

**Captiva Community Panel**  
**Land Development Code language**  
*Working draft*  
*October 2011*

**Chapter 33**  
**Article YY – Captiva Planning Community**

**DIVISION 1 – IN GENERAL**

**Section 33-YY: Purpose and intent**

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

**Section 33-YY: Applicability and boundaries**

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

**Section 33-YY: Existing development**

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

**Section 33-YY: Definitions**

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

**Cupola:** A covered tower or vault, without a separate source of heating or air-conditioning, which may contain an underlying floor, which rises from a roof ridge, and is typically enclosed by opaque walls. (See Lantern.)<sup>1</sup>

**Dormer:** A projection from a sloping roof that includes a window.<sup>2</sup>

**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.<sup>3</sup>

**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 persons who are not related by blood, marriage or adoption

shall not be deemed to constitute a family, and further provided that domestic servants may be housed on the premises without being counted as a separate or additional family. The term "family" shall not be construed to mean a fraternity, sorority, club, monastery, convent or institutional group.

**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.)<sup>4</sup>

**Lock-off accommodations**<sup>5</sup>: A portion of a main house or accessory unit, typically without a kitchen, that is separated from the unit and made available for long-or short-term rental or other use. Where the floor area of a dwelling unit contains lock-off accommodations which can be occupied separately from the main living unit, such lock-off accommodations shall be counted as a full dwelling unit when computing the allowable density as provided in section 34-1546<sup>6</sup>. To be counted as a dwelling unit, such lock-off accommodations shall contain at least one bedroom with a bathroom and be accessible from a separate door, entering from outside the dwelling unit or a common foyer.

**Roofline articulation**<sup>7</sup>: An architectural element or decorative feature which provides visual relief from a horizontal roof ridge, e.g. a parapet or widow's walk.

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

### **Section 33-YY<sup>8</sup>: Deviations and variances**

(A) An applicant who proposes to deviate from any architectural, site design, landscaping or signage guidelines in this article may request to do so at the time of development order in accordance with section 10-104. A rendered drawing to scale, showing the design, and clearly demonstrating the nature of the requested deviation must be submitted as part of the development order application. However, such deviation requests shall be held to the same standards as variance requests, and must be reviewed by the Captiva public at a public meeting held on Captiva Island in accordance with section 33-YY<sup>9</sup>.

(B) Variances<sup>10</sup> and deviations shall be limited to unique circumstances and will be allowed only in situations where unnecessary hardship would otherwise occur; i.e., where all of the following findings, in addition to the findings required by Sec. 34-145, are met:

- 1) Where the hardship cannot be corrected by other means allowed in the code;
- 2) Where strict compliance of the regulations allows the property owner no reasonable use of the property, building or structure;
- 3) Where the variance will not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties located on the same street and within the same Future Land Use category, unless denial of the variance would allow no reasonable use of the property, building or structure;
- 4) Where the applicant did not cause the need for the variance;

- 5) Where the variance to be granted is the minimum variance that will make possible the reasonable use of the property, building or structure; and
- 6) Where the variance is not specifically prohibited in this article and not otherwise contrary to the spirit of the ordinance.

## **DIVISION 2 – ENVIRONMENTAL STANDARDS**

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

Mangroves on Captiva Island will be protected to the greatest extent possible in a manner consistent with Florida law and policy. All structures, including accessory structures, must be set back a minimum of fifty (50) feet from the Gulf, or ten (10) feet from mean high water in the case of properties not located on the Gulf which do not have a seawall, or to the seawall from any existing mangrove fringe which abuts a natural body of water. It is not the intention of this section to preclude fences or dock structures allowing a maximum four (4)-foot wide walkway through mangroves. <sup>11</sup>

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

(A) Prior to the approval or issuance of any development order, zoning action, or building permit which would result in the expansion of an existing permitted use, or for a use not previously permitted, the addition of an accessory unit, or the net increase of one or more rooms to an existing residential unit for a property or for the lawful conveyance of a residential or commercial property by a seller which includes an existing onsite treatment and disposal system (OSTDS), the applicant or seller must provide written documentation of an inspection and maintenance by a qualified professional in compliance with current standards prior to approval of or issuance of a development order, zoning approval, or conveyance.

