

CITY OF BONITA SPRINGS, FLORIDA

ORDINANCE NO. 22 – 03

AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; AMENDING THE BONITA SPRINGS LAND DEVELOPMENT CODE, CHAPTER 4 ZONING, SEC. 4-194. - GENERAL SUBMITTAL REQUIREMENTS FOR APPLICATIONS REQUIRING PUBLIC HEARING, SEC. 4-229. - NOTICES., SEC. 4-1728. - DIMENSIONAL REQUIREMENTS; DELINEATION OF PARKING SPACES, AND SEC. 4-2224. CLEARING, GRADING OR FILLING OF LAND; 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 the pertinent provisions of Chapter 4 Zoning 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 If any part of this Ordinance is found to be invalid, preempted, or otherwise superseded, the remainder shall nevertheless be given full force and effect to the extent permitted by the severance of such invalid, preempted, or superseded part as if adopted with such part had not been included herein.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 of 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 15th day of June, 2022.

Attest:

CITY OF BONITA SPRINGS, FLORIDA

By: 
City Clerk

By: 
Mayor

Reviewed for legal sufficiency:

By: 
City Attorney's Office

Vote:

Carr	Aye	Gibson	Aye
Purdon	Absent	Quaremba	Aye
Forbes	Aye	Steinmeyer	Aye
Corrie	Aye		

Date filed with City Clerk: 6/14/2022

Exhibit A

Sec. 4-194. General submittal requirements for applications requiring public hearing.

- (a) *All applications.* Every request for actions requiring a public hearing under this chapter must include the following. However, upon written request, on a form prepared by the city, the director may modify the submittal requirements contained in this section where it can be clearly demonstrated that the submission will have no bearing on the review and processing of the application. The request and the director's written response must accompany the application submitted and will become a part of the permanent file.
- (1) *Legal description.* A legal description of the property must include a copy of the plat, if any, and the county STRAP number. The director has the right to reject any legal description which is not sufficiently detailed so as to locate the property on county maps or section aerial maps.
 - (2) *Certified sketch of description.* A certified sketch of description is required, unless the subject property consists of one or more undivided platted lots. If the application includes multiple abutting parcels, the legal description must describe the perimeter boundary of the total area, but need not describe each individual parcel. However, the STRAP number for each parcel must be included. The director may require a boundary survey prepared by a surveyor meeting the minimum technical standards for land surveying in the state where there is a question regarding the accuracy of the legal description of the property. Boundaries must be clearly marked with a heavy line. The boundary line must include the entire area to be developed. If the request is owner-initiated, flood zone and required finished floor elevation must be shown as well as the location of existing structures on the property.
 - (3) *Confirmation of ownership.* If at any time during the review process the director concludes there is a question regarding ownership of the property, the director may require submittal of a title insurance policy, attorney's opinion of title, or ownership and encumbrance report.
 - (4) *Area location map.* A map, at suitable scale, indicating the property described in the legal description. The map must be sufficiently referenced to known major streets or other physical boundaries so as to be clearly identifiable to the general public.
 - (5) *Property owners list.* A complete list of all property owners, and their mailing addresses, for all property within the area described. For the purpose of this subsection, names and addresses of property owners will be deemed to be those appearing on the latest tax rolls of the county. The applicant is responsible for the accuracy of such list.
 - (6) *Surrounding property owners list.* A complete list of all property owners, and their mailing addresses, for all property within 375 feet of the perimeter of the subject parcel or the portion thereof that is the subject of the request, except that special exception requests for the sale or service for on-premises consumption shall include all property within 500 feet. For the purpose of this subsection, names and addresses of property owners will be deemed to be those appearing on the latest tax rolls of the county at the time of sufficiency. The applicant is responsible for the accuracy of such list. This list is for the purpose of mailing notice confirming mailed notices by the applicant to property owners within 375 feet or 500 feet of the property described as set forth in section 4-229. The notice is a courtesy only and is not jurisdictional. Accordingly, the city's failure to mail or to timely mail such notice or failure of any affected property owner to receive mailed notice will not constitute a defect in notice or bar the public hearing as scheduled.
 - (7) *Property owners map.* A map displaying all parcels of property within 375 feet of the perimeter of the subject parcel or the portion thereof that is the subject of the request. This map must reference by number or other symbol the names on the property owners list. The applicant is responsible for the accuracy of the map.
 - (8) *Additional material.* Additional material, depending on the specific type of action requested, may be required as set forth in sections 4-194(b) and 4-195.

