

**Notice of a Public Meeting**  
**Local Planning Agency**  
**Agenda**  
**Thursday, December 9, 2021**  
**City of Bonita Springs City Hall**  
**9101 Bonita Beach Rd SE**  
**Bonita Springs, Florida 34135**  
**9:00 A.M.**

To submit your public comment in writing, please email the City at [CITYMEETINGS@CITYOFBONITASPRINGS.ORG](mailto:CITYMEETINGS@CITYOFBONITASPRINGS.ORG). Any written public comment must be received by 4:00 P.M. on December 8, 2021.

I. CALL TO ORDER.

II. ROLL CALL.

A. REVIEW OF THE FOLLOWING COMPREHENSIVE PLAN TEXT AMENDMENT FOR CONSISTENCY WITH THE CITY OF BONITA SPRINGS COMPREHENSIVE PLAN.

AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, PROVIDING FOR ADOPTION OF COMPREHENSIVE PLAN AMENDMENTS TO CREATE THE PROPERTY RIGHTS ELEMENT AS REQUIRED BY STATE LAW; AND FURTHERMORE DIRECTING TRANSMITTAL OF THE AMENDMENTS TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; PROVIDING FOR INTENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

B. REVIEW OF THE FOLLOWING LAND DEVELOPMENT CODE AMENDMENT FOR CONSISTENCY WITH THE CITY OF BONITA SPRINGS COMPREHENSIVE PLAN.

AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; AMENDING THE BONITA SPRINGS LAND DEVELOPMENT CODE, CHAPTER 4- ZONING, SECTION 4-1893-STREET SETBACKS TO ESTABLISH SETBACKS FOR ALLEYS, PROVIDING CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING, AND AN EFFECTIVE DATE

III. PUBLIC COMMENTS.

V. NEXT MEETING. Tentatively January 13, 2022

VI. APPROVAL OF MINUTES. July 15, 2021

## VII. ADJOURNMENT.

ANY PERSON REQUIRING SPECIAL ACCOMMODATIONS AT ANY OF THE MEETINGS BECAUSE OF A DISABILITY OR PHYSICAL IMPAIRMENT SHOULD CONTACT LISA ROBERSON, DIRECTOR OF FINANCE AND ADMINISTRATIVE SERVICES, AT 239-949-6262, AT LEAST 48 HOURS PRIOR TO THE MEETING. IF A PERSON DECIDES TO APPEAL A DECISION MADE BY THE COUNCIL IN ANY MATTER CONSIDERED AT THIS MEETING/HEARING, SUCH PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS TO BE MADE, TO INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH ANY SUCH APPEAL IS TO BE BASED.

**CPA21-86842-BOS**

**Bonita Plan**

**Property Rights Element**

**Expedited State Review Process**



**City Initiated Applications  
and Staff Analysis**

***City of Bonita Springs  
Planning Division  
9200 Bonita Beach Road, Suite 109  
Bonita Springs, Florida  
(239) 444-6150***

Local Planning Agency (LPA)	December 9, 2021
Public Hearing Date:	
City Council Transmittal Date:	December 15, 2021 (Tentative)
City Council Adoption Date:	To Be Scheduled
Project Name:	Property Rights Element

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*City of Bonita Springs*  
*Planning and Zoning Division*  
**STAFF REPORT FOR**  
**COMPREHENSIVE PLAN AMENDMENT**  
**EXPEDITED STATE REVIEW**

**CPA21-86842-BOS**

☒ **Text Amendment**

☐ **Map Amendment**

This Document Contains the Following Reviews:	
<input checked="" type="checkbox"/>	Staff Review
<input type="checkbox"/>	Local Planning Agency (LPA) Review and Recommendation
<input type="checkbox"/>	City Council Hearing for Transmittal
<input type="checkbox"/>	City Council Hearing for Adoption

STAFF REPORT PREPARATION DATE: December 1, 2021

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**PART I - BACKGROUND AND STAFF RECOMMENDATION**

**A. SUMMARY OF APPLICATION**

1. Applicant: City of Bonita Springs
2. Request: To amend the Bonita Springs Comprehensive Plan to create a new Property Rights Element in response to the passage of House Bill 59, signed into law on June 29, 2020, and effective as of July 1, 2021.

