwise contrary to the spirit of the ordinance.
- (c) Variances and deviations are not permitted from the height requirements provided in section 33-1627.

(Ord. No. 12-19 , § 2, 9-11-12; Ord. No. 13-10 , § 9, 5-28-13; Ord. No. 17-18 , § 2, 11-21-17)

~~Secs. 33-1616—33-1620. - Reserved.~~

DIVISION 2. - ENVIRONMENTAL STANDARDS

Sec. 33-1621 1616. - Water quality.

Prior to the issuance of a development order, zoning, or building permits for a new building or an addition or remodeling to convert existing space to living area, for properties that contain existing OSTDS, the applicant must provide written documentation indicating the approximate date the System was constructed and the last date the OSTDS was serviced or received a pumpout by a licensed septic contractor.

(Ord. No. 12-19 , § 2, 9-11-12)

Sec. 33-1617. - Septic System Regulation

- (a) The Department of Health or other state agency charged with oversight shall confirm the identify of all OSTDS on Captiva, including, at a minimum, the date that they were permitted, the location and operational condition of the systems, and the system capacity if such information exists and is available from a state, local or commercial data source. A property shall not be physically visited or inspected to obtain such information.

(b) For the properties on Captiva that may have undocumented septic systems, the registered owners of the properties shall be so notified and required to provide the state agency within 90 days with the location, the operational condition, and the system capacity of the OSTDS if such information exists. If such information does not exist, the property owner shall so notify the state agency in writing and shall within 30 days have the system located, pumped out and inspected to assess the operational condition of the system, its system capacity, and to identify any failure within the system. Documentation of such inspection shall be provided to the property owners and the state agency. Any OSTDS that is in failure, or has been in failure, that allows the discharge of untreated or improperly treated human waste onto the ground, into the groundwater or into surrounding waters, that contains an improperly built or maintained sewage treatment tank, or that creates, maintains or causes any condition capable of breeding flies, mosquitoes or any other arthropods capable of transmitting diseases directly or indirectly to humans, shall be repaired, modified or replaced at the property owner's expense within 90 days.

(c) Effective January 1, 2022, the owner of every OSTDS on Captiva shall have the system pumped out and inspected by December 31, 2022, and then at least once every 5 years thereafter to assess the fundamental operational condition of the system, prolong the life of the system, identify any failure within the system, and to determine the system capacity. Owners shall be responsible for paying the cost of the inspection and any required pump-out and may not request partial inspections or the omission of portions of the inspection and shall remedy any system failure found.

A pump-out and inspection of the system is not required if documentation of a tank pump-out, inspection or a permitted new installation, repair, or modification of the system within the previous 3 years is provided by the owner, and which states the capacity of the tank and indicates that the tank and drainfield are in good operating condition. Also exempt from the pump-out and inspection requirements is any performance-based treatment system (PBTS) or aerobic treatment unit (ATU) that has an operating permit from the state agency and has a current maintenance service agreement with an approved maintenance entity permitted by the state agency. (The maintenance entity shall be required to inspect every residential PBTS or ATU two times per year, and every PBTS or ATU serving a commercial establishment four times per year).

(d) The pump-outs and inspections shall be performed by a registered septic tank or master septic tank contractor registered under part III of chapter 489, a professional engineer having wastewater treatment system experience and licensed under chapter 471, or an environmental health professional certified in the area of OSTDS evaluation. All inspection procedures used by an inspector shall include a pump-out, a tank inspection, a drainfield inspection, and a written assessment of the condition of the system and the system capacity. The documentation of the pump-out and inspection shall be filed with the Department of Health (for Captiva), and shall contain the name and license number of the company providing the report.

(e) Before any inspection deadline, the state agency shall provide a minimum of 60 days' notice to owners that their systems must be inspected by that deadline. The notice must include a provision stating that the purpose of the inspection is to assess the fundamental operational condition of the system, prolong the life of the system, determine the system capacity, identify any failure within the system, and not to determine code compliance, or require a complete upgrade or overhaul of a system to meet current code requirements.

