

ORDINANCE NO: 06-10

AN ORDINANCE AMENDING LEE COUNTY LAND DEVELOPMENT CODE CHAPTER 34 TO ESTABLISH REGULATIONS APPLICABLE TO THE CONSTRUCTION OF DUPLEX UNITS; AMENDING USE REGULATIONS TABLE FOR ONE- AND TWO-FAMILY RESIDENTIAL DISTRICTS (§34-694); USE REGULATIONS TABLE FOR MULTIPLE-FAMILY RESIDENTIAL DISTRICTS (§34-714); USE REGULATIONS TABLE FOR CONVENTIONAL COMMERCIAL DISTRICTS (§34-843); USE REGULATIONS TABLE FOR PLANNED DEVELOPMENT DISTRICTS (§34-934); ESTABLISHING SUPPLEMENTARY DISTRICT REGULATIONS APPLICABLE TO USE AND CONSTRUCTION OF DUPLEX DRIVEWAYS (§34-3107); AND LANDSCAPE FOR DUPLEXES (§34-3108); PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS AND AN EFFECTIVE DATE.

WHEREAS, Florida Statutes Section 125.01(1)(h) authorizes counties to establish, coordinate, and enforce zoning regulations necessary for the protection of the public; and

WHEREAS, the Board of County Commissioners adopted the Lee County Land Development Code, which contains regulations applicable to the development of land in Lee County; and

WHEREAS, Goal 24 of the Lee County Comprehensive Land Use Plan (Lee Plan) mandates that the county maintain clear, concise, and enforceable development regulations that fully address on-site and off-site development impacts, yet function in a streamlined manner; and

WHEREAS, Lee Plan Policies 14.5.3, 24.1.9, 52.1.1 and 110.6.2 require county staff and private citizen committees to review existing development regulations to determine whether the regulations can be further fine tuned and streamlined in order meet the goals, objectives and policies of the Lee Plan; and

WHEREAS, the Board finds there is a need to establish standards to provide consistency with respect to duplex residential units; and

WHEREAS, the Board of County Commissioners of Lee County, Florida has adopted a comprehensive Land Development Code; and

WHEREAS, the Local Planning Agency reviewed the proposed amendments on May 22, 2006, and found them consistent with the Lee Plan, as indicated.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:

SECTION ONE: AMENDMENT TO LDC CHAPTER 34

Lee County Land Development Code Chapter 34 is hereby amended as follows with deleted text identified by strike through and added text identified by underlining.

CHAPTER 34

ARTICLE VI. DISTRICT REGULATIONS

DIVISION 3. RESIDENTIAL DISTRICTS

Subdivision II. One- and Two-Family Residential Districts

Sec. 34-694. Use regulations table.

Use regulations for one- and two-family residential districts are as follows:

TABLE 34-694. USE REGULATIONS FOR ONE- AND TWO-FAMILY RESIDENTIAL DISTRICTS

	Special Notes or Regulations	RSC-1	RSC-2	RSA	RS-1	RS-2	RS-3	RS-4	RS-5	TCF-1	TFC-2	TF-1
Dwelling Unit:												
Duplex	Note (10) & (15)	-	-	-	-	-	-	-	-	P	P	P
Two-family attached	Note (10) & (15)	-	-	-	-	-	-	-	-	-	-	P

(15) See sections 34-3107 and 34-3108.

[Balance of the table remains unchanged.]

Subdivision III. Multiple-Family Districts

Sec. 34-714. Use regulations table.

Use regulations for multiple-family districts are as follows:

TABLE 34-714. USE REGULATIONS FOR MULTIPLE-FAMILY RESIDENTIAL DISTRICTS

	Special Notes or Regulations	RM-2	RM-3, RM-6, RM-8, RM-10
Dwelling Unit:	34-1493, 34-1494		
Duplex	Note (10) & (16)	P	P
Two-family attached	Note (10) & (16)	P	P

(16) See sections 34-3107 and 34-3108.

[Balance of the table remains unchanged.]

DIVISION 6. COMMERCIAL DISTRICTS

Sec. 34-843. Use regulations table.

Use regulations for conventional commercial districts are as follows:

TABLE 34-843. USE REGULATIONS FOR CONVENTIONAL COMMERCIAL DISTRICTS

	Special Notes or Regulations	C-1A	C-1	C-2	C-2A	CN-1	CN-2	CN-3 (21, 23)	CC	CG	CS-1	CS-2	CH	CT	CR	CI	CP
Dwelling unit: Duplex	Note (25) & (34)	P	P	P	P	-	-	-	-	-	-	P	-	-	-	-	-
Two-family attached	Note (25) & (34)	P	P	P	P	-	-	-	-	-	-	P	-	-	-	-	-

(34) See sections 34-3107 and 34-3108.

[Balance of the table remains unchanged.]

DIVISION 9. PLANNED DEVELOPMENT DISTRICT

Sec. 34-934. Use regulations table.

