

ORDINANCE NO. ____

AN ORDINANCE AMENDING LEE COUNTY ORDINANCE NO. 09-22 ADOPTED JUNE 23, 2009, AND CODIFIED IN THE CODE OF ORDINANCES OF LEE COUNTY, CHAPTER 24, DIVISION 2, SECTION 24-11 – USE OF GOLF CARTS UPON DESIGNATED COUNTY ROADS ON CAPTIVA ISLAND; PROVIDING FOR ENHANCED SAFETY RULES GOVERNING THE USE OF GOLF CARTS ON CAPTIVA ISLAND; RULES AND REGULATIONS; CODIFICATION AND SCRIVENER’S ERRORS; CONFLICTS OF LAW, SEVERABILITY; MODIFICATION; AND AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Lee County, Florida (“Board”) is the governing body in and for Lee County (“County”); and

WHEREAS, the Board has and continues to recognize Captiva for its unusual natural and serene environment and beautiful beaches, and the necessity of preserving the island’s irreplaceable natural features for use and enjoyment by residents and visitors alike; and,

WHEREAS, the narrow streets of Captiva are without sidewalks and are heavily traveled by residents and tourists alike;

WHEREAS, the streets of Captiva are shared by pedestrians, automobiles, bicycles and golf carts, and it is vital that shared use and congestion does not create a hazardous condition endangering the well-being of motorists, bicyclists, and pedestrians alike; and,

WHEREAS, Section 316.212(1), Florida Statutes, permits counties to allow golf carts to be operated on county roads provided the county first determines that they may safely travel on or cross such public roads upon considering the speed, volume, and character of motor vehicle traffic using those roads or streets; and

WHEREAS, Section 316.212(7), Florida Statutes, allows counties to enact restrictions and regulations regarding golf cart operations that are more restrictive than those contained in Section 316.212 on unlicensed golf cart operators; and

WHEREAS, the Captiva community, including the golf cart rental companies, endorses and supports the amendment herein; and,

WHEREAS, the Board desires to amend the Lee County Ordinance No. 09-22 adopted June 23, 2009, and codified in the Code of Ordinances of Lee County, Chapter 24, Division 2, Section 24.11 to affect the purposes set forth herein and to secure and promote the health, safety, and welfare of the citizens and residents of the County.

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

SECTION ONE: AMENDMENT TO LEE COUNTY ORDINANCE NO. 09-22 ADOPTED JUNE 23, 2009, AND CODIFIED IN THE CODE OF ORDINANCES OF LEE COUNTY, CHAPTER 24, DIVISION 2, SECTION 24-11.

Lee County Code of Ordinances Chapter 24, Division 2, Section 24-11 is amended as follows with strikethrough identifying deleted text and underline identifying new text.

Sec. 24-11. - Use of golf carts upon designated county roads on Captiva Island.

(a) *Roads.*

- (1) Golf carts may be operated on those county roads on Captiva Island or portions thereof as designated by Lee County Department of Transportation. These designations shall be in accordance with F.S. § 316.212 and shall be made in accordance with Lee County Administrative Code 11-3, Traffic Regulation Orders and Control Measures.
- (2) In addition to the requirements of F.S. § 316.212, which is applicable to the operation of golf carts on the aforementioned designated roads, the following restrictions shall also apply:
 - a. No persons shall operate golf carts on designated county roads on Captiva Island without a valid driver's license issued in his or her home state or country.
 - b. All golf carts operated under this division shall be restricted to a maximum attainable speed of twenty (20) miles per hour.
 - c. All golf carts operating subject to this division must be equipped with efficient brakes, reliable steering apparatus, safe tires, a rearview mirror, and red reflectorized warning devices in both the front and rear at all times while operated on the designated roads.
 - d. Golf carts may only be operated on the designated county roads on Captiva Island during the hours between sunrise and sunset, unless otherwise designated by Lee County Department of Transportation.
 - e. No persons on a golf cart shall have any open alcoholic beverages in their possession.
 - f. All golf carts that are leased or rented for use on Captiva, or that are provided by rental properties on Captiva for use by renters, must have a visible company or property identification and number on both sides of the golf cart and a permanent sticker on the dashboard or windshield advising clients that underaged drivers, open alcoholic beverages, driving on the beach, on road shoulders, and outside of permitted golf cart zones are strictly prohibited. Companies that lease or rent golf carts for use on Captiva must instruct their customers at the time of the rental of the rules set forth in this ordinance governing the use of golf carts on Captiva.

eg. Golf carts equipped with headlights, brake lights, turn signals, and windshields may operate at night, if nighttime operation is designated by the Lee County Department of Transportation. In accordance with the provisions of F.S. § 322.16, a person who operating a golf cart after 11:00 p.m. and before 6:00 a.m., must be accompanied by a driver who holds a valid license to operate the type of vehicle being operated and is at least twenty-one (21) years of age, unless that person is driving directly to or from work. In accordance with the provisions of F.S. § 322.16, a person who holds a driver's license who is seventeen (17) years of age, when operating a golf cart after 1:00 a.m. and before 5:00 a.m., must be accompanied by a driver who holds a valid license to operate the type of vehicle being operated, and is at least twenty-one (21) years of age, unless that person is driving directly to or from work.