(f) The seller of a property with an OSTDS shall provide a prospective purchaser with a copy of the latest inspection report and assessment of the system. The prospective purchaser must acknowledge in writing the receipt of the report required by this section.

Section 33-1618. - Fertilizer Regulation.

The Lee County Fertilizer Ordinance (Ordinance No. 08-08) shall apply to Captiva with the following supplementary provisions:

- (a) No persons shall apply fertilizers containing nitrogen and/or phosphorus during the rainy season (June 1 through September 30 of each calendar year).
- (b) Fertilizer content and application rate.
 - (1) No fertilizer shall be applied to turf and/or landscape plants that contains more than two (2) percent phosphorus or other compounds containing phosphorus, such as phosphate, per guaranteed analysis label (as guaranteed analysis and label are defined by F.S. ch. 576, such definition incorporated herein). The use of no phosphorous fertilizer is strongly encouraged, as Florida soils typically contain sufficient phosphorous for a healthy native or manmade landscape.
 - (2) Fertilizers applied to turf and/or landscape plants must contain no more than 20 percent total nitrogen, with at least 50 percent of the total nitrogen as slow release nitrogen per guaranteed analysis label (as guaranteed analysis and label are defined by F.S. ch. 576, such definition incorporated herein).
 - (3) Fertilizers should be applied to turf and/or landscape plants at the lowest rate necessary without exceeding the maximum weight per application. Fertilizer shall not be applied at a rate greater than one pound of nitrogen per 1,000 square feet per application. No more than four pounds of nitrogen per 1,000 square feet shall be applied to any turf/landscape area in any calendar year.

The above provisions are also applicable to and regulate the application of pesticide/fertilizer mixtures, including, but not limited to, "weed and feed" products.

- (4) Since single fertilizer applications in the fall and spring will often suffice, fertilizers shall not be applied more than six times during any one calendar year to a single area.
- (5) No fertilizer shall be applied within 25 feet of any water body, seawall, water course, drain or drainage ditch, or any designated wetland or within 25 feet of any wetland as defined by the Florida Department of Environmental Protection (Chapter 62-340, F.A.C.). For purposes of this section, Florida Wetland shall be defined as "those areas that are inundated or saturated by surface water or ground water at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils."

Section 33-1619. - Dune Vegetation Protection.

- (a) No person shall walk upon, traverse, sit, stand or lie upon, over or across any beach dune area as dune is defined in Section 14-170 of the Lee County Land Development Code except over or across approved and permitted pile supported elevated dune and beach walk-over structures and access ramps, or upon existing sparsely vegetated, on-grade pedestrian walkthroughs.
- (b) All duly authorized law enforcement officers may enforce this Section 33-1619 as well as Section 14-172 of the Lee County Land Development Code entitled "Destruction or Diminishment of Dune or Beach System" on Captiva.

Section 33-1620. - Prohibition of Plastic Straws.

- (a) A plastic straw shall not be sold or distributed within Captiva subject to the following exemptions:
 - (1) Straws used in private residences.
 - (2) Straws in beverages prepared and packaged outside of Captiva and not subsequently altered.
 - (3) Straws used in medical or dental facilities or prescribed by medical or dental practitioners.
 - (4) Straws included with and manufactured as a part of, or in combination with, a re-usable beverage containers and is intended for continued and multiple uses with such container.
 - (5) Straws used by any disabled person who requires or relies on the use of a straw to consume beverages and/or food supplements.
- (b) A code enforcement officer or enforcement agency is authorized to issue a citation for a violation of this section. Penalties for any violation of this section:
 - (1) First offense within any one year period: \$50.00 fine.
 - (2) Second offense within any one year period: \$100.00 fine.
 - (3) Third offense within any one year period: \$200.00 fine.
 - (4) Fourth offense and each subsequent offense within any one year period: \$500.00 fine.