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

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

## **DIVISION 3 – PROPERTY DEVELOPMENT REGULATIONS**

### **Section 33-YY: RSC-2 Residential Single-family Estate District**

(A) *Purpose and intent.* It is the intent and purpose of this section to maintain an RSC-2 residential single-family estate district to provide for a continuation of the uses created by Resolution No. Z-70-78, adopted June 2, 1970. This resolution created an estate category (EU-1) with minimum lot size of one (1) acre, but also allowed a guest house and caretakers' quarters. All property on Captiva Island formerly zoned RS-2 and subject to Resolution No. Z-70-78, has been converted to RSC-2. It is furthermore the intent of this section to assure that property owners may offer their estate-sized properties for rental to responsible renters or lessees. To achieve this balance of interests, it is the intent

of the Board that property owners may not rent or lease any combination of principal or accessory units on a single RSC-2 zoned lot to more than one (1) renter or lessee at a time.

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

(C) 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 in no case may such lesser setback be less than 20 feet from the public street right of way, and such relief must be limited to that which provides a reasonable use of the property in question while not adversely affecting the aesthetics of the neighboring or adjoining lots.
  - b. Side yard: 10 feet minimum
  - c. Rear yard: 20 feet minimum
  - d. Gulf of Mexico: 50 feet minimum, within which setback mangroves shall be protected according to Sec. 34-YY(A) above.
  - e. Other: 20 feet minimum, within which setback mangroves shall be protected according to Sec. 34-YY(A) above.
- 5) Maximum lot coverage: 25 percent
- 6) Allowed structures:
  - a. Main house
  - b. Accessory dwelling units

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

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

(E) 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 are understood to include temporary workers and construction and landscape crews.

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

(A) Consistent with Policy 13.1.2 of the Lee Plan, the height of buildings and structures may not exceed the least restrictive of the two following options:

- a. 35 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
- b. 28 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

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 (4) feet above the roof peak or eight (8) feet above the mean height level in the case of gable, hip, and gambrel roofs, whichever is lower, so long as these elements equal 20% 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 in such area to a height not to exceed 170 feet, provided that said new facility makes space available to the county for adequate emergency communications service coverage for Captiva, as well as co-location capability for all wireless carriers desirous of serving Captiva. Destruction of mangroves will not be allowed in order to build or operate such a tower or related tower facilities. The telecommunication tower will be a monopole, unless public safety is compromised.

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

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

Captiva Island is subject to hurricanes and tropical storm events such that the rapid and orderly evacuation of the island is necessary to the protection of life and limb. Furthermore, Captiva Island is an extraordinary community of great natural and built beauty and exceptional environmental resources. It is therefore the purpose and intent of this section, as articulated in the Lee Plan provisions concerning Captiva Island, to maintain a low density of population and to restrict building heights throughout the island.

#### *(B) Conflicting provisions.*<sup>12</sup>

A conflict between this chapter and the balance of this Code will be resolved in accordance with Sec. 34-4.

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

#### *(D) Density limitations.*

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

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

#### *(E) Exceptions.*

County Zoning Resolution No. Z-70-78, adopted on June 2, 1970, is to remain in full force and effect and be binding on all present and future property owners affected by the resolution. All zoning maps and

records of the division of community development and division of code enforcement shall so indicate the zoning for the lands affected by Resolution No. Z-70-78 to be estate zoning requiring each lot or parcel to contain a minimum square footage of 43,560 square feet for the issuance of a building or development permit or order. Each parcel or lot containing a minimum of 43,560 square feet and located within the RSC-2 zoning district, may also obtain a permit for no more than two (2) accessory dwelling units in addition to the primary dwelling unit as provided in Sec. 33-YY(D) above.

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

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

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

**DIVISION 4 – PLANNING PROCEDURES**

**Section 33-YY. Information clearinghouse**

Consistent with Lee Plan Policy 13.1.6, the Captiva Island community hereby establishes a “document clearing house” on Captiva, where copies of zoning submittal documents, staff reports, Hearing Examiner recommendations and resolutions. The applicant’s failure to provide or to timely provide documents to the document clearing house, or failure of the document clearing house to receive documents, will not constitute a defect in notice or bar a public hearing from occurring as scheduled.

**Format:** Printed, or PDF or Word files and JPG links to documents stored on publicly accessible websites shall be deemed as fulfilling this requirement.

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

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

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

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

**Section 33-YY: Community Review**

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

(A) Development orders, including applications for all development orders and Type 1, 2, 4, 5, 6, 7, 9, 10, 11, and 12 limited review development orders requested within the Captiva Planning Community.

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

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

- (D) Conventional rezoning actions.
- (E) Administrative actions

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

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

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

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

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

### **Sec. 33-YY. Applicability<sup>14</sup>**

This subdivision is adopted as an addendum to the general sign regulations set forth in Chapter 30.