- (b) Violations of this section shall constitute a noncriminal infraction enforceable by all duly authorized law enforcement officers pursuant to the provisions of F.S. § 316.212(8) and ch. 318.
- (c) The Lee County Department of Transportation shall post signs along the designated roads where golf cart operation is allowed advising motorists of the possible presence of golf cart traffic and alerting the public that the operation of such golf carts is subject to the various requirements of this division.

(Ord. No. 09-22, § 2, 6-23-2009)

SECTION TWO: RULES AND REGULATIONS

The Board is authorized and empowered to adopt and promulgate, bu administrative code, such reasonable rules and regulations as may be necessary to carry out and enforce the purposes of this ordinance.

SECTION THREE: CODIFICATION AND SCRIVENER'S ERRORS

The Board of County Commissioners intends that this ordinance will be made part of the Lee County Code of Ordinances. Sections of this ordinance can be renumbered or relettered and the word "ordinance" can be changed to "section," "article," or other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Manager or his designee, without the need for a public hearing.

SECTION FOUR: CONFLICTS OF LAW

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

SECTION FIVE: SEVERABILITY

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

SECTION SIX: MODIFICATION

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

SECTION SEVEN: EFFECTIVE DATE

This ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State.

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

DULY PASSED AND ADOPTED this ____ day of _____, 2020.

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

BY: _____
Office of the County Attorney

LEE COUNTY ORDINANCE NO. _____

AN ORDINANCE AMENDING LEE COUNTY ORDINANCE NO. 08-08 ADOPTED MAY 13, 2008, AND CODIFIED IN THE CODE OF ORDINANCES OF LEE COUNTY, CHAPTER 26; PROVIDING FOR HEIGHTENED FERTILIZER REGULATIONS ON CAPTIVA; RULES AND REGULATIONS; CODIFICATION AND SCRIVENER'S ERRORS; CONFLICTS OF LAW, SEVERABILITY; MODIFICATION; AND AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Lee County, Florida ("Board") is the governing body in and for Lee County ("County"); and

WHEREAS, Captiva is a barrier island approximately 5 miles long, is between 300 to 2,000 feet wide, contains a total of approximately 642 acres, is situated between the Gulf of Mexico and Pine Island Sound, and is known for its unique natural environment, its coastal waters, its fishing, its shelling and its beaches; and,

WHEREAS, Captiva is an important resort community and tourist attraction which provides important resources for all of Lee County; and

WHEREAS, Goal 23 of the Lee Plan provides that the goal of the Captiva Community Plan is to protect the coastal barrier island community's natural resources such as beaches, wildlife, vegetation, water quality, and dark skies through environmental protections and land use regulations that preserve shoreline and natural habitats, enhance water quality, encourage the use of native vegetation, and limit noise, light, water, and air pollution; and,

WHEREAS, Objective 23.1 is to continue the long-term protection and enhancement of wetland habitats, water quality, native upland habitats (including rare and unique habitats), and beaches on Captiva; and,

WHEREAS, Policy 23.1.3 continues to support the protection of estuarine and wetland resources and wildlife habitat on Captiva; and,

WHEREAS, Policy 23.1.5 continues to support efforts to investigate measures that may improve water quality in Pine Island Sound and the Gulf of Mexico; and,

WHEREAS, the Board recognizes the necessity of preserving Captiva's irreplaceable natural environment for use and enjoyment by residents and visitors alike, and the necessity of maintaining its coastal waters and beaches free from nutrient contamination and harmful algal blooms caused by fertilizer-based nutrient loads found in stormwater runoff; and,

WHEREAS, Captiva, as a long and narrow barrier island, has significant amounts of stormwater runoff to nearshore waters; and,

WHEREAS, the Captiva Community Panel (“Panel”), pursuant to Lee County Administrative Code AC-13-3, and after completing its revised community plan which was adopted by the Board of County Commissioners and incorporated into the Lee Plan in 2017, developed land development regulations and ordinances to implement the community plan; and,

WHEREAS, the Panel conducted community surveys and workshops, and mailed proposed land development regulations and ordinances to all Captiva property owners for their feedback and suggestions; and,

WHEREAS, the Captiva community endorses and supports the amendment herein providing for heightened fertilizer regulations on Captiva; and,

WHEREAS, the Board desires to protect Captiva’s coastal waters and beaches from fertilizer-based nutrient contamination for years to come; and

WHEREAS, the Board desires amend Chapter 26, Article IV to affect the purposes set forth herein and to promote safe, healthy and pollution-free coastal waters and beaches on Captiva by adopting this Ordinance.