Each day that a prohibited sale or other distribution occurs shall constitute a separate violation.

Section 33-1621. - Beach Protection.

- (a) All beach furniture and equipment shall be removed from the beach to behind the Coastal Construction Setback Line (previously referred to as the 1978 Coastal Construction Control Line depicted in PB. 31 PG. 1-21) between the hours of 9:00 p.m. until 8:00 a.m. at all times of the year when not in use and unoccupied. This provision shall not apply to permitted or zoned commercial hotels and resorts with staffed furniture and equipment operations. [The additional provisions of Sec. 14-173 of the Lee County Land Development Code also apply from May 1 through October 31].
- (b) It is unlawful for any person to throw or deposit litter in any manner or amount upon any and all beaches and beach accesses on Captiva.
- (c) A law enforcement officer, code enforcement officer or enforcement agency is authorized to issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of this section.
 - (1) Any person who violates this section shall be cited as follows:
 - (i) Civil penalties.

Any person in violation of this section is guilty of a noncriminal infraction, punishable by a civil penalty of fifty dollars (\$50.00) for the first violation.

Any person in violation of this section is guilty of a noncriminal infraction, punishable by a civil penalty of two hundred fifty dollars (\$250.00) for the second violation.

Any person in violation of this section is guilty of a noncriminal infraction, punishable by a civil penalty no to exceed five hundred dollars (\$500.00) for the third violation.

All fines are encouraged to be converted to community service time.

(ii) Criminal penalties.

The fourth and all subsequent violations of the provisions of this section shall constitute a misdemeanor of the second degree and shall be punishable by a fine of up to five hundred dollars (\$500.00); and/or imprisonment of up to ten (10) days and/or community service time as prescribed; or by both such fine and imprisonment and/or community service time, all as prescribed by Florida Statutes.

Sec. 33-1622. - Noise Disturbance.

- (a) In addition to Section 24¼ of the Lee County Code of Ordinances entitled "Noise Control," it shall also be unlawful on Captiva for any person or persons to operate any outdoor amplified equipment or play any amplified music which is cast upon the outdoors after 10:00 p.m., or to create a noise disturbance after 10:00 p.m. that is plainly audible from a receiving property at a distance of 50 feet from the noise source. The section does not apply to events at permitted or zoned resorts so long as the noise or music is contained on the resort property.
- (b) The Lee County Sheriff's Office is empowered to investigate any situation where a person is alleged to be violating this section, and may charge persons responsible for acts which affect the peace and quiet of persons who may witness them for breach of the peace or disorderly conduct under F.S. § 877.03, as may be amended from time to time. Penalties are set forth in Section 24¼-9 and Section 24¼-10 of the Lee County Code of Ordinances.

~~Secs. 33-1623—33-1625. - Reserved.~~ Secs. 33-1624—33-1625. - Reserved.

Sec. 33-1623. - Outdoor Lighting.

(a) Statement of purpose and intent.

The purpose of this section is to reduce or prevent light trespass and to preserve the enjoyment of the night sky on Captiva.

- (b) Outdoor lighting standards. The following standards 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(b)(4) above.

(c) 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.

~~Secs. 33-1623—33-1625. - Reserved.~~ Secs. 33-1624—33-1625. - Reserved.

DIVISION 3. - PROPERTY DEVELOPMENT REGULATIONS

Sec. 33-1626. - Residential single-family estate district.

(a) Subdivisions of parcels that were zoned RSC-2 on January 1, 2002, regardless of the zoning designation thereafter, are prohibited unless the resulting lots comply with the minimum lot size and dimensional requirements in the RSC-2 district.

(b) RSC-2 zoning 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, but the setback may not be less than 20 feet from the public street right-of-way, and relief must be limited to that which provides a reasonable use of the property 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 water bodies: 25 feet minimum.

(5) Maximum lot coverage: 25 percent.