**B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY**

1. Recommendation: Staff recommends that the City find the amendment consistent with the Comprehensive Plan (“**Exhibit A**”) and transmit to the Florida Department of Economic Opportunity (FDEO) through the Expedited Review Process in accordance with Florida State Statute.
2. Basis and recommended findings of fact: See Part II of this Report.
3. The proposed Comprehensive Plan Text Amendment is included in **Exhibit A**.

**C. SUMMARY/BACKGROUND DISCUSSION:**

*Introduction*

The purpose of this amendment is to incorporate a Property Rights Element into the Bonita Plan as required by Florida Statute §163.3177(6)(i), which states that “each local government shall include in its comprehensive plan a property rights element to ensure that private property rights are considered in local decision making.” The

element must be adopted prior to the adoption of any other plan amendment initiated after July 1, 2021.

### *Background*

Pursuant to Florida Statute, the purpose of the Community Planning Act is “to utilize and strengthen the existing role, processes, and powers of local governments in the establishment and implementation of comprehensive planning programs to guide and manage future development consistent with the proper role of local government.” The 2021 Legislature approved House Bill 59, which amended the Community Planning Act, requiring local governments “to include in its comprehensive plan a property rights element.” House Bill 59 was signed into law on June 29, 2021 and became effective on July 1, 2021. Among other provisions of House Bill 59, attached hereto as **Attachment A**, the addition of §163.3177(6)(i), requires each local government in the State of Florida to include a property rights element in its comprehensive plan to ensure private property rights are considered in local decision making. The property rights element must be adopted in the comprehensive plan prior to the adoption of any other proposed plan amendment initiated after July 21, 2021, or the date of the next scheduled evaluation and appraisal of the comprehensive plan; the City of Bonita Springs evaluation and appraisal is scheduled for April 1, 2023.

The City Attorney’s Office advised Community Development of this statutory requirement. The preparation of this comprehensive plan amendment will allow the City to maintain consistency with Florida Statutes and route the draft amendments through the required public hearing process.

## **PART II - STAFF ANALYSIS**

### **A. STAFF ANALYSIS**

A Property Rights Element is now a mandatory component of a local comprehensive plan. The statute provides a “statement of rights” that a local government may adopt into the local comprehensive plan, but it also allows for each local government to adopt its own property rights language as long as it does not conflict with the statement of rights below.

#### Statement of rights

1. The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.
2. The right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.



3. The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.

4. The right of a property owner to dispose of his or her property through sale or gift.

Staff's recommendation is to incorporate the statement of rights provided by the Florida Legislature verbatim into a new Property Rights Element of the Bonita Plan. This recommendation is made with consideration of advice from the City Attorney's Office that the adoption of the "statement of rights" would provide the City with the best legal defense against any challenges to its adoption. Additionally, this will decrease the chance of the proposed amendments being challenged or considered to not be in compliance with state statutes.

The statement of rights is consistent with the City's current practices concerning private property rights and will not substantially affect application requirements and/or review timelines.

Florida Statutes already requires local governments to consider private property rights as provided in §163.3161(10) and §187.101(3). The purpose of this statutory requirement appears to further protect private property rights from government actions. The adoption of this amendment will enable the City to fulfill its statutory requirement that each local government in the State of Florida include a property rights element in its comprehensive plan to ensure that property rights are considered in local decision-making

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#### **NOTICE OF PROPOSED ACTION:**

The LPA public hearing and City Council transmittal hearing was noticed in a newspaper of general circulation. The transmittal hearing is scheduled before the City Council for transmittal to the Florida Department of Economic Opportunity (FDEO) on December 15, 2021. The adoption hearing will be scheduled in accordance with Florida State Statute upon receipt of comments from FDEO and/or other reviewing agencies.

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#### **CONCLUSIONS:**

The Bonita Springs Comprehensive Plan should be transmitted to FDEO through the Expedited Review Process in accordance with Florida State Statute based on the Staff Analysis (Attachment A).