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- (9) *Filing fee.* All fees, in accordance with the duly adopted fee schedule (see section 4-31), must be paid at the time the application is submitted.
- (b) *Additional submittal requirements for owner-initiated applications.* In addition to the submittal requirements set forth in subsection (a) of this section, every application initiated by a property owner involving a change in the zoning district boundaries, or a request for special exception, deviation or variance, applicable to the property owners land must include the following:
- (1) *Evidence of authority.*
- a. *Ownership interests.* A list of all persons or entities having an ownership interest in the property, including the names of all stockholders and trust beneficiaries. Disclosure with respect to a beneficial ownership interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to F.S. ch. 517, whose interest is for sale to the general public, is exempt from the provision of this subsection.
 - b. *Unified control document.* A notarized statement evidencing a property owner's or entity's right and authority to impose covenants and restrictions on the parcel or otherwise bind the property with respect to conditions necessary to secure the approval requested. A notarized statement submitted to the city establishing a property owner or entity's right and authority to impose covenants and restrictions on a parcel as a result of the issuance of development approval in accordance with this Code. The unified control document also constitutes an agreement that the property owner will not transfer, convey, sell or subdivide the subject parcel unencumbered by the covenants and restrictions imposed as part of the development order permitting process.
 - c. *Agent authorization.* If the owner authorizes an agent to submit the application and represent the owner in all matters pertaining to the application, the owner must provide the agent with a notarized statement evidencing the agents authority to act on the owners behalf and encumber the property with conditions applicable to the approval requested in the application. An agent may authorize additional agents to assist in the preparation and presentation of the application. However, an agent cannot transfer authority to bind the property with respect to conditions. This later authority will only be recognized by the city when it is provided directly to the agent by the owner.
 - d. *Contract purchaser/vendee authorization.* If a contract purchaser or vendee is the applicant, a notarized statement from the property owner authorizing the contract purchaser/vendee to act as an agent of the property owner for purposes of application submittal and agreement to conditions applicable to approval of the request is necessary.
- (2) *Property restrictions.* The application must include a copy of the deed restrictions or other types of covenants and restrictions on the parcel, along with a statement as to how the restrictions may affect the requested action. If there are no restrictions on the property, the applicant must indicate so on the application form.
- (3) *Affidavit regarding proposed use.* If buildings or structures exist on the property, the applicant must submit an affidavit stating that the buildings and structures will be removed or that the proposed use of the buildings, structures and land is, or will be, in compliance with all applicable requirements of chapter 3 and this Code.
- (4) When applicable, the number of bonus density units requested, the source of the bonus density units (TDRs, housing density bonus, etc.), and the resulting gross residential density of the proposal.

(Ord. No. 11-02, § 3(4-202), 1-19-2011)

Sec. 4-229. Notices.

- (a) *Minimum required information.* A notice of public hearing under this chapter must contain the following minimum required information:
- (1) *Action proposed.*
 - a. *Land use ordinance amendments or adoption.* The notice must describe the chapter or section of the land use ordinance to be amended, or the subject of a new ordinance, with sufficient clarity so as to advise the public of the subject to be amended or adopted, but need not describe the exact wording or change.
 - b. *Rezoning and developments of regional impact.* All required notices must indicate the existing zoning of the property, the proposed zoning and where applicable, the number of TDR and affordable housing bonus density units requested, and the general location of the property, by reference to common street names and addresses, with sufficient certainty so as to advise the public, but need not describe the proposed plans or details thereof, or the specific legal description of the property.
 - c. *Special exceptions and variances.* All required notices must indicate the existing zoning of the property; the proposed use by special exception, or the requirement from which the variance is requested and the actual degree of variance requested; and the location of the property, by reference to common street names and addresses, with sufficient certainty so as to advise the public, but need not describe the proposed plans or details thereof or the specific legal description of the property.
 - d. *Appeals.* The notice shall summarize the decision or action upon which the appeal is based with sufficient clarity so as to advise the public of the subject matter.
 - (2) *Time and place of hearing.* The notice must specify the date, time and place that the public hearing will be held by the zoning board, the local planning agency or the city council, as applicable.
 - (3) *Public availability of information.* The notice must indicate where copies of the proposed amendment may be obtained or reviewed, or where the application for public hearing may be reviewed.
 - (4) *Location of record of notice.*
 - a. The copy of notices for the adoption or amendment of land use ordinances will be kept available for public inspection during regular business hours at the city clerk.
 - b. Copies of all other notices will be kept available for public inspection during regular business hours at the office of community development or the city clerk, as appropriate.
- (b) *Method of providing notice.* Notices of hearings before the city council, the zoning board and the local planning agency will be provided in accordance with applicable statutes and the Florida Administrative Code. The surrounding property owners list and map required by section 4-194(a) is for the purpose of mailing notice to property owners within 375 feet or 500 feet of the property described. Applicants shall mail all required notices by first-class mail and provide an affidavit that notice was sent to all property owners included in the property owner's list. Failure to mail such notice constitutes a defect in notice and will require rescheduling of the public hearing. ~~The notice is a courtesy only and is not jurisdictional. Accordingly, the city's failure to mail or to timely mail such notice or~~ Failure of any affected property owner to receive mailed notice will not constitute a defect in notice or bar the public hearing as scheduled.