(6) Allowed structures:

a. Principal dwelling unit.

b. Accessory dwelling units.

(c) Two accessory dwelling units, which may include accommodations for guests, family members, or domestic employees and their families, as well as permitted accessory structures, may be permitted on each lot zoned RSC-2, subject to the following:

(1) The accessory units are in addition to a principal single-family detached dwelling unit.

(2) All units and accessory structures will comply with applicable setback requirements.

(3) Property owners may not rent or lease for periods of less than seven days any combination of principal or accessory dwelling units on a single RSC-2 zoned lot, and may not rent or lease units under more than one lease at a time.

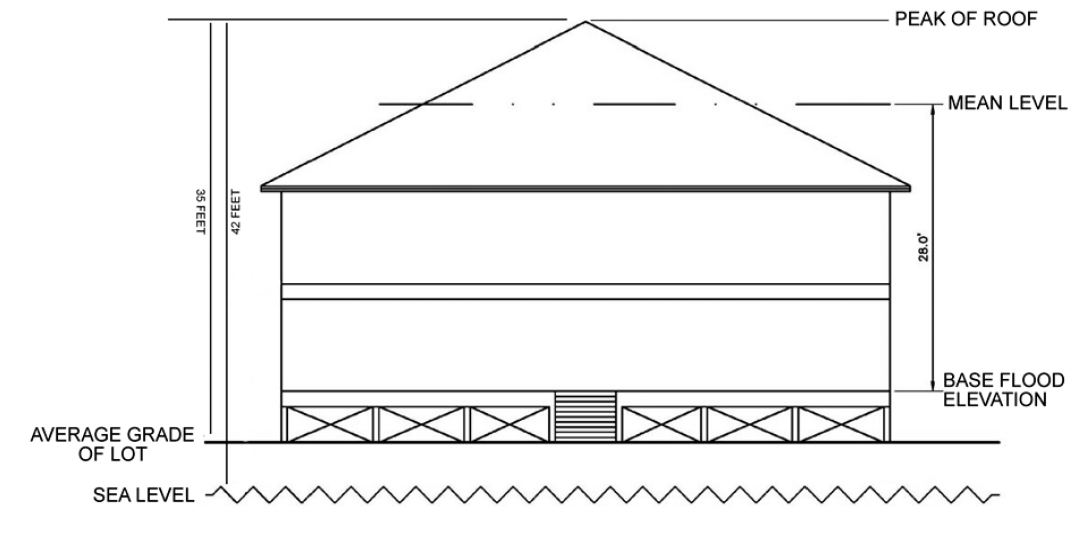
(d) The use of tents, lean-tos, motor vehicles, and similar accommodations, as temporary residences for employees and other persons are prohibited. For purposes of this section, employees include temporary workers and construction and landscape crews, but do not include family members or house guests.

(Ord. No. 12-19 , § 2, 9-11-12)

Sec. 33-1627. - Height restrictions on Captiva Island.

(a) The height of buildings and structures may not exceed the least restrictive of the two following options:

- (1) Thirty-five feet above the average grade of the lot in question or 42 feet above mean sea level measured to the peak of the roof, whichever is lower; or
- (2) Twenty-eight feet above the lowest horizontal member at or below the lawful base flood elevation measured to the mean level between eaves and ridge in the case of gable, hip, and gambrel roofs.



If the lowest horizontal member is set above the base flood elevation, the 28-foot measurement will be measured starting from the base flood elevation. Notwithstanding the above height limitations, purely ornamental structural appurtenances and appurtenances necessary for mechanical or structural functions may extend an additional four feet above the roof peak or eight feet above the mean height level in the case of gable, hip, and gambrel roofs, whichever is lower, so long as these elements equal 20 percent or less of the total roof area.