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#### **STAFF RECOMMENDATION**

Commence with the transmittal process for comprehensive plan amendment and if approved, transmit to FDEO through the Expedited Review Process in accordance with Florida State Statute.

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#### **EXHIBITS**

A. Comprehensive Plan Text Amendment

#### **ATTACHMENTS:**

A. House Bill 58

*Submitted by:*

Jacqueline Genson, AICP

Planning and Zoning Manager

**PART III - LOCAL PLANNING AGENCY  
REVIEW AND RECOMMENDATION**

DATE OF PUBLIC HEARING: December 9, 2021

**A. LOCAL PLANNING AGENCY REVIEW**

**B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF  
FACT SUMMARY**

**1. RECOMMENDATION:**

**2. BASIS AND RECOMMENDED FINDINGS OF FACT:**

**C. VOTE:**

**Chair Jeff Maturo**

\_\_\_\_\_

**Don Colapietro**

\_\_\_\_\_

**Rex Sims**

\_\_\_\_\_

**Jeff Lewin**

\_\_\_\_\_

**Linda Schwartz**

\_\_\_\_\_

**Robert Bornstein**

\_\_\_\_\_

**Bob Lombardo**

\_\_\_\_\_



**PART IV – CITY COUNCIL  
HEARING FOR TRANSMITTAL OF PROPOSED AMENDMENT**

DATE OF PUBLIC HEARING: December 15, 2021

**A. CITY COUNCIL REVIEW**

**B. CITY COUNCIL RECOMMENDATION AND FINDINGS OF  
FACT SUMMARY**

**1. COUNCIL ACTION:**

**2. BASIS AND RECOMMENDED FINDINGS OF FACT:**

**C. VOTE:**

**Mayor Rick Steinmeyer** \_\_\_\_\_

**Amy Quaremba** \_\_\_\_\_

**Jesse Purdon** \_\_\_\_\_

**Laura Carr** \_\_\_\_\_

**Chris Corrie** \_\_\_\_\_

**Mike Gibson** \_\_\_\_\_

**Fred Forbes** \_\_\_\_\_



A t t a c h m e n t    A

F L O R I D A    H O U S E    O F    R E P R E S E N T A T I V E S

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2021 Legislature

1  
2        An act relating to growth management; amending s.  
3        163.3167, F.S.; specifying requirements for certain  
4        comprehensive plans effective, rather than adopted,  
5        after a specified date and for associated land  
6        development regulations; amending s. 163.3177, F.S.;  
7        requiring local governments to include a property  
8        rights element in their comprehensive plans; providing  
9        a statement of rights which a local government may  
10       use; requiring a local government to adopt a property  
11       rights element by the earlier of its adoption of its  
12       next proposed plan amendment initiated after a certain  
13       date or the next scheduled evaluation and appraisal of  
14       its comprehensive plan; prohibiting a local  
15       government's property rights element from conflicting  
16       with the statement of rights contained in the act;  
17       amending s. 163.3237, F.S.; providing that the consent  
18       of certain property owners is not required for  
19       development agreement changes under certain  
20       circumstances; providing an exception; amending s.  
21       337.25, F.S.; requiring the Department of  
22       Transportation to afford a right of first refusal to  
23       certain individuals under specified circumstances;  
24       providing requirements and procedures for the right of  
25       first refusal; amending s. 380.06, F.S.; authorizing

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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2021 Legislature

certain developments of regional impact agreements to be amended under certain circumstances; providing retroactive applicability; providing a declaration of important state interest; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (3) of section 163.3167, Florida Statutes, is amended to read:

163.3167 Scope of act.—

(3) A municipality established after the effective date of this act shall, within 1 year after incorporation, establish a local planning agency, pursuant to s. 163.3174, and prepare and adopt a comprehensive plan of the type and in the manner set out in this act within 3 years after the date of such incorporation. A county comprehensive plan is controlling until the municipality adopts a comprehensive plan in accordance with this act. A comprehensive plan for a newly incorporated municipality which becomes effective ~~adopted~~ after January 1, 2016 ~~2019~~, and all land development regulations adopted to implement the comprehensive plan must incorporate each development order existing before the comprehensive plan's effective date, may not impair the completion of a development in accordance with such existing development order, and must vest the density and intensity approved by such development order existing on the

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51 effective date of the comprehensive plan without limitation or  
52 modification.