(Ord. No. 11-02, § 3(4-236), 1-19-2011)

Sec. 4-1728. Dimensional requirements; delineation of parking spaces.

In addition to satisfying all other provisions of this division, the arrangement and spacing of off-street parking lots and on-street must conform to the following requirements:

- (1) *Parking space dimensions.* Individual parking space dimensions are as follows:
 - a. ~~Disabled-Accessible parking~~ Parking Spaces (all): Shall be a minimum of 12 feet in width by 18 feet in depth. Accessible Parking-parking space access aisles must be no less than five feet wide and must be part of an accessible route to the building or facility entrance. In multi-tenant shopping centers, the disabled parking spaces shall be distributed throughout the site. The individual parking space dimensions do not preclude compliance with the Americans with Disabilities Act (ADA) of 1990. Further compliance shall be in accordance with the Florida Accessibility Code for Building Construction [FACBC].
 - b. High and low turnover parking lots:
 - 1. 90-degree parking: Nine feet by 18 feet.
 - 2. 30-, 45- or 60-degree parking: 8½ feet by 18 feet.
 - 3. Parallel parking: Eight feet by 22 feet.
 - 4. Compact parking: Sixteen feet by eight feet.
 - 5. Motorcycle/Scooter spaces: Nine feet by six feet.
- (2) *Delineation of spaces.*
 - a. *Paved parking lots.*
 - 1. Parking spaces must be delineated by all-weather painted lines, or thermoplastic striping, not less than four inches in width, centered on the dividing line between spaces. ~~Parking Accessible parking spaces for persons with disabilities~~ must be prominently outlined with blue paint, and must be repainted when necessary to be clearly distinguishable as an accessible parking space designated for persons who have disabilities. ~~Signs Accessible parking space signage~~ erected after October 1, 1996, must indicate the penalty for illegal use of the space.
 - 2. Parking spaces which do not abut a curb, fence, wall or other structure must be provided with a parking block set two feet from the end of the parking space. Parking spaces which abut landscaped areas, sidewalks, structures, property lines, or are designed as disabled parking shall be designed with wheel stops or contiguous curbing.
 - b. *Unpaved parking lots.*
 - 1. Parking spaces in unpaved parking lots must be delineated by placing a parking block two feet from the end of the parking space and centered between the sides of the space.
 - 2. If the space abuts a structure, the space may be indicated on the structure, in which case parking blocks are not required.
 - c. *Temporary parking lots.* (See section 4-1734) Individual spaces in temporary parking lots do not need to be delineated provided the end of each space and all aisles are clearly delineated with temporary posts and ropes.
- (3) *Minimum drive aisle widths.* Minimum drive aisle widths are as follows:

	<u>Drive</u> Aisle Width
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Angle of Parking	One-Way (feet)	Two-Way (feet)
Parallel	12	20
30	12	22
45	12	22
60	18	24
90	22	24