(b) The existing telecommunications tower facility located in the maintenance and engineering area of South Seas Resort may be replaced to a height not to exceed 170 feet, provided the new facility makes space available to the county for emergency communications service coverage for Captiva, as well as co-location capability for wireless carriers desirous of serving Captiva. Destruction of mangroves to build or operate a tower or related tower facilities is prohibited. The telecommunication tower will be a monopole, unless public safety is compromised.

(Ord. No. 12-19 , § 2, 9-11-12; Ord. No. 17-18 , § 2, 11-21-17)

Sec. 33-1628. - Rezoning and density.

- (a) *Conflicting provisions* . A conflict between this chapter and the balance of this Code will be resolved in accordance with Sections 33-4 and 34-1543.
- (b) *Nonconforming uses* . A structure or the use of a structure where the use of the land was lawfully existing on December 13, 1982, but does not conform to the provisions of this subdivision, will be considered an existing nonconforming use. Existing nonconforming uses may be continued after December 13, 1982; provided, however, no existing nonconforming use may be expanded, changed, enlarged or altered in a way that 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 units offered for rent in redeveloped structures may not exceed 550 square feet.
- (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) Three units per acre for dwelling units, including condominiums and apartments; or
 - (2) Three units per acre for motels or hotels;
 - (3) Lock-off 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) *Exceptions*. Zoning Resolution No. Z-70-78, adopted on June 2, 1970, remains in force and is binding on present and future property owners. Zoning maps and records will reflect that the property subject to 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. Parcels or lots containing a minimum of 43,560 square feet and located within the RSC-2 zoning district, may also obtain a permit for no more than two accessory dwelling units in addition to the primary dwelling unit as provided in section 33-1626(c).
- (e) Development orders or development permits, as they are defined in the Lee Plan, that would result in a reduction of the minimum lot size per unit permitted on a parcel under the parcel's current zoning category or under any other zoning category that would result in a reduction of the minimum lot size per unit on that parcel (as of November 22, 2017, are prohibited).

(Ord. No. 12-19 , § 2, 9-11-12; Ord. No. 17-18 , § 2, 11-21-17)

Sec. 33-1629. - Temporary use permits.

- (a) Temporary use permits under section 34-3042, "Carnivals, fairs, circuses and amusement devices," are prohibited on Captiva Island. This section will not be construed to prohibit civic events or not-for-profit fundraising events, sponsored by 501(c) corporations designated by the U.S. Internal Revenue Service, or registered as a not-for-profit entity with the State of Florida. Such events include bazaars, fundraising events, seasonal or holiday observances, or activities (e.g. bounce houses) for which the public may have access.
- (b) Temporary use permits for temporary parking lots under section 34-2022, "Temporary parking lots," are prohibited for Captiva Island. This section will not be construed to prohibit temporary parking on a golf course or other unpaved surface when authorized by the owner or manager of a property where an event is taking place.

(Ord. No. 12-19 , § 2, 9-11-12)

Sec. 33-1630. - Tree requirements. (relocated from Sec. 33-1622)

- (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, ~~or non-invasive~~

~~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.
- (c) **Vegetation Buffer on 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 one (1) foot from the paved shoulder shall be maintained at all times for all vegetation below the height of eight (8) feet.

(Ord. No. 17-18 , § 2, 11-21-17)

Sec. 33-1631. - Blind Pass Bridge.

For pedestrian and traffic safety, no person or persons shall fish from the Bay side of Blind Pass Bridge. Fishing shall continue to be permitted from the Gulf side of the bridge.

Secs. 33-16302—33-1634. - Reserved.

DIVISION 4. - DESIGN STANDARDS; SIGNS

Sec. 33-1640. - Applicability.

This division is adopted as a supplement to the general sign ordinance of the County set out in articles I through IV of chapter 30. The sign ordinance remains in force as to Captiva Island. In case of conflicts between provisions of the general sign ordinance and this article, the more restrictive provision will control.

(Ord. No. 12-19 , § 2, 9-11-12)

Sec. 33-1641. - Definitions.