53 Section 2. Paragraph (i) is added to subsection (6) of  
54 section 163.3177, Florida Statutes, to read:

55 163.3177 Required and optional elements of comprehensive  
56 plan; studies and surveys.—

57 (6) In addition to the requirements of subsections (1)–  
58 (5), the comprehensive plan shall include the following  
59 elements:

60 (i)1. In accordance with the legislative intent expressed  
61 in ss. 163.3161(10) and 187.101(3) that governmental entities  
62 respect judicially acknowledged and constitutionally protected  
63 private property rights, each local government shall include in  
64 its comprehensive plan a property rights element to ensure that  
65 private property rights are considered in local decisionmaking.  
66 A local government may adopt its own property rights element or  
67 use the following statement of rights:

68  
69 The following rights shall be considered in local  
70 decisionmaking:

71  
72 1. The right of a property owner to physically  
73 possess and control his or her interests in the  
74 property, including easements, leases, or mineral  
75 rights.

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76  
77       2. The right of a property owner to use, maintain,  
78       develop, and improve his or her property for personal  
79       use or for the use of any other person, subject to  
80       state law and local ordinances.

81  
82       3. The right of the property owner to privacy and to  
83       exclude others from the property to protect the  
84       owner's possessions and property.

85  
86       4. The right of a property owner to dispose of his or  
87       her property through sale or gift.

88  
89       2. Each local government must adopt a property rights  
90       element in its comprehensive plan by the earlier of the date of  
91       its adoption of its next proposed plan amendment that is  
92       initiated after July 1, 2021, or the date of the next scheduled  
93       evaluation and appraisal of its comprehensive plan pursuant to  
94       s. 163.3191. If a local government adopts its own property  
95       rights element, the element may not conflict with the statement  
96       of rights provided in subparagraph 1.

97       Section 3. Section 163.3237, Florida Statutes, is amended  
98       to read:

99       163.3237 Amendment or cancellation of a development  
100       agreement.--A development agreement may be amended or canceled by



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101 mutual consent of the parties to the agreement or by their  
102 successors in interest. A party or its designated successor in  
103 interest to a development agreement and a local government may  
104 amend or cancel a development agreement without securing the  
105 consent of other parcel owners whose property was originally  
106 subject to the development agreement, unless the amendment or  
107 cancellation directly modifies the allowable uses or  
108 entitlements of such owners' property.

109 Section 4. Subsection (4) of section 337.25, Florida  
110 Statutes, is amended to read:

111 337.25 Acquisition, lease, and disposal of real and  
112 personal property.—

113 (4) The department may convey, in the name of the state,  
114 any land, building, or other property, real or personal, which  
115 was acquired under subsection (1) and which the department has  
116 determined is not needed for the construction, operation, and  
117 maintenance of a transportation facility. When such a  
118 determination has been made, property may be disposed of through  
119 negotiations, sealed competitive bids, auctions, or any other  
120 means the department deems to be in its best interest, with due  
121 advertisement for property valued by the department at greater  
122 than \$10,000. A sale may not occur at a price less than the  
123 department's current estimate of value, except as provided in  
124 paragraphs (a)-(d). The department may afford a right of first  
125 refusal to the local government or other political subdivision



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126 in the jurisdiction in which the parcel is situated, except in a  
127 conveyance transacted under paragraph (a), paragraph (c), or  
128 paragraph (e). Notwithstanding any provision of this section to  
129 the contrary, before any conveyance under this subsection may be  
130 made, except a conveyance under paragraph (a) or paragraph (c),  
131 the department shall first afford a right of first refusal to  
132 the previous property owner for the department's current  
133 estimate of value of the property. The right of first refusal  
134 must be made in writing and sent to the previous owner via  
135 certified mail or hand delivery, effective upon receipt. The  
136 right of first refusal must provide the previous owner with a  
137 minimum of 30 days to exercise the right in writing and must be  
138 sent to the originator of the offer by certified mail or hand  
139 delivery, effective upon dispatch. If the previous owner  
140 exercises his or her right of first refusal, the previous owner  
141 has a minimum of 90 days to close on the property. The right of  
142 first refusal set forth in this subsection may not be required  
143 for the disposal of property acquired more than 10 years before  
144 the date of disposition by the department.