### **Sec. 33-YY. Definitions**

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

**Animated sign<sup>15</sup>** means any sign of which all or any part thereof revolves or moves in any fashion whatsoever, and any sign which contains or uses for illustration any lights or lighting devices which change color, flash or alternate, show movement or motion, or change the appearance of the sign or any part thereof automatically, including wind-operated devices. Animated signs shall include flashing signs and a beacon light.

**Banner sign<sup>16</sup>** means a sign possessing characters, letters, illustrations or ornamentations applied to cloth, paper or fabric of any kind, either with or without frames, including awning signs.

**Directional sign**<sup>17</sup> means signs used for public information or directions, such as “one way,” “entrance,” or “exit.”

**Identification sign**<sup>18</sup> means a sign intended to distinguish a particular residential or non-residential property or estate, using the name of the owner or owners, the street address, or some form of artwork, lettering, fanciful naming, or other device.

**Illuminated sign.**<sup>19</sup> See Lighted sign in this section.

**Lighted sign**<sup>20</sup> means a sign which has characters, letters, figures, designs or outlines illuminated by electric lights or luminous tubes as part of the sign proper.

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

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

(Ord. No. 71-2, § I, 2-24-71)

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

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

The following types of signs are prohibited:

- (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, and including all signs which employ a beacon light or flashing light.
- (5) Neon signs or signs of similar effect.
- (6) “Sold” signs

### **Sec 33-YY. Removal of prohibited signs**

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

### **Sec. 33-YY. Temporary signs**

Temporary sign permits for prohibited signs will not be issued.

### **Sec. 33-554. Signs not requiring a permit**

#### **(A) Residential identification sign**

Identification signs not exceeding 2.0 square feet in area on lots with total frontage of less than 100 feet and 4.0 square feet in area on lots with frontage of 100 feet or more. The height of identification signs shall not exceed four (4) feet above grade and may be placed in rights-of-way and subject to the following standards and restrictions:

- a) Identification signs must comply with Secs. 14-76 and 34-675 of the Land Development Code and may be illuminated only in accordance with the following standards:

1. The area occupied by the luminaire and its supports will not be included when calculating the square footage of the sign.

2. Sign lighting shall be designed and located so as not to cause confusion with traffic control devices.
3. Full cutoff fixtures must be used. Uplighting is prohibited. No sign shall have internal illumination.
4. Illumination shall be with white light only, using fluorescent lamps or bulbs. Fluorescent fixtures shall be of the enclosed type with a gasketed lens and a wet location label.
5. A maximum of one fixture shall be allowed per sign face.
6. The maximum wattage shall not exceed 36 watts per sign face.
7. Approval for electric hookup to illuminate the sign must be obtained from the Lee County Department of Transportation.

b) The identification sign must include the street number of the property with numerals four (4) inches high.

c) The sign support must be of a suitable breakaway or yielding design. Any identification sign placed in an unsafe or hazardous location, as determined by the Department of Transportation, must be relocated or removed at the owner's expense.

d)<sup>21</sup> Identification signs in existence at the time of the adoption of this ordinance which exceed the square footage or height requirements, but are not otherwise deemed to be located in an unsafe or hazardous location, shall be considered nonconforming uses for purposes of this paragraph and may remain in place until removed or destroyed.

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

(C) Signs denoting the architect, engineer, contractor or subcontractor on the premises of work under construction and not exceeding four (4) square feet in area; provided, however, that such signs shall not be allowed to remain on the premises for more than 30 days after the issuance of the certificate of occupancy.

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

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

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

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

1. They shall be located only on the property advertised.

2. In all districts not of residential character such signs shall not exceed four (4) square feet in area, and shall not exceed two (2) square feet in areas classified as RSC-2, RS-1, TFC-2 and RM-2. The bottom edge of such signs shall not be greater than 12 inches above average grade of the sign's location. Such signs shall be limited to one (1) sign per parcel.
3. Temporary real estate signs shall be sturdily constructed, neat in appearance, ground signs only, with prongs not exceeding one-half inch in diameter and designed to be inserted and, removed without tools.
4. Temporary real estate signs may be erected only upon the property's being placed on the market for sale and shall be removed no more than five (5) days after the property is no longer for sale.<sup>22</sup>

(H) Signs, which 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 any product or service.

### **Sec. 33-YY. Nonconforming signs**

With the exception of nonconforming identification signs as provided in Section 33-YY, every existing sign of every type located upon Captiva Island which does not comply with this article shall be deemed nonconforming upon the effective date of this ordinance. For purposes of this ordinance, prohibited signs, as identified in Sec. 33-YY shall not be considered nonconforming.