The following words, terms and phrases, when used in this article, are in addition to the definitions appearing in section 30-2, and will have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Animated sign: Signs or any part thereof that revolve or moves in any fashion whatsoever, and signs that contain or use for illustration lights or lighting devices that 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 may include flashing signs and a beacon light.

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

Directional sign: Signs used for public information or directions, such as "one way," "entrance," or "exit."

Illuminated sign: See "Lighted sign" in this section.

Lighted sign: A sign with characters, letters, figures, designs or outlines illuminated by electric lights, light emitting diodes (LEDs) or luminous tubes as part of the sign proper.

Residential identification sign: A sign intended to distinguish a particular 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.

Tenant's wall area: The outside wall area of a renter's or lessee's unit in a multi-unit commercial complex, excluding any wall space in the complex's common areas.

Wall sign: An outdoor advertising display sign affixed to or painted on the wall of a building, where the sign projects not more than 12 inches from the building.

(Ord. No. 12-19 , § 2, 9-11-12)

Cross reference— Definitions and rules of construction generally, § 1-2.

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) Banner signs as defined in this section, pennants, or other flying paraphernalia.
- (2) Sandwich signs.
- (3) Billboards.
- (4) Animated signs as defined in this section.
- (5) Neon signs or signs of similar effect.
- (6) "Sold" signs.

(Ord. No. 12-19 , § 2, 9-11-12)

Sec. 33-1643. - Removal of prohibited signs.

Prohibited signs must be removed upon direction of the County code enforcement officer and may not be replaced.

(Ord. No. 12-19 , § 2, 9-11-12)

Sec. 33-1644. - Temporary signs.

Temporary sign permits for prohibited signs will not be issued.

(Ord. No. 12-19 , § 2, 9-11-12)

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) Identification signs must comply with sections 14-76 and 34-625 and 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 must be designed and located so as not to cause confusion with traffic control devices.

- c. Full cutoff fixtures with black non-reflective interior surfaces must be used. Uplighting is prohibited. No sign may have internal illumination.
 - d. If exterior lighting is used to illuminate the sign, the lights must be down lights with shields and louvers to pinpoint the light.
 - e. Illumination must be with white light only, using fluorescent lamps or bulbs, except if visible from the beach then they must be amber LED bulbs used in properly shielded fixtures. Mercury vapor and metal halide lighting is prohibited. LED bulbs are recommended. Fluorescent fixtures must be of the enclosed type with a gasketed lens and a wet location label.
 - f. A maximum of one fixture is allowed per sign face.
 - g. The maximum wattage may not exceed 36 watts per sign face.
 - h. Approval for electric hookup to illuminate the sign must be obtained from the Lee County Department of Transportation.
- (2) The identification sign must include the street number of the property with numerals four inches high.
 - (3) The sign support must be of a suitable breakaway or yielding design. Identification signs placed in an unsafe or hazardous location, as determined by the Department of Transportation, must be relocated or removed at the owner's expense.
 - (4) Identification signs in existence at the time of the adoption of the ordinance from which this article is derived that exceed the square footage or height requirements, but are not deemed to be located in an unsafe or hazardous location, 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 contractor, subcontractor, or design professional on the premises of work under construction and not exceeding four square feet in area **or more than two signs at any time**; provided, however, those signs may not remain on the premises for more than **10** ~~30~~ days after the 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 square feet in area.
 - (e) Memorial signs or tablets, names of buildings and dates of erection when cut into masonry surfaces 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," **"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) 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) Temporary real estate signs 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 must be removed no more than five days after the property is no longer for sale.

(5) A property is limited to one temporary real estate sign at any given time.

- (h) Signs that do not exceed 12 inches when measured vertically or horizontally, upon business premises, which are informational or directory in nature, and neither contain the name of the business nor advertise products or services.
- (i) Temporary banners, sandwich signs and other temporary ground signs promoting a specific event, to be located in the vicinity of the event promoted and not exceeding 32 square feet in area for banners and ten square feet for sandwich signs and ground signs. Signs cannot be erected more than seven days prior to the event, and must be removed no later than the day following the event.