145 (a) If the property has been donated to the state for  
146 transportation purposes and a transportation facility has not  
147 been constructed for at least 5 years, plans have not been  
148 prepared for the construction of such facility, and the property  
149 is not located in a transportation corridor, the governmental  
150 entity may authorize reconveyance of the donated property for no

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151 consideration to the original donor or the donor's heirs,  
152 successors, assigns, or representatives.

153 (b) If the property is to be used for a public purpose,  
154 the property may be conveyed without consideration to a  
155 governmental entity.

156 (c) If the property was originally acquired specifically  
157 to provide replacement housing for persons displaced by  
158 transportation projects, the department may negotiate for the  
159 sale of such property as replacement housing. As compensation,  
160 the state shall receive at least its investment in such property  
161 or the department's current estimate of value, whichever is  
162 lower. It is expressly intended that this benefit be extended  
163 only to persons actually displaced by the project. Dispositions  
164 to any other person must be for at least the department's  
165 current estimate of value.

166 (d) If the department determines that the property  
167 requires significant costs to be incurred or that continued  
168 ownership of the property exposes the department to significant  
169 liability risks, the department may use the projected  
170 maintenance costs over the next 10 years to offset the  
171 property's value in establishing a value for disposal of the  
172 property, even if that value is zero.

173 (e) If, at the discretion of the department, a sale to a  
174 person other than an abutting property owner would be  
175 inequitable, the property may be sold to the abutting owner for

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the department's current estimate of value.

Section 5. Paragraph (d) of subsection (4) of section 380.06, Florida Statutes, is amended to read:

380.06 Developments of regional impact.—

(4) LOCAL GOVERNMENT DEVELOPMENT ORDER.—

(d) Any agreement entered into by the state land planning agency, the developer, and the local government with respect to an approved development of regional impact previously classified as essentially built out, or any other official determination that an approved development of regional impact is essentially built out, remains valid unless it expired on or before April 6, 2018, and may be amended pursuant to the processes adopted by the local government for amending development orders. Any such agreement or amendment may authorize the developer to exchange approved land uses, subject to demonstrating that the exchange will not increase impacts to public facilities. This paragraph applies to all such agreements and amendments effective on or after April 6, 2018.

Section 6. The Legislature finds and declares that this act fulfills an important state interest.

Section 7. This act shall take effect July 1, 2021.

## Exhibit A

### PROPERTY RIGHTS ELEMENT

#### GOALS, OBJECTIVES AND POLICIES

Goal 1. In accordance with §163.31776)(i), the following rights will be considered in local decision making:

1. The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.
2. The right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.
3. The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.
4. The right of a property owner to dispose of his or her property through sale or gift.





**REQUESTED MOTION:** (First Reading) AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; AMENDING THE BONITA SPRINGS LAND DEVELOPMENT CODE, CHAPTER 4- ZONING, SECTION 4-1893- STREET SETBACKS TO ESTABLISH SETBACKS FOR ALLEYS, PROVIDING CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING, AND AN EFFECTIVE DATE.

**REQUESTOR:** Jacqueline Genson, AICP, Community Development

**AGENDA:** First reading of an ordinance

**STRATEGIC PRIORITY:** (5) Community Aesthetics: Develop and Impelment Urban Design

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**BACKGROUND:**

There are several subdivisions outside of the Downtown District where alleys are located along the rear or side yard lot lines. The City's comprehensive plan identifies alleys as a type of roadway; therefore, alleys are viewed as a type of street for setback purposes. The Land Development Code (LDC) establishes minimum setback standards for certain structures contingent on a street's classification pursuant to LDC Sec. 4-1893; this section does not provide setback standards for alleys. The Downtown District is the only part of the LDC that does provide setback standards for alleys, which was approved as part of the Form-Based Code. This amendment proposes to establish setbacks for alleys outside of the Downtown District.