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

SECTION ONE: AMENDMENT TO LEE COUNTY ORDINANCE NO. 08-08 ADOPTED MAY 13, 2008, AND CODIFIED IN THE CODE OF ORDINANCES OF LEE COUNTY, CHAPTER 26, ARTICLE IV

Lee County Code of Ordinances Chapter 26, Article IV is amended as follows with strike through identifying deleted text and underline identifying new text.

Sec. 26-55 through Sec. 26-59 remain unchanged.

Sec. 26-60(a) through Sec. 26-60(g) remain unchanged.

(h) Section 26-60 shall apply to Captiva with the following supplementary provisions

- (1) No persons shall apply fertilizers containing nitrogen and/or phosphorus during the rainy season (July 1 through September 30 of each calendar year).
- (2) Fertilizer content and application rate.

- (a) 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.
- (b) Fertilizers applied to turf and/or landscape plants must contain no more than twenty (20) percent total nitrogen, with at least fifty (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).
- (c) 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.

- (d) 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.
- (e) 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 TWO: RULES AND REGULATIONS

The Board is authorized and empowered to adopt and promulgate, by administrative code, such reasonable rules and regulations as may be necessary to carry out and enforce the purposes of this Ordinance.

SECTION THREE: CODIFICATION AND SCRIVENER’S ERRORS

The Board of County Commissioners intends that this Ordinance will be made part of the Lee County Code of Ordinances. Sections of this Ordinance can be renumbered or relettered and the word “ordinance” can be changed to “section,” “article,” or other appropriate word or phrase to accomplish codification, and regardless of whether this Ordinance is ever codified, the Ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Manager or his designee, without the need for a public hearing.

SECTION FOUR: CONFLICTS OF LAW

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

SECTION FIVE: SEVERABILITY

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

SECTION SIX: MODIFICATION

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

SECTION SEVEN: EFFECTIVE DATE

This Ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State.

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

DULY PASSED AND ADOPTED this ____ day of _____, 2020.

BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY,
FLORIDA

BY: _____

APPROVED AS TO FORM FOR THE RELIANCE OF LEE
COUNTY ONLY

BY: _____

Office of the County Attorney

LEE COUNTY ORDINANCE NO. _____

AN ORDINANCE AMENDING LEE COUNTY ORDINANCE NO. 14-18 ADOPTED SEPTEMBER 2, 2014, AND CODIFIED IN THE CODE OF ORDINANCES OF LEE COUNTY, CHAPTER 24¼ - LEE COUNTY NOISE CONTROL ORDINANCE; PROHIBITING CERTAIN NOISE DISTURBANCES ON CAPTIVA; RULES AND REGULATIONS; CODIFICATION AND SCRIVENER'S ERRORS; CONFLICTS OF LAW, SEVERABILITY; MODIFICATION; AND AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Lee County, Florida ("Board") is the governing body in and for Lee County ("County"); and

WHEREAS, Goal 23 of the Lee Plan provides that the goal of the Captiva Community Plan is to protect the coastal barrier island community's natural resources such as beaches, wildlife, vegetation, water quality, and dark skies through environmental protections and land use regulations that preserve shoreline and natural habitats, enhance water quality, encourage the use of native vegetation, and limit noise, light, water, and air pollution; and,

WHEREAS, the Board has determined a need to more effectively regulate and control outdoor amplified music and noise disturbances specific to Captiva; and,

WHEREAS, the Board has enacted the Lee County Noise Control Ordinance and made subsequent amendments to this ordinance; and,

WHEREAS, the purpose of this ordinance is to amend the current regulations to provide clear and enforceable standards for regulating outdoor amplified music and noise disturbances specific to Captiva; and,

WHEREAS, the Captiva Community Panel ("Panel"), pursuant to Lee County Administrative Code AC-13-3, and after completing its revised community plan which was adopted by the Board of County Commissioners and incorporated into the Lee Plan in 2017, developed land development regulations and ordinances to implement the community plan; and,

WHEREAS, the Panel conducted community surveys and workshops, and mailed proposed land development regulations and ordinances to all Captiva property owners for their feedback and suggestions; and,

WHEREAS, the Captiva community endorses and supports the amendment herein regulating outdoor amplified music and prohibiting certain noise disturbances; and,

WHEREAS, the Board desires to amend the Lee County Noise Control Ordinance No. 14-18 adopted September 2, 2014 and codified in the Code of Law and Ordinances of Lee County, Chapter 24¼ to affect the purposes set forth herein and to secure and promote the health, safety, and welfare of the citizens and residents of the County.

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

SECTION ONE: AMENDMENT TO LEE COUNTY ORDINANCE NO. 14-18 ADOPTED SEPTEMBER 2, 2014, AND CODIFIED IN THE CODE OF ORDINANCES OF LEE COUNTY, CHAPTER 24¼

Lee County Code of Ordinances Chapter 24¼ is amended as follows with strikethrough identifying deleted text and underline identifying new text.

Sec. 24¼-1. - Short title and territorial scope.

This chapter will be known and cited as the "Lee County Noise Control Ordinance" and will be applicable in all unincorporated Lee County.