(Ord. No. 12-19 , § 2, 9-11-12)

Sec. 33-1646. - Nonconforming signs.

With the exception of nonconforming identification signs as provided in section 33-1645, every lawfully existing sign of every type located on Captiva Island that does not comply with this article will be deemed nonconforming upon the effective date of the ordinance from which this article is derived.

(Ord. No. 12-19 , § 2, 9-11-12)

Sec. 33-1647. - 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 to make it conform more closely to the provisions of this article.
- (b) Nonconforming sign may be re-erected according to the standards articulated in section 33-1645.

(Ord. No. 12-19 , § 2, 9-11-12)

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: 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.

(Ord. No. 12-19 , § 2, 9-11-12)

Sec. 33-1649. - Number of signs.

Business establishments located upon Captiva Island may not erect more than one permanent ground-mounted commercial advertising sign per driveway and point of access by water. Temporary "for sale" or "for rent" signs will not count against this limit.

(Ord. No. 12-19 , § 2, 9-11-12)

Sec. 33-1650. - Reserved.

DIVISION 5. - MULTIPLE-UNIT DWELLINGS AND TOURIST ACCOMMODATION

Sec. 33-1651. - 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 on the outside walls or separate from a building.

Owner and operator. The term "operator" includes 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. 12-19 , § 2, 9-11-12)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 33-1652. - Applicability of division.

This division applies to the operators and owners of hotels, motor courts, and motels located on Captiva Island.

(Ord. No. 12-19 , § 2, 9-11-12)

Sec. 33-1653. - Posting of room rates.

It is unlawful for an owner or operator of an establishment within the scope of this division located on Captiva Island to post or maintain posted, on an outdoor or outside advertising signs pertaining to the establishments, room rates for accommodations.

(Ord. No. 12-19 , § 2, 9-11-12)

Secs. 33-1654—33-1660. - Reserved.

DIVISION 2. - PARKING ON CAPTIVA ISLAND⁽⁴⁾

Sec. 24-41. - Definitions.

- (a) *Person*, for purposes of this division means any natural person, individual, firm, association, joint venture, partnership, estate, trust, business trust, syndicate, fiduciary, corporation and any other group or combination.
- (b) *Vehicle*, for purposes of this division, shall mean and include any device in, upon or by which any person or property is or may be transported or drawn upon a highway, including motorcycles, **golf carts** and motor-driven cycles as defined by Florida Statutes. Bicycles and mopeds are excluded from the purview of this division.

(Ord. No. 83-35, § 1, 12-14-83)

Sec. 24-42. - General prohibition.

The parking of vehicles in or upon all street and road rights-of-way within the boundaries of Captiva Island, Lee County, Florida, is hereby prohibited.

(Ord. No. 83-35, § 2, 12-14-83)

Sec. 24-43. - Exceptions.

This division shall not apply to:

- (1) County vehicles parked for purposes of conducting county business, including, but not limited to Lee County sheriff's department, transportation, and public works department and community services and parks department vehicles.
- (2) Emergency and fire vehicles, including ambulances, for purposes of responding to an emergency or fire.
- (3) Sanibel police vehicles, Florida Highway Patrol vehicles, U.S. Coast Guard, Florida Marine Patrol and other law enforcement vehicles when conducting law enforcement business and when such vehicles are clearly identified as law enforcement agency vehicles.
- (4) CEPD vehicles conducting the business of the Captiva Erosion Protection District.**
- (45)** Private vehicles when conducting animal rescue and vehicles of scientific teams conducting research for only the period necessary to accomplish their task and only with prior approval of the county administrator.
- (56)** Individual private vehicles as approved by the county administrator or the administrator's designee, after consultation with the Captiva Fire Control District chief, for reasons of health, handicaps, or unique hardship.
- (67)** Individual private vehicles as approved by the county administrator or the administrator's designee, after consultation with the Captiva Fire Control District chief, to allow parking for special events of limited duration.