The LPA will review the amendment package on December 9, 2021. Staff will provide a summary of the LPA recommendation at the December 15, 2021 second reading and public hearing.

**STAFF RECOMMENDATION:** Move to the Second Reading and Public Hearing

**ATTACHMENTS:**

1. Ordinance
2. Amendment Package in Strike-through/Underline format

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**REVIEWERS:**

City Manager: Arleen Hunter  
City Attorney: Derek Rooney  
City Clerk: Debra Filipek  
Department Director:

Council Action: Approved \_\_\_ Denied \_\_\_ Deferred \_\_\_ Other \_\_\_\_\_

# **CITY OF BONITA SPRINGS, FLORIDA**

## **ORDINANCE NO. 21 – \_\_**

**AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; AMENDING THE BONITA SPRINGS LAND DEVELOPMENT CODE, CHAPTER 4- ZONING, SECTION 4-1893 STREET SETBACKS TO ESTABLISH SETBACKS FOR ALLEYS, PROVIDING CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING, AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Bonita Springs, Florida is the governing body of Bonita Springs; and

**WHEREAS**, the City of Bonita Springs desires to streamline, clarify, and otherwise update provisions of the City's Land Development Code; and

**WHEREAS**, pursuant to the Article VIII of the Florida Constitution, the City of Bonita Charter and Section 166.021, Florida Statutes, the City Council is authorized to adopt ordinances necessary for the exercise of its powers in for health, safety, and general welfare; and

**WHEREAS**, the City Council has determined that it is in the best interests and welfare of the City of Bonita Springs and its residents to enact this Ordinance.

### **THE CITY OF BONITA SPRINGS HEREBY ORDAINS:**

#### **Section 1.      Recitals Adopted.**

That each of the above stated recitals is hereby adopted as legislative findings of the City Council and confirmed as being true, and the same are hereby incorporated as a part of this Ordinance.

#### **Section 2.      Amending Land Development Code**

The Bonita Springs City Code is hereby amending Section 4-1893 of the City's Land Development Code, with deletions depicted with ~~strikethroughs~~ and underlined language as additions, as provided and further depicted in Exhibit A, attached hereto and incorporated herein by reference.

#### **Section 3.      SEVERABILITY**

The provisions of this Ordinance are severable and it is the intention to confer the whole or any part of the powers herein provided for. If any part of this Ordinance is found to be invalid, preempted, or otherwise superseded, the remainder shall nevertheless be



given full force and effect to the extent permitted by the severance of such invalid, preempted, or superseded part as if adopted with such part had not been included herein.

**Section 4.**                    **CONFLICTS OF LAW**

This Ordinance shall supersede any ordinances in conflict herewith to the extent that such conflict exists. Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of the requirements of state or federal law, the more restrictive shall apply.

**Section 5.**                    **CODIFICATION AND SCRIVENER'S ERRORS**

It is the intention of the City Council that the provisions of this Ordinance shall become and be made part of the Bonita Springs Code; that sections of this Ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intention; and that any typographical errors which do not affect the intent may be authorized by the City Manager without need of public hearing, by filing a corrected copy with the City Clerk. It is further the intent of the City Council that the provisions of this Ordinance may be modified as a result of consideration that may arise during public hearing(s) and that such modifications shall be incorporated into the final version.

**Section 6.**                    **EFFECTIVE DATE**

This Ordinance shall be effective immediately upon its adoption.

**DULY PASSED AND ADOPTED BY THE CITY COUNCIL** of the City of Bonita  
Springs, Florida this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

Attest:

**CITY OF BONITA SPRINGS, FLORIDA**

By: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
Mayor

Reviewed for legal sufficiency:

By: \_\_\_\_\_  
City Attorney

Vote:

Carr

Purdon

Forbes

Corrie

Gibson

Quaremba

Steinmeyer

Date filed with City Clerk: \_\_\_\_\_

#### Sec. 4-1893. Street setbacks.

- (a) *Required setback.* Except as provided for in subsection (b) of this section, or unless a modification is granted as a variance or deviation, all buildings and structures must be set back from the adjacent street easement or right-of-way according to the functional classification of the adjoining street as set forth on the official trafficways map. Any street not shown on the trafficways map as a collector or arterial street will be presumed to be a local street or a private street for the purposes of this section.