(Ord. No. 14-18, § 2, 9-2-2014)

Sec. 24¼-2 through Sec. 24¼-4 remain unchanged.

Sec. 24¼-5. - Prohibited acts.

The occurrence of the conditions, acts or omissions as described in either subsection (a) or (b) of this section will constitute a violation of this chapter. Should a sound level measurement method be unavailable, inappropriate for a given set of circumstances, or unable to be taken by a sound level meter, subsection (b) of this section may be used to prove a violation so long as evidence exists sufficient to establish that the sound constitutes a noise disturbance pursuant to the standards provided in subsection (b) of this section.

(a) *Maximum permissible sound levels by receiving land.* No person shall operate or cause to be operated any source of sound in such a manner as to create a sound level which exceeds the limits set forth for the receiving land use category in Table 1 when measured at or within the real property line of the receiving land.

Table 1
SOUND LEVELS BY RECEIVING LAND USE

Land Use Category	Time	Sound Level Limit dBA
Residential, public space, or agricultural	7:00 a.m. – 10:00 p.m.	66
	10:00 p.m. – 7:00 a.m.	55

Commercial or business	7:00 a.m. – 10:00 p.m.	72
	10:00 p.m. – 7:00 a.m.	65
Manufacturing or industrial	At all times	75

(1) *Correction for character of sound.*

- a. For any source of sound which emits a pure tone, the maximum sound level limits set forth in Table 1 shall be reduced by five (5) dBA.
- b. For any source of impulsive sound which is of short duration with an abrupt onset, the maximum sound level limits set forth in Table 1 shall be increased by ten (10) dBA from 7:00 a.m. to 10:00 p.m.

(2) *Establishment of use.* In instances where an industrial or commercial use was established prior to and in an area away from a residential use and encroachment of the residential use has occurred resulting in the commercial or industrial use adjoining the residential use, the sound level limit for the receiving residential use will be that of the commercial or industrial use, whichever applicable, as set forth in Table 1 above. Establishment of the commercial or industrial uses' existence before residential use encroachment is an affirmative defense to a violation of this chapter.

(3) *Specific restrictions.* In addition to the general limits set out above in Table 1, the following specific acts are declared to be in violation of this chapter:

- a. *Multifamily dwellings.* In the case of multifamily dwelling units, it shall be unlawful to create or permit to be created any noise that exceeds fifty (50) dBA during the hours between 7:00 a.m. to 10:00 p.m. or forty-five (45) dBA during the hours between 10:00 p.m. and 7:00 a.m. daily, as measured from the receiving dwelling unit within such multifamily dwelling.
- b. *Construction noise.* No person shall operate or permit to be operated any power-driven construction equipment without a muffler or other noise-reduction device at least as effective as that recommended by the manufacturer or provided as original equipment unless the sound level emitted by the equipment is less than the sound level limit for the applicable land use category set forth in Table 1 of this section, as measured from at or within the

real property line of the receiving land. Construction equipment that must be operated near a residential use on a twenty-four-hour-per-day basis (i.e., pumps, well tips, generators, etc.) will be shielded by a barrier to reduce the noise during the hours of 6:00 p.m. to 7:00 a.m. unless the unshielded noise level is less than fifty-five (55) dBA, as measured from at or within the real property line of any residential receiving land.

c. *Outdoor amplified music and noise disturbance on Captiva.* It shall 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 between 10:00 p.m. and 7:00 a.m., or to create a noise disturbance between 10:00 p.m. and 7:00 a.m. that is plainly audible from a receiving property at a distance of 50 feet from the noise source. A noise disturbance on Captiva, in addition to the definition set forth in Sec. 24¹/₄-3 above, also includes 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 within the vicinity of the noise disturbance, including sounds or vibrations made by radios, stereo or other music systems, televisions, loudspeakers, or musical instruments, and include sounds made by persons yelling, shouting, hooting, whistling, singing, or making of similar noises. This section does not apply to duly permitted events conducted at resort properties zoned for such activities, so long as the noise is contained within the boundaries of the resort-owned property.

(4) *Sound level measurement standards.* The following standards must be followed in measuring sound levels.

a. *Calibration.* All sound level meters must be calibrated and serviced in accordance with the manufacturer's instructions.

b. *Sound level meter operation.* The sound level meter must be operated in accordance with the manufacturer's instructions.

c. *Measurement procedures.* The following procedure must be used to determine if a violation exists under this subsection:

1. The sound level meter must be located within the boundary of the receiving land when taking the measurement.

2. The sound level meter must be oriented toward the source of the sound making a direct line between the sound source and the sound level meter.
 3. The sound level meter must be set for the A-weighted network and slow response.
 4. If possible, determine and record the ambient noise level during some point in the observation. The A-weighted ambient noise level, including wind effects and noises other than the sound source, must be at least five (5) dbA lower than the sound level of the sound source for a violation of this chapter to exist.
- (b) *Noise disturbance.* Notwithstanding any other provision herein, it shall be unlawful for any person to make, continue, cause, or permit any noise disturbance.
- (1) *Standards.* The standards to be considered in determining whether a noise disturbance exists under this subsection include the following:
- a. The volume of the noise, whether it is loud or quiet, and whether it can be plainly heard from the receiving land.
 - b. The intensity of the noise.
 - c. Whether there is vibration associated with the noise.
 - d. The nature of the noise, i.e. raucous, unruly, harsh, etc.
 - e. The volume and intensity of the ambient noise, if any.
 - f. The proximity of the noise to residential sleeping facilities.
 - g. The nature and use of the area from which the noise source is located.
 - h. The nature and use of the receiving land.
 - i. The time of day or night the noise occurs.
 - j. The duration of the noise.
 - k. Whether the noise is produced by a commercial or noncommercial activity.