(Ord. No. 71-2, § IV, 2-24-71)

### **Sec. 33-YY Maintenance of nonconforming signs**

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

(B) Any such nonconforming sign which is suddenly damaged or destroyed by act of God or vandalism may be re-erected according to the standards in place at that time. (Ord. No. 71-2, § IV, 2-24-71)

### **Sec. 33-YY. Penalty for violation of article.**

Any person who shall intentionally violate any of the terms or provisions of this article shall be punished as provided in section 1-5. For the purposes of this section, each day that a violation of such provision is permitted to exist shall constitute a separate offense.

(Ord. No. 71-2, § VI, 2-24-71)

### **Sec. 33-xxx. Prohibited signs**<sup>23</sup>

### **Sec. 33-YY. Construction standards**

In addition to the provisions of this article, all signs erected on lands included on Captiva Island shall be erected so as to conform with the applicable provisions of the Southern Standard Building Code.

(Ord. No. 71-2, § I, 2-24-71)

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

(A) It shall be unlawful for any person to post any bills, handbills, notices or advertisements or to brand, write, mark or paint any sign, letters or characters upon a building, wall, fence or other property of

another person on lands located upon Captiva Island without first obtaining the consent of the owner of such property or his/her duly authorized agent.

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

(C) The provisions of this section to the contrary notwithstanding, nothing contained in this section shall be construed to prohibit the distribution of literature in the locations described in this section by an agency of the government of the United States, the state or the county, or by any quasi public body as defined in this article, or to prohibit the erection of signs which comply with this article.

(Ord. No. 71-2, § III, 2-24-71)

**Sec. 33-xxx. Nonconforming signs**<sup>24</sup>

**Sec. 33-xxx. Maintenance of nonconforming signs**<sup>25</sup>

**Sec. 33-YY. Permanent signs in commercial areas.**

Any ground mounted or wall mounted signs located in the C-1, CS-1, CT or RM-2 zoning categories must comply with Secs. 14-76 and 34-675 of this Land Development Code

1) Ground mounted identification signs are subject to the following limitations:

- a) No such signs shall be erected any closer than 30 feet to the boundary line dividing such district from a district in which they are prohibited.
- b) Sign area is limited to 32 square feet.
- c) Signs cannot exceed a maximum of ten (10) feet in height or ten (10) feet in width.
- d) The sign must display the street number/s of the property on the face of the sign. The numbers 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.

2) Wall mounted signs: Wall signs are limited to ten percent (10%) of a tenants' wall area with a maximum size of 32 square feet.

**Sec. 33-xxx. Permitted signs**<sup>26</sup>

**Sec. 33-YY. Number of signs**

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

(Ord. No. 71-2, § I, 2-24-71)

**Sec. 33-YY. Commercial signs prohibited in certain districts**

No commercial advertising signs whatsoever, whether on- or off-premises, shall be permitted in any RSC-2, RS-1, RS-2 or TFC-2 district.

**Sec. 33-YY. Off-premises signs purpose and intent**

It is the intent of this section to encourage the practice of using directional signs or programs by public or quasi public bodies in lieu of private commercial advertising signs or private directional signs to direct customers from main roads on Captiva Island to commercial establishments located off of, or not

visible from, main roads. Therefore, no off-premises commercial advertising signs or directional signs of any type shall be erected on Captiva Island other than by public or quasi public bodies. Dimensions of directional signs may not exceed 24 by 36 inches and shall be uniform in appearance. Further, no signs shall be erected at the site of information offices or sales offices located on main roads which advertise the sale of goods or services at another location away from the site of the information offices or sales offices.

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

### **Sec. 33-YY. Definitions**

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

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

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

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

(Ord. No. 71-2, § II, 2-24-71)

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

### **Sec. 33-YY. Applicability of division**

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

(Ord. No. 71-2, § II, 2-24-71)

### **Sec. 33-YY. Posting of room rates**

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

(Ord. No. 71-2, § II, 2-24-71)

## **SECTION 3. SEVERABILITY**

It is declared to be the intent of the Board of County Commissioners that, if any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

**SECTION 4. CONFLICT**

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

**SECTION 5. EFFECTIVE DATE**

This Ordinance shall be effective as provided by law.

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

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

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

(SEAL)  
ATTEST:

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

<sup>1</sup> This definition does not appear in Sec. 34-2.

<sup>2</sup> This definition does not appear in Sec. 34-2.

<sup>3</sup> This definition does not appear in Sec. 34-2.

<sup>4</sup> This definition does not appear in Sec 34-2.