- (4) *Parking angle.* Parking must be developed throughout the site utilizing the same degree of angle. The mixture of one-way and two-way parking aisles, or different degrees of angled parking within any parking area is prohibited except:
- a. A single bay of parking provided along the perimeter of the site may vary in design in order to maximize the number of spaces provided on-site.
 - b. Parking design may vary between individual parking areas provided that the parking areas are physically separated from one another by buildings or a continuous landscape buffer a minimum of five feet in width. The director may approve a minimum number of vehicle access points to pass through the landscaped buffer.
- (5) *Electric vehicle parking and charging stations.* If specifically designed and identified with appropriate markings and/or signage as outlined in this section, the following design standards, in addition to all other design standards set forth in this section shall apply.
- a. Electric vehicle parking spaces shall be painted green, or shall be marked by green painted lines and curbs and/or wheel stops.
 - b. Each electric vehicle parking space shall be marked by a sign designating the parking space as an electric vehicle parking space, in accordance with the Manual on Uniform Traffic Control Devices (MUTCD) of the Federal Highway Administration.
 - c. Each electric vehicle charging station shall be subject to the architectural provisions of chapter 3.
 - d. Each electric vehicle charging station shall be equipped with a sign that includes the following information:
 1. Voltage and amperage levels;
 2. Any applicable usage fees;
 3. Safety information; and
 4. Contact information for the owner of the charging station to allow a consumer to report issues relating to the charging station.
 - e. Electric vehicle charging stations shall contain a retraction device, coiled cord, or a fixture to hang cords and connectors above the ground surface.
 - f. Electric vehicle charging stations shall be screened from view from any abutting rights-of-way, with the exception of alleys.
 - g. Electric vehicle charging stations shall be maintained in good condition, appearance and repair.

(Ord. No. 11-02, § 3(4-2016), 1-19-2011; Ord. No. 21-10, § 2(Exh. A), 6-16-2021)

street parking space shall be bounded by a continuous curb unless the City Engineer determines otherwise due to unique engineering circumstances. C

Sec. 4-2224. Clearing, grading or filling of land.

- (a) The purpose of this subsection is to manage stormwater runoff and establish site grading and water management standards for single-family, two-family attached, and duplex residential lots in order to prevent detrimental impacts on site or to adjacent properties and/or waterbodies.
- (b) No land may be cleared, graded, excavated or filled, or otherwise altered, except in conformity with the regulations contained in this chapter and all other applicable ordinances.
- (c) Applicability. A stormwater drainage plan shall be required at time of building permit for all new residential structures, additions, pools, accessory structures, and decks on single-family, two-family attached, and duplex residential lots, with the following exceptions:

i. Any other clearing, grading, or site alteration activity that alters drainage flow is required to submit a stormwater drainage plan in accordance with this section. If these activities are not associated with a building permit, a limited review development order is required in accordance with LDC Sec. 3-159.

ii. Below are the following exceptions:

- (1) Open wooden decks, nonroofed, 500 square feet or less.
- (2) Structural additions 500 square feet or less, and more than ten feet from property line.
- (3) New or additions to Accessory structures 200 square feet or less, and more than ten feet from property line.
- (4) Any other impervious area 200 square feet or less. For the purposes of this section, the term impervious area shall include roofed buildings, concrete and asphalt pads, pool deck (e.g. spraycrete), pavers with limerock base and swimming pools. those surfaces which do not absorb water, structures, driveways, sidewalks, other areas of concrete, and asphalt.
- (5) Replacement mobile homes.

iii. Waiver of requirement. The city manager or designee may find that cost to prepare the drainage plan is excessively disproportionate to the need based on the size and scope of the improvement. In these cases, the city manager or designee must also find that the improvement is not contrary to the public health, safety, and welfare.

- (d) Stormwater drainage plan criteria.

- (1) Drainage plan required for all new residential structures, additions, pools, accessory structures, ~~and~~ decks, and site grading activities.
 - i. A drainage plan prepared by a professional engineer, architect or land surveyor shall be submitted as part of an application for building permit for a single family, two family attached and duplex dwelling. Said drainage plan shall include the following:
 - 1. Method of erosion control, such as, but not limited to, silt fences, turbidity barriers, and filter fabric as outlined in the Florida Stormwater Sedimentation Control Inspector's Manual or a similar quality guidance manual.
 - 2. Gutters and downspouts shall be required when roof overhang is less than 10' from the property line. Said gutters and downspouts, shall be properly sized and direct stormwater away from adjacent properties and into swales or retention/detention areas. When the set

back to the roof overhang is greater than 10', gutters and downspouts will be required when needed to prevent or mitigate increased drainage impacts onto adjacent properties.