Use regulations for planned development districts are as follows:

TABLE 34-934. USE REGULATIONS FOR PLANNED DEVELOPMENT DISTRICTS

	Special Notes or Regulations	RPD	MHPD	RVPD	GFPD	CPD	IPD (Note 37)	AOPD	MPD
Dwelling Unit Duplex, single family	Note (29) & (40)	P	-	-	-	-	-	-	P

Two-family attached	Note (29) & (40)	P	-	-	-	-	-	-	-	P
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(40) See sections 34-3107 and 34-3108.

[Balance of the table remains unchanged.]

ARTICLE VII. SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 39. USE, OCCUPANCY AND CONSTRUCTION REGULATIONS

Sec. 34-3107. Duplex driveways.

- (a) Duplex units must be constructed with driveways (ie. one for each unit) at least 20 feet wide and 20 feet long.
- (b) The driveway must be constructed of concrete, asphalt or concrete pavers and comply with the provisions set forth in Lee County Administrative Code 11-12 pertaining to residential driveways.
- (c) The driveway must be maintained for the life of the duplex in a safe and pothole free condition. Long term or permanent use of the driveway for activities other than vehicle parking and driving is prohibited.

Sec. 34-3108. Landscape for duplex units.

- (a) Prior to issuance of a Certificate of Occupancy for the duplex units, the following minimum landscaping must be installed:
 - (1) Plants.
 - a. Trees. Four native canopy trees per lot must be installed in landscape mulch beds. Two of these trees must be planted in front of the duplex. The trees must be a minimum of ten feet in height at time of planting with a 2-inch caliper (measured at 12 inches above the ground) and a four foot spread. Two cabbage palms (*Sabal palmetto*) grouped together with a minimum of ten feet of clear trunk may be used to replace one canopy tree. Adequate space must be provided between the building structure and the plantings to allow for future growth of the trees or palms. The trees must be installed to avoid impacts to the septic drainfields and any utilities (overhead or underground).
 - b. Shrubs. Thirty native shrubs per lot must be installed in landscape mulch beds. The shrubs must be a minimum of 24 inches in height at time of planting and a minimum of three gallon container size. The required shrubs must be planted in front and on the sides of the duplex structure.
 - c. Plant quality. Plant materials used must meet the standards for Florida No. 1 or better, as set forth in the "Grades and Standards for Nursery Plants", Parts I and II, Department of Agriculture and Consumer Services, State of Florida.
 - d. Easements. Plants must be installed outside of any easements, including but not limited to, public utility easements, drainage easements and access or road easements.

- (2) *Mulch.* A minimum of a two-inch layer, measured after watering, of mulch or other recycled woody material must be placed and maintained around all newly installed trees, palms and shrubs. Each tree must have a ring of mulch no less than 36 inches beyond its trunk in all directions. The use of cypress mulch is strongly discouraged.
- (3) *Irrigation.* To ensure landscape plant establishment, all required landscaping must be irrigated by the use of an automatic irrigation system with a controller set to conserve water. Moisture detection devices (ie rain sensor switch) must be installed in all automatic sprinkler systems to override the sprinkler activation mechanism during periods of increased rainfall. Irrigation systems must be designed to avoid impacts on existing native vegetation and eliminate the application of water to impervious areas, including roads, drives and other vehicle areas.
- (4) *Certificate of Occupancy.* The required plants, mulch and irrigation system must be installed and inspected prior to the issuance of a Certificate of Occupancy.
- (5) *Maintenance.* The owner is responsible for maintaining the required landscaping in a healthy and vigorous condition at all times during the existence of the duplex structure. Tree and palm staking must be removed within 12 months after installation. All landscapes must be kept free of refuse, debris, disease, pests, weeds, and exotic pest plants (listed in LDC Section 10-420(h)).

SECTION TWO: 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 THREE: 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 FOUR: CODIFICATION AND SCRIVENER'S ERRORS

The Board of County Commissioners intend that this ordinance will be made part of the Lee County Code; and that sections of this ordinance can be renumbered or relettered and that the word "ordinance" can be changed to "section", "article" or some 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 Administrator, County Manager or his designee, without the need for a public hearing.

SECTION FIVE: EFFECTIVE DATE

This ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State. The provisions of this ordinance will apply to all projects or applications subject to the LDC unless the application for such project is complete and found sufficient before the effective date hereof.

THE FOREGOING ORDINANCE was offered by Commissioner Albion who moved its adoption. The motion was seconded by Commissioner Judah and, being put to a vote, the vote was as follows:

ROBERT P. JANESAYE	
DOUGLAS ST. CERNY	AYE
RAY JUDAH	AYE
TAMMARA HALL	AYE
JOHN E. ALBION	AYE

DULY PASSED AND ADOPTED THIS 12th day of June 2006.

ATTEST: BOARD OF COUNTY COMMISSIONERS
CHARLIE GREEN, CLERK OF LEE COUNTY, FLORIDA

By: _____

Deputy Clerk

By: _____

Tammara Hall, Chairwoman

APPROVED AS TO FORM:

By: _____

Dawn E. Perry-Lehnert

Office of County Attorney