- (2) *Consideration.* Enforcement under subsection (b) of this section requires consideration of all applicable standards listed in subsection (b)(1) and a determination as to whether or not a noise disturbance exists by the sheriff's office personnel on the scene. Determinations must be made from the receiving land, after locating the sound source, by the sheriff's office personnel using his or her normal auditory senses, where applicable, without the use of any hearing enhancement or hearing aid.

(Ord. No. 14-18, § 6, 9-2-2014)

Sec. 24¼-6 through Sec. 24¼-12 remain unchanged.

SECTION TWO: RULES AND REGULATIONS

The Board is authorized and empowered to adopt and promulgate, by administrative code, such reasonable rules and regulations as may be necessary to carry out and enforce the purposes of this Ordinance.

SECTION THREE: CODIFICATION AND SCRIVENER'S ERRORS

The Board of County Commissioners intends that this Ordinance will be made part of the Lee County Code of Ordinances. Sections of this Ordinance can be renumbered or relettered and the word "ordinance" can be changed to "section," "article," or other appropriate word or phrase to accomplish codification, and regardless of whether this Ordinance is ever codified, the Ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Manager or his designee, without the need for a public hearing.

SECTION FOUR: CONFLICTS OF LAW

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

SECTION FIVE: SEVERABILITY

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

SECTION SIX: MODIFICATION

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

SECTION SEVEN: EFFECTIVE DATE

This Ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State.

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

DULY PASSED AND ADOPTED this ____ day of _____, 2020.

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

BY: _____

Office of the County Attorney

LEE COUNTY ORDINANCE NO. _____

AN ORDINANCE AMENDING LEE COUNTY ORDINANCE NO. 99-04 ADOPTED MAY 25, 1999, AND CODIFIED IN THE CODE OF ORDINANCES OF LEE COUNTY, CHAPTER 17; PROVIDING FOR THE PROHIBITION OF SALE OR DISTRIBUTION OF PLASTIC STRAWS ON CAPTIVA; RULES AND REGULATIONS; CODIFICATION AND SCRIVENER'S ERRORS; CONFLICTS OF LAW, SEVERABILITY; MODIFICATION; AND AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Lee County, Florida ("Board") is the governing body in and for Lee County ("County"); and

WHEREAS, Captiva is a barrier island approximately 5 miles long, is between 300 to 2,000 feet wide, contains a total of approximately 642 acres, is situated between the Gulf of Mexico and Pine Island Sound, and is known for its unique natural environment, its coastal waters, its fishing, its shelling and its beaches; and,

WHEREAS, Captiva is an important resort community and tourist attraction which provides important resources for all of Lee County; and

WHEREAS, Goal 23 of the Lee Plan provides that the goal of the Captiva Community Plan is to protect the coastal barrier island community's natural resources such as beaches, wildlife, vegetation, water quality, and dark skies through environmental protections and land use regulations that preserve shoreline and natural habitats, enhance water quality, encourage the use of native vegetation, and limit noise, light, water, and air pollution; and,

WHEREAS, Objective 23.1 is to continue the long-term protection and enhancement of wetland habitats, water quality, native upland habitats (including rare and unique habitats), and beaches on Captiva; and,

WHEREAS, Policy 23.1.3 continues to support the protection of estuarine and wetland resources and wildlife habitat on Captiva; and,

WHEREAS, the Board recognizes the necessity of preserving Captiva's irreplaceable natural environment for use and enjoyment by residents and visitors alike, and the necessity of maintaining its coastal waters, lands and beaches free from litter and pollutants, and to protect the wildlife of Captiva; and,

WHEREAS, discarded plastic straws threaten wildlife on the lands and in the waters of Captiva and litter Captiva's beaches and the adjacent waters of Florida's coast, which includes areas within the geographical boundaries of Captiva and Lee County; and,

WHEREAS, the Board finds that there are reasonable, “environmentally-friendly” alternatives to plastic straws including, but not limited to, straws made of paper, plant- and vegetable-based materials and other natural products which are designed for rapid decomposition after disposal; and,

WHEREAS, the Captiva Community Panel (“Panel”), pursuant to Lee County Administrative Code AC-13-3, and after completing its revised community plan which was adopted by the Board of County Commissioners and incorporated into the Lee Plan in 2017, developed land development regulations and ordinances to implement the community plan; and,

WHEREAS, the Panel conducted community surveys and workshops, and mailed proposed land development regulations and ordinances to all Captiva property owners for their feedback and suggestions; and,

WHEREAS, the Captiva community endorses and supports the amendment herein prohibiting the sale or distribution of plastic straws on Captiva; and,

WHEREAS, the Board desires amend Chapter 17, Article X to affect the purposes set forth herein and to promote and maintain a pollution and litter-free natural environment on Captiva.