##### SETBACKS FROM STREETS

Street Classification	Setback from Edge of Right-of-Way or Street Easement Line (feet)
Arterial or collector street:	
With frontage street*	65
Without frontage street	25
Local	25
Private	20
Rear and side alley**	5

\* Note: Applies only where the frontage street is located within 40 feet of the right-of-way; does not apply where the frontage street is or will be located within the right-of-way

\*\* Note: Utility service and/or fire access provided from the alley may require additional setbacks.

(b) *Exceptions.*

- (1) *Exception for certain structures.* Certain structures are exempt from the street setback requirements as follows:
- Mail and newspaper delivery boxes.* Mail and newspaper delivery boxes may be placed in accordance with U.S. Postal Service regulations.
  - Bus shelters, bus stop benches and bicycle racks.* Bus shelters and bicycle racks may be located in any district, provided the location of the structure is approved by public works.
  - Telephone booths.* Telephone booths may be located in any district, provided that the location shall be approved by public works.
  - Utility equipment.* Accessory utility equipment such as pad-mounted transformers, service pedestals and telephone terminal or switching devices are exempt from certain setback requirements, provided that they comply with the provisions set forth in division 14 of this article.
- (2) *Exception for certain existing lots and structures.*
- The setbacks set forth in subsection (a) of this section shall not apply to residential structures or public schools erected prior to August 1, 1986, or which received a development order or building permit which is still valid on August 1, 1986.
  - Street setbacks for corner lots recorded prior to January 28, 1983, which have a lot width of less than 100 feet shall be modified as follows:
    - If the corner lot abuts two local streets, the setback for the street opposite the interior side yard may be reduced to 15 feet.

- 
2. If the corner lot abuts a local street and a street of higher classification, the street setback for the local street may be reduced to 15 feet.
- (c) *Modifications.* Upon determination that the setbacks set forth in subsection (a) of this section are not needed, the setbacks may be modified by a variance approved pursuant to section 4-195(e), or by a deviation as part of a planned development. Right-of-way modifications may not be granted through this provision.
- (Ord. No. 11-02, § 3(4-2192), 1-19-2011)



**Notice of a Communications Media Technology ("CMT") Public Meeting  
Local Planning Agency  
MINUTES  
City of Bonita Springs City Hall  
9101 Bonita Beach Rd. SE  
Bonita Springs, Florida 34135  
Thursday, July 15, 2021  
9:00 A.M.**

**I. CALL TO ORDER.**

Chairman Jeff Maturo called the meeting to order at 9:00 A.M.

**II. ROLL CALL.**

Members in attendance: Chairman Jeff Maturo, Board Member Robert Bornstein, Board Member Jeffrey Lewin, Board Member Robert Lombardo, Board Member Linda Schwartz, Board Member Rex Sims.

Absent: Vice-Chairman Don Colapietro.

**III. REVIEW OF THE FOLLOWING: Read into record by Chairman Jeff Maturo.**

A. AN AMENDMENT TO THE BONITA SPRINGS LAND DEVELOPMENT CODE; CHAPTER 2 – ADMINISTRATION, CHAPTER 3 – DEVELOPMENT STANDARDS, CHAPTER 4 – ZONING, AND CHAPTER 6 – SIGNS.

- Jacqueline Genson, Community Development, provided the presentation (file in Clerk's office) of the proposed amendments to the Land Development Code. This included Chapter 2-Administration: (1.) Sec. 2-571. Fee schedule for planning and zoning; cost recovery; waiver and adjustment process; Chapter 3-Development Standards: (1.) Sec. 3-81. Deviation and variances, (2.) Sec. 3-159. Types of development entitled to limited review, (3.) Sec. 3-268. Refuse and solid waste disposal facilities, (4.) Sec. 3-493. Dumpster enclosures.
- Ms. Genson continued walking the committee through proposed changes in Chapter 4-Zoning: (1.) Sec. 4-2224. Clearing, grading or filling of land, and in Chapter 6-Signs: (1.) Sec. 6-112. Permanent signs in residential areas, (2.) Sec. 6-113. Permanent signs in commercial and industrial areas.