3. Dimensions and details of all existing and proposed drainage solutions including but not limited to:
 - a. Swales and berms. Show location and elevation.
 - b. Gutters and downspouts.
 - c. Yard drain/bubblers.
 - d. Stem walls.
 - e. Rain gardens.
 - f. Inlets. If inlets are proposed, provide details showing grate and pipe elevations.
 - g. Retaining walls. Retaining walls shall not be placed closer than one foot from the property line and per LDC Section 7-385 for waterbody setbacks. For height restrictions reference LDC Section 4-1467(b).
 - h. French drains. The stone in french drains shall provide a minimum void ratio of 40 percent.
4. Cross-sections of the development from the area of construction to the property line in all directions (north, south, east and west), matching the existing elevations.
 - a. Show the location and elevation of all existing and proposed drainage solutions mentioned in 4-2224(d)(1)i.3.
 - b. Graded slopes shall not be any steeper than 5:1, unless otherwise approved by the city during the drainage review process.
5. Existing and proposed elevations
 - a. A minimum of a 50 foot by 50 foot grid.
 - b. A minimum of five feet on to the adjacent property.
 - c. Existing elevation of crown of roadway.
 - d. Elevations to establish the transition to existing grades at adjacent property lines and/or any waterbody.
6. Sidewalks. Label and provide the dimensions, elevations, and cross-sections of all sidewalks, if applicable pursuant to LDC Section 4-870(2).
7. Pools. Show the location of overflow; a french drain may be required at this location.
8. Closed drainage may be required along the property frontage adjacent to all city owned rights-of-way pursuant to LDC Sections 3-302 and 3-303.
9. Drainage arrows clearly delineating the direction of flow.
10. All materials used for ground cover, such as, but not limited to, sod, mulch, rock, artificial turf grass, and shell.
11. Drainage plan requirements may be modified if an acceptable alternate plan is provided. Drainage plan requirements for permits within developments that have received local development order approval may be modified based on the lot grading drainage plan and overall stormwater management design.

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- ii. During the review of the drainage plan, the city reserves the right to require water quantity calculations by a professional engineer for lots that exceed 30 inches above the grade of existing adjacent lots. Calculations must demonstrate the ability to accommodate the runoff from a 5-year 1-day storm.
- (2) *Site grading during construction activities.* The building site must be graded and maintained during construction to:
- i. Prevent erosion of soil onto adjacent and abutting properties, street rights-of-way/easements, waterbodies or improved drainage conveyances:
 - ii. Ensure erosion control devices are being maintained as outlined in the Florida Stormwater Sedimentation Control Inspector's Manual or a similar quality guidance manual.
 - iii. Control surface water runoff to ensure that no surface water in excess of the preconstruction discharge flows onto developed adjacent or abutting properties and waterbodies; and
 - iv. Maintain the flow capacity and function of existing drainage conveyances on or abutting the site including adjacent street rights-of-way/easements or improved drainage conveyances.
- (3) *Final site grading.*
- i. An "as-built" of the constructed drainage plan prepared and certified by a professional engineer, architect or land surveyor may be required as part of the permit approval. If required, it shall be submitted prior to final inspection, certificate of completion or certificate of occupancy of the structure. This "as-built" shall be reviewed to determine if the work completed is in substantial compliance with approved plan.
 - ii. Items not in compliance with the approved drainage plan will be noted by the city and brought to the attention of the property owner or his representative for correction. Any revisions to an approved drainage plan must be submitted for review and approved prior to certificate of occupancy or certificate of completion.
 - iii. The city reserves the right to inspect the site during construction and/or prior to issuance of a certificate of occupancy or certificate of completion to ensure consistency with the approved drainage plan pursuant to LDC Section 4-2224(d)1.
 - iv. Final grading of a lot must:
 - 1. Control and direct surface water runoff to ensure that surface water discharge is directed into an existing surface water management system or other offsite drainage conveyance; and
 - 2. Preserve or relocate existing drainage conveyances necessary to maintain preconstruction flow capacity and function.
 - 3. Final site grading plan features must be maintained in perpetuity by the property owner. A property owner may not alter or modify the lot grading in a manner that will prevent continued drainage of the site in accordance with the storm water drainage plan in effect at the time the certificate of occupancy or certificate of completion was issued.
- (e) Modifications that alter the drainage flow and which may cause flooding of other properties, public or private, are a violation and are hereby declared a public nuisance and are prohibited. Violations will be referred to the neighborhood services department. Corrective action requires submission of a drainage plan in accordance with this section that demonstrate no detrimental impacts on site or to adjacent properties and/or waterbodies.

(Ord. No. 07-20, 12-5-2007; Ord. No. 11-02, § 3(4-3104), 1-19-2011; Ord. No. 19-12 , § 1(Exh. A), 12-4-2019; Ord. No. 21-05 , § 2(Exh. A), 9-1-2021)