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

SECTION ONE: AMENDMENT TO LEE COUNTY ORDINANCE NO. 99-04 ADOPTED MAY 25, 1999, AND CODIFIED IN THE CODE OF ORDINANCES OF LEE COUNTY, CHAPTER 17, ARTICLE X

Lee County Code of Ordinances Chapter 17, Article X is amended as follows with strike through identifying deleted text and underline identifying new text.

Sec. 17-186. - Definitions (the following additional definitions shall be added in their alphabetical place)

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.

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.

Sec. 17-187 through Sec. 17-194 remain unchanged.

Sec. 17-194A. Prohibition of Sale or Distribution of Plastic Straws on Captiva

A. A plastic straw shall not be sold or distributed on 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.

SECTION TWO: RULES AND REGULATIONS

The Board is authorized and empowered to adopt and promulgate, by administrative code, such reasonable rules and regulations as may be necessary to carry out and enforce the purposes of this Ordinance.

SECTION THREE: CODIFICATION AND SCRIVENER'S ERRORS

The Board of County Commissioners intends that this Ordinance will be made part of the Lee County Code of Ordinances. Sections of this Ordinance can be renumbered or relettered and the word "ordinance" can be changed to "section," "article," or other appropriate word or phrase to accomplish codification, and regardless of whether this Ordinance is ever codified, the Ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Manager or his designee, without the need for a public hearing.

SECTION FOUR: CONFLICTS OF LAW

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

SECTION FIVE: SEVERABILITY

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

SECTION SIX: MODIFICATION

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

SECTION SEVEN: EFFECTIVE DATE

This Ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State.

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

DULY PASSED AND ADOPTED this ____ day of _____, 2020.

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

BY: _____
Office of the County Attorney

LEE COUNTY ORDINANCE NO. _____

AN ORDINANCE AMENDING LEE COUNTY ORDINANCE NO. 07-22 ADOPTED JUNE 26, 2007, AND CODIFIED IN THE CODE OF ORDINANCES OF LEE COUNTY, CHAPTER 17; PROVIDING FOR THE INSPECTION AND MAINTENANCE OF SEPTIC SYSTEMS LOCATED ON CAPTIVA; RULES AND REGULATIONS; CODIFICATION AND SCRIVENER'S ERRORS; CONFLICTS OF LAW, SEVERABILITY; MODIFICATION; AND AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Lee County, Florida ("Board") is the governing body in and for Lee County ("County"); and

WHEREAS, Captiva is a barrier island approximately 5 miles long, is between 300 to 2,000 feet wide, contains a total of approximately 642 acres, is situated between the Gulf of Mexico and Pine Island Sound, and is known for its unique natural environment, its coastal waters, its fishing, its shelling and its beaches; and,

WHEREAS, Captiva is an important resort community and tourist attraction which provides important resources for all of Lee County; and

WHEREAS, Goal 23 of the Lee Plan provides that the goal of the Captiva Community Plan is to protect the coastal barrier island community's natural resources such as beaches, wildlife, vegetation, water quality, and dark skies through environmental protections and land use regulations that preserve shoreline and natural habitats, enhance water quality, encourage the use of native vegetation, and limit noise, light, water, and air pollution; and,

WHEREAS, Objective 23.1 is to continue the long-term protection and enhancement of wetland habitats, water quality, native upland habitats (including rare and unique habitats), and beaches on Captiva; and,

WHEREAS, Policy 23.1.3 continues to support the protection of estuarine and wetland resources and wildlife habitat on Captiva; and,

WHEREAS, Policy 23.1.5 continues to support efforts to investigate measures that may improve water quality in Pine Island Sound and the Gulf of Mexico; and,

WHEREAS, the Board recognizes the necessity of preserving Captiva's irreplaceable natural environment for use and enjoyment by residents and visitors alike, and the necessity of protecting its coastal waters and beaches from nutrient and bacteria contamination and harmful algal blooms that can be caused by failing septic or other more primitive wastewater systems; and,

WHEREAS, Captiva, as a barrier island without central sewer on half of the island, has approximately 378 developed properties with on-site septic systems of which approximately 73 are not permitted and about which no information exists on the county or state level; and,

WHEREAS, many of the developed lots on Captiva utilizing on-site septic systems do not meet the minimum lot size of ½ acre recommended for septic systems under the Florida Administrative Code (FAC) 64-E 6.005(7)(a); and,

WHEREAS, many of the developed lots on Captiva utilizing on-site septic systems do not meet the minimum setback distance of 75 from nearshore waters recommended for septic systems in FAC 64-E 6.005(3); and,