- Board Member Robert Bornstein inquired about the total amount of fees the City received every year. Ms. Genson replied that those figures would likely be memorialized in the budget in terms of revenue collection.
- Board Member Bornstein inquired if anything existed in the code to addresses how often trash pickup would occur or an odor requirement. Ms. Genson stated that would fall under usage. Mr. Bornstein asked about fines and enforcement. Ms. Genson stated those details would be in the City's Interlocal Agreement with Lee County Solid Waste. Board Member Bornstein expressed concern with new construction becoming a potential problem with no way to enforce. City Attorney Derek Rooney provided further explanation. Ms. Genson offered to convey noted concerns before City Council upon the second reading.
- Board Member Rex Sims questioned the Dumpster Enclosure section on page 11. He believed that with the 100-foot lots on Old 41, it would be difficult to comply with the dumpster shield requirements. Ms. Genson explained that there was a technical deviation process to address those concerns. Mr. Sims asked if they could get rid of all the restrictions as he believed it was overwhelming the 100-foot lot owners, and posed a discouragement to development. Ms. Genson did not necessarily believe it was the regulations per se, and staff was working to build in greater flexibility to share facilities and offer other options in the code.
- Board Member Rex Sims asked for clarification of line "L" at the top of page 19 and whether the requirement included both logo and message. Ms. Genson answered in the affirmative and explained the City Architect had been administering this section in this way for some time. Board Member Sims believed it to be a problem stating that if one was limited this way, then the logo should not be included. John Dulmer, Community Development, did not know where the application of the code was of concern. He stated that the outline and the way it was enforced was what the City wanted; it provided another level of clarity. Board Member Rex Sims questioned if the logo could be 100 percent of the sign to which Mr. Dulmer stated in the affirmative.
- Board Member Robert Bornstein inquired if restrictions existed in the code for messages that are obscene or controversial. City Attorney Rooney stated that obscenity was the only restriction, which was viewed as a community standard.
- Board Member Linda Schwartz inquired about (3)(e.) on page 15 addressing modification to drainage flow. She was concerned about the possible development of Bonita Springs Golf & Country Club and engineers attesting that the structure would be impacted by development behind the property. Ms. Genson stated the sections was geared toward infill lots and lots that were not governed by a development order. City Attorney Rooney offered further explanation.
- Board Member Bornstein asked staff for progress of current developments, which Ms. Genson provided. Mr. Bornstein inquired whether the staff could provide a written report of updates. Ms. Genson offered to accommodate by providing a verbal summary on updates at the end of each session on agenda items where the committee took action. Board Member Linda Schwartz stated there were resources for obtaining updates such as the City Council meeting minutes and videos. Chairman Jeff Maturo felt

that no further action was necessary by staff as other resources existed for committee members to locate updates on development.

- Agenda Item A. Board Member Robert Bornstein entered a motion to approve the proposed Land Development Code amendments; Board Member Linda Schwartz seconded; the motion passed unanimously.

<b>RESULT:</b>	<b>PASSED [6-0]</b>
<b>MOTION BY:</b>	Robert Bornstein, Board Member
<b>SECOND BY:</b>	Linda Schwartz, Board Member
<b>AYES:</b>	Bornstein, Lewin, Lombardo, Maturo, Schwartz, Sims
<b>NAYS:</b>	None

**IV. NEXT MEETING.**

Tentative: August 12, 2021.

**V. APPROVAL OF MINUTES: June 10, 2021.**

Board Member Rex Sims motioned for approval; Board Member Linda Schwartz seconded; motion passed unanimously.

**VI. ADJOURNMENT.**

There being no further items to discuss, Chairman Jeff Maturo adjourned the meeting at 9:49 A.M.

Respectfully submitted,

\_\_\_\_\_  
Laurie K. Hamm, Recording Secretary

APPROVED:  
LOCAL PLANNING AGENCY:

Date: \_\_\_\_\_  
AUTHENTICATED:

\_\_\_\_\_  
Jeff Maturo, Chairman