- (a) **Parking for special events of limited duration are pre-approved to include parking for a maximum of 2 hours duration between 10:30 a.m. and 12:30 p.m. for Sunday Captiva Chapel by the Sea services commencing on the second Sunday of November and concluding on the last Sunday in April, and also including Christmas Eve between 5:00 p.m. and 7:00 p.m..**
- (b) **Visitors for Sunday Captiva Chapel by the Sea services and Christmas Eve shall first park in the CCA parking lot (and Chapel yard when available), and then, when necessary, only in designated areas on Chapin Lane, Wiles Drive, Gore Lane and Murmond Lane. All parking areas shall have clear signage and markers designating the parking areas and times parking is permitted, and parking attendants will be present during the full special event period. At no time shall a person park a vehicle within fifteen (15) feet of a fire hydrant, interfere with any other facilities needed by the Captiva Fire Control District or other emergency vehicles, park within five (5) feet of the edge of a private driveway, or otherwise trespass upon private property.**
- (c) **Weddings and memorial services at the Captiva Chapel by the Sea shall not be considered special events and parking for those events shall only utilize the CCA parking lot (and Chapel yard when available) and shall not be permitted to park on any residential street on Captiva.**

(Ord. No. 83-35, § 6, 12-14-83)

Cross reference— Captiva Island Fire District, § 14-48 et seq.

Sec. 24-44. - Liability.

The vehicle registrant is responsible and liable for payment of any parking ticket, fine, civil penalty or impoundment fee or enforcement procedure hereunder unless the vehicle registrant furnishes evidence that the vehicle was, at the time of violation, in the care, custody or control of another person. In such instances, the vehicle registrant is required, within a reasonable time after notification of the violation, to furnish to the Lee County sheriff's department, the name and address of the person who had care, custody or control of the vehicle. The vehicle registrant is not responsible for any violation if the vehicle involved was, at the time, stolen or in the care, custody or control of some person who did not have permission of the vehicle registrant to use the vehicle.

(Ord. No. 83-35, § 5, 12-14-83)

Sec. 24-45. - Penalty.

- (a) **Any violation of section 24-42 shall be punishable by a fine of thirty-two dollars (\$32.00). Any person who fails to satisfy the provisions contained in the Lee County summons for violation of parking contained in the Lee County Parking Ordinance and elects to appear before a designated official to present evidence shall be deemed to have waived his right to the civil penalty provisions of the ticket. The official, after a hearing, shall make a determination as to whether a parking violation has been committed and may impose a fine not to exceed two hundred dollars (200.00) plus court costs.**
- (b) **The penalty provision in the Lee County Parking Ordinance shall apply to violations which are prohibited by the Lee County Parking Ordinance and are not specifically prohibited by this division.**

(Ord. No. 83-35, § 4, 12-14-83; Ord. No. 92-01, § 2, 1-15-92)

Sec. 24-46. - Enforcement.

This division shall not be enforced until such time as a sign clearly stating its prohibition has been duly posted adjacent to Captiva Drive Southwest at Blind Pass Bridge.

(Ord. No. 83-35, § 7, 12-14-83)

Sec. 24-47. - Public parking areas.

The following designated parking areas shall continue to provide the opportunity for public parking on Captiva Island:

- (1) That parking area located at the southern end of the island where Captiva Drive Southwest commences, known as Turner Beach; and**
- (2) That parking area located at the northern end of the island where Captiva Drive Southwest terminates, which is adjacent to South Seas Plantation; and**
- (3) Such other areas as may be designated by the board of county commissioners for public purposes from time to time.**

(Ord. No. 83-35, § 3, 12-14-83)

Secs. 24-48—24-55. - Reserved.

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