WHEREAS, many of the developed lots on Captiva utilizing on-site septic systems do not meet the 24-inch vertical separation between the septic system drainfield and the wet season water table recommended by FAC 64-E 6.008; and,

WHEREAS, properly functioning on-site septic systems are essential to maintaining Captiva's nearshore waters and beaches as safe, healthy and pollution free; and,

WHEREAS, the Captiva Community Panel ("Panel"), pursuant to Lee County Administrative Code AC-13-3, and after completing its revised community plan which was adopted by the Board of County Commissioners and incorporated into the Lee Plan in 2017, developed land development regulations and ordinances to implement the community plan; and,

WHEREAS, three studies conducted on Captiva related to water quality validate the need for this amendment; and,

WHEREAS, the Panel conducted community surveys and workshops, and mailed proposed land development regulations and ordinances to all Captiva property owners for their feedback and suggestions; and,

WHEREAS, the Captiva community endorses and supports the amendment herein providing for the inspection and maintenance of septic systems on Captiva; and,

WHEREAS, the Board desires to protect Captiva's environment from nutrient and bacteria contamination for years to come; and

WHEREAS, the Board desires amend Chapter 17, Article XIII to affect the purposes set forth herein and to promote and maintain the safe, healthy and proper functioning of septic systems on Captiva by adopting an ordinance for the inspection and maintenance of Captiva's septic systems.

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

SECTION ONE: AMENDMENT TO LEE COUNTY ORDINANCE NO. 07-22 ADOPTED JUNE 26, 2007, AND CODIFIED IN THE CODE OF ORDINANCES OF LEE COUNTY, CHAPTER 17, ARTICLE XIII

Lee County Code of Ordinances Chapter 17, Article XIII is amended as follows with strikethrough identifying deleted text and underline identifying new text.

Sec. 17-261 through Sec. 17-266 remain unchanged.

Sec. 17-267. - Regulations

A. No portion of an onsite sewage treatment and disposal system shall be installed in Lee County until an “Onsite Sewage Treatment and Disposal System Construction Permit” has been issued on Form DH-4016. All newly constructed OSTDS, regardless of drainfield size or sewage flow rate, shall be designed by a professional engineer who is registered in the State of Florida. The LCHD is empowered to enforce this requirement. All plans and forms submitted by a registered professional engineer to the LCHD shall be dated, signed and sealed.

Items or issues that are not addressed in this article are to be handled in accordance with the existing state code, or amendments thereto.

B. Captiva Septic Inspection and Maintenance Program

1. The Florida Department of Health in Lee County (or any state agency in the future charged by the Legislature with the permitting and regulation of OSTDS) 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.
2. 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 Florida Department of Health in Lee County 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 health department 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 (septic tank and approximate drainfield size), and to identify any failure within the system.

Documentation of such inspection shall be provided to the property owners and the health department. Any OSTDS that is in failure, or has been in failure, defined as a system that prohibits the system from functioning in a sanitary manner and 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, and such repair, modification or replacement shall be reported to the state agency. For the purposes of this subsection, a system may not be deemed in failure solely because the system does not have the minimum separation distance between the drainfield and groundwater table.

3. 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 five (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 three (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).

4. 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 of Florida Statutes, a professional engineer having wastewater treatment system experience and licensed under Chapter 471 of Florida Statutes, 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 Florida Department of Health for Lee County, and shall contain the name and license number of the company providing the report.

5. Before any inspection deadline, the Florida Department of Health for Lee County (or any state agency in the future charged by the Legislature with the permitting and regulation of OSTDS) 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 an upgrade or overhaul of a system to meet current state or local code requirements.
6. 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 TWO: RULES AND REGULATIONS

The Board is authorized and empowered to adopt and promulgate, by administrative code, such reasonable rules and regulations as may be necessary to carry out and enforce the purposes of this Ordinance.

SECTION THREE: CODIFICATION AND SCRIVENER'S ERRORS

The Board of County Commissioners intends that this Ordinance will be made part of the Lee County Code of Ordinances. Sections of this Ordinance can be renumbered or relettered and the word "ordinance" can be changed to "section," "article," or other appropriate word or phrase to accomplish codification, and regardless of whether this Ordinance is ever codified, the Ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Manager or his designee, without the need for a public hearing.

SECTION FOUR: CONFLICTS OF LAW

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

SECTION FIVE: SEVERABILITY

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

SECTION SIX: MODIFICATION

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

SECTION SEVEN: EFFECTIVE DATE

This Ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State.

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

DULY PASSED AND ADOPTED this ____ day of _____, 2020.