<sup>5</sup> This definition is different from that of Sec. 34-2, which reads as follows: “*Lock-off accommodations* means a single living unit designed in such a manner that at least one room and a bathroom can be physically locked off from the main unit and occupied as a separate living unit. Each portion may have a separate outside entry or share a common foyer with separate lockable interior doors, or share a lockable door or doors separating the two units.”

<sup>6</sup> Density limitations. No building or development permits shall be issued for any development on Captiva Island at a density greater than the following:

- (1) Three units per acre for dwelling units; or
- (2) Three units per acre for motels, hotels, condominiums and apartments.

For the purpose of this subdivision, the term "development" is defined to mean any improvements to land which require a building permit or development permit and the relocation of any existing buildings on another lot or parcel of land. The term "dwelling unit" means a room or group of rooms designed, used or intended be used as a single unit, which provides living facilities for one or more persons. The term "habitable floor" means any floor area usable for living purposes, including working, sleeping, eating, cooking, recreation or any combination thereof. Utility space or similar areas are not considered habitable space.

(Ord. No. 78-7, §§ 1—6, 5-10-78; Ord. No. 82-44, §§ 2—5, 7—9, 12-1-82)

<sup>7</sup> This definition does not appear in Sec 34-2.

<sup>8</sup> County staff recommended that this paragraph be reassigned and renumbered to Sec. 34-135, which is currently reserved in the Land Development Code.

<sup>9</sup> See Division 4, "Planning Procedures."

<sup>10</sup> These findings are similar to the criteria appearing in Sec. 34-145(b)(3):

*Findings.* Before granting any variance, the Hearing Examiner must find that all of the following exist:

- a. There are exceptional or extraordinary conditions or circumstances that are inherent to the property in question.
- b. The exceptional or extraordinary conditions or circumstances are not the result of actions of the applicant taken subsequent to the adoption of the ordinance (any action taken by an applicant pursuant to lawfully adopted regulations preceding the adoption of the ordinance from which this chapter is derived will not be considered self-created);
- c. The variance granted is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to his property;
- d. The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and
- e. The condition or situation of the specific piece of property, or the intended use of the property, for which the variance is sought is not of a general or recurrent nature so as to make it more reasonable and practical to amend the ordinance.
- f. In the case of wireless communication facilities, the Hearing Examiner must also make the findings required by section 34-1453.

In our February 25, 2010 meeting with staff, it was requested that we delete this language and defer to Sec. 34-145. Since this language was taken directly from the Lee Plan, we contend that these findings must be in addition to those of Sec. 34-145.

<sup>11</sup> This sentence has been deleted at staff recommendation because the new standard would be inconsistent with this statement.

<sup>12</sup> Sec. 33-4 reads as follows: "A conflict between the provisions of this chapter and the balance of this Code will be resolved in accordance with the following. The provisions of the Lee Plan in effect at the time of the conflict is discovered will control. If the Lee Plan is silent with respect to the issue, then the standards articulated in this chapter will control. If the Lee Plan and this chapter are silent with respect to an issue, then the provisions within the balance of this Code will control."

<sup>13</sup> Sec. 34-1805 reads as follows: "The permitted density for hotels and motels as set forth in this division will not apply to any hotel or motel units on Captiva Island. The maximum permitted density for hotels or motels on Captiva Island may not exceed three units per gross acre. The redevelopment of nonconforming hotels and motels on Captiva Island will be governed by the provisions of section 34-1545. That section will be interpreted to prohibit an increase in the number of rental units and to establish a maximum average unit size of 550 square feet."

<sup>14</sup> This paragraph replaces previous Sec. 33-555, "Applicability of general sign ordinance; conflicting provisions."

<sup>15</sup> This definition does not appear in Sec. 30-2.

<sup>16</sup> This definition does not appear in Sec. 30-2.

<sup>17</sup> This definition does not appear in Sec. 30-2.

<sup>18</sup> This definition does not appear in Sec. 30-2.

<sup>19</sup> This definition does not appear in Sec. 30-2.

<sup>20</sup> This definition does not appear in Sec. 30-2.

<sup>21</sup> In previous drafts, this paragraph was a part of the previous paragraph.

<sup>22</sup> County staff recommended substituting language "after the property is sold." The Panel has indicated a concern for properties which remain posted long after the property is no longer listed. The real estate agent in this case would benefit from the display of the advertising sign. This is not a major issue.

<sup>23</sup> This paragraph appears in a somewhat edited version in Sec. 33-YY, "Prohibited signs," above.

<sup>24</sup> Relocated and renumbered.

<sup>25</sup> Relocated and renumbered.

<sup>26</sup> This section is replaced by the section immediately above.