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

BY: _____

Office of the County Attorney

LEE COUNTY ORDINANCE NO. _____

AN ORDINANCE AMENDING LEE COUNTY ORDINANCE NO. 83-35 ADOPTED DECEMBER 14, 1983, AND CODIFIED IN THE CODE OF ORDINANCES OF LEE COUNTY, CHAPTER 24, DIVISION 2 - PARKING ON CAPTIVA ISLAND; DEFINING GOLF CARTS AS VEHICLES OPERATING ON PUBLIC STREETS ON CAPTIVA AND PROVIDING FOR LIMITED PARKING ASSOCIATED WITH THE CAPTIVA CHAPEL BY THE SEA AND VEHICLES CONDUCTING BUSINESS ON BEHALF OF THE CAPTIVA EROSION PROTECTION DISTRICT; RULES AND REGULATIONS; CODIFICATION AND SCRIVENER'S ERRORS; CONFLICTS OF LAW, SEVERABILITY; MODIFICATION; AND AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Lee County, Florida ("Board") is the governing body in and for Lee County ("County"); and

WHEREAS, the Board has and continues to recognize Captiva for its unusual natural and serene environment and beautiful beaches, and the necessity of preserving the island's irreplaceable natural features for use and enjoyment by residents and visitors alike; and,

WHEREAS, public parking on the streets of Captiva is prohibited because Captiva's businesses provide private parking for their customers, and parking along streets on Captiva creates a hazardous and congested condition endangering the well-being of motorists, bicyclists, and pedestrians alike; and,

WHEREAS, the Captiva Chapel by the Sea, located in a residential area, has provided services to residents and tourists alike for decades, and in so doing, visitors have sometimes parked their vehicles on the residential streets near the Chapel without community objection; and,

WHEREAS, the historic parking on certain residential streets during Chapel services may at times violate the no-parking provisions of Captiva, thereby causing problems for law enforcement and fire department personnel needing to consistently enforce the applicable no-parking rules while permitting congregants to attend Chapel services; and,

WHEREAS, the Board has determined a need to more effectively regulate and control parking on Captiva during Sunday Captiva Chapel by the Sea services and on Christmas Eve; and,

WHEREAS, the purpose of this Ordinance is to amend the current regulations to acknowledge and permit the historic parking needs of the Captiva Chapel by the Sea, but to provide a clear description of the parking rules applicable to the Captiva Chapel by the Sea, and to provide clear and concise guidelines for regulating the historic parking associated with the Captiva Chapel by the Sea; and,

WHEREAS, the Board also recognizes that golf carts are vehicles operating on public roads and streets under the jurisdiction of Lee County on Captiva and subject to the parking rules on Captiva, and that vehicles identified as conducting the business of the Captiva Erosion Protection District (CEPD) are engaged in legitimate governmental purposes; and,

WHEREAS, this Ordinance will provide for better public safety and consistent enforcement of parking regulations on Captiva, and is not inconsistent with the original findings and purposes set forth in Lee County Ordinance No. 83-35 which this Ordinance amends; and,

WHEREAS, the Captiva Community Panel (“Panel”), pursuant to Lee County Administrative Code AC-13-3, and after completing its revised community plan which was adopted by the Board of County Commissioners and incorporated into the Lee Plan in 2017, developed land development regulations and ordinances to implement the community plan; and,

WHEREAS, the Panel conducted community surveys and workshops, and mailed proposed land development regulations and ordinances to all Captiva property owners for their feedback and suggestions; and,

WHEREAS, the Captiva community endorses and supports the amendment herein; and,

WHEREAS, the Board desires to amend the Lee County Ordinance No. 83-35 adopted December 14, 1983, and codified in the Code of Ordinances of Lee County, Chapter 24, Division 2, to affect the purposes set forth herein and to secure and promote the health, safety, and welfare of the citizens and residents of the County.

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

SECTION ONE: AMENDMENT TO LEE COUNTY ORDINANCE NO. 83-35 ADOPTED DECEMBER 14, 1983, AND CODIFIED IN THE CODE OF ORDINANCES OF LEE COUNTY, CHAPTER 24, DIVISION 2

Lee County Code of Ordinances Chapter 24, Division 2 is amended as follows with strikethrough identifying deleted text and underline identifying new text.

DIVISION 2. - PARKING ON CAPTIVA ISLAND

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.
- (~~4~~5) 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.
- (~~5~~6) 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

(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 Captiva Civic Association (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.

SECTION TWO: RULES AND REGULATIONS

The Board is authorized and empowered to adopt and promulgate, bu administrative code, such reasonable rules and regulations as may be necessary to carry out and enforce the purposes of this Ordinance.

SECTION THREE: CODIFICATION AND SCRIVENER'S ERRORS

The Board of County Commissioners intends that this ordinance will be made part of the Lee County Code of Ordinances. Sections of this ordinance can be renumbered or relettered and the word "ordinance" can be changed to "section," "article," or other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Manager or his designee, without the need for a public hearing.

SECTION FOUR: CONFLICTS OF LAW

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

SECTION FIVE: SEVERABILITY

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

SECTION SIX: MODIFICATION

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

SECTION SEVEN: EFFECTIVE DATE

This ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State.

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

DULY PASSED AND ADOPTED this ____ day of _____, 2020.

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

BY: _____

Office of the County Attorney