CITY OF BONITA SPRINGS, FLORIDA

ORDINANCE NO. 17-21

AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, PERTAINING TO LAND DEVELOPMENT REGULATIONS NECESSARY FOR GOLF COURSE CONVERSIONS; ESTABLISHING A TEMPORARY MORATORIUM ON THE PROCESSING OF ANY APPLICATIONS FOR GOLF COURSE CONVERSIONS TO OTHER USES IN THE CORPORATE BOUNDARIES OF BONITA SPRINGS FOR THE SHORTER OF (1) 12 MONTHS OR (2) THE ENACTMENT OF A REPLACEMENT ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR SCRIVENER'S ERRORS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section 2 of the Florida Constitution, and Chapter 166, Florida Statutes, Bonita Springs is authorized to protect the public health, safety, and welfare of its residents and has the power and the authority to enact ordinances and regulations for valid governmental purposes that are not inconsistent with general or special law; and

WHEREAS, the Bonita Springs City Council wishes to promote, protect, and improve the health, safety, and welfare of the citizens of the City of Bonita Springs; and

WHEREAS, conversion and development of golf course lands, existing, unused or abandoned, is a form of infill development which, for various reasons, are occurring throughout Florida; and

WHEREAS, there are minimal or limited existing regulations regarding golf course conversions in the Zoning portion of the City's Land Development Code, currently only requiring that any change from golf course to residential uses be rezoned through a planned development, and there are no supplemental regulations in the City's Land Development Code for development standards; and

WHEREAS, the Bonita Springs City Council has determined it to be necessary to take appropriate steps, including adopting new land development regulations, with respect to golf course conversions, and on November 2, 2017, directed the Bonita Springs staff to prepare an ordinance imposing a temporary moratorium on such conversions pending adoption of such regulations; and

WHEREAS, the Bonita Springs City Council further believes it is in the best interest of the residents and businesses of the City of Bonita Springs to modify its Land Development Code provisions regarding golf course conversions and other accessory infill uses related to golf course conversions; and

WHEREAS, while the Bonita Springs staff is undergoing its analysis to prepare new land development regulations, in order to prevent the occurrence of uses which may be incompatible with the intent of this Ordinance during this evaluation period, the Bonita Springs City Council has determined that placing a temporary moratorium on the processing of any development applications related to golf course conversions is necessary within the corporate boundaries of the City of Bonita Springs.

THE CITY OF BONITA SPRINGS HEREBY ORDAINS:

SECTION ONE: RECITALS.

The recitals set forth above, incorporated herein, are hereby found true and correct.

SECTION TWO: PURPOSE.

The purpose of this temporary moratorium is to provide a reasonable amount of time for the Bonita Springs staff to determine how to better process applications for golf course conversions and for the Bonita Springs City Council to adopt land development regulations to implement the goals for orderly development of converting a golf course to another use.

An additional purpose of this Ordinance is to include assessing and mitigating the impact of golf course conversion on adjacent and nearby real properties by creating standards for outreach with stakeholders, generally considered to be the owners of property located within 1,000 feet of a golf course, during the design phase of the conversion project and specific development standards to ensure compatibility with the existing land uses.

SECTION THREE: TEMPORARY MORATORIUM DECLARED; EXCEPTIONS.

1. Bonita Springs hereby imposes a temporary moratorium, commencing on the effective date of this Ordinance, on processing of any land development applications for golf course conversions within all of Bonita Springs for the shorter of (1) 12 months or (2) the enactment of a new ordinance by the City of Bonita Springs.

2. The Bonita Springs City Council may extend this temporary moratorium by Ordinance if it makes a legislative determination that it is in the best interest of the citizens of Bonita Springs to do so.

   Notwithstanding the temporary moratorium, the Bonita Springs City Council hereby authorizes the Bonita Springs staff to continue processing the application submitted by WCI Communities, LLC – Raptor Bay.

3. During the temporary moratorium period, the Bonita Springs City Council shall permit the Bonita Springs staff to perform the following:
    a. Provide notification of this temporary moratorium to all applicants for properties subject to the temporary moratorium established herein.
    b. Review, research, and make recommendations to the Local Planning Agency and the Bonita Springs City Council regarding consideration of additional land development regulations related to golf course conversions.
    c. Prepare land development regulations related to golf course conversions, including review and public hearings by the Local Planning Agency and the Bonita Springs City Council.
    d. Create and implement a strategy for golf course conversions and other ancillary infill requests.

SECTION FOUR: REMEDY PROVISION.

a. Any property owner who contends that the application of this Ordinance to his or her property constitutes a temporary regulatory taking or illegally interferes with a vested right shall submit an application to the City Manager, or his designee, for relief from this Ordinance. The application shall contain all evidence known to the property owner that supports the property owner's contention that the imposition of this Ordinance to his or her property constitutes a temporary regulatory taking or illegally interferes with a vested right.

b. An application which contains an allegation of a temporary regulatory taking shall be evaluated pursuant to the criteria described in *Reahard v. Lee County*, 968 F.2d 1131 (11th Cir. 1992), which include:

    1. Whether the property owner will be denied substantially all beneficial use of the property;
    2. Consideration of economic impact of the temporary moratorium; and
    3. The extent to which the temporary moratorium has interfered with the property owner's investment-backed expectations.

c. The following is a non-exclusive list of the factors to be analyzed under these criteria:

    1. The history of the property;
    2. The history of the development;
    3. The history of the property's Future Land Use Map classification;
    4. The history of the property's zoning;
    5. Any change in development when ownership changed;
    6. The present nature and extent of the property;
    7. The reasonable expectations of the property owner and the neighboring property owners; and

8. Any diminution of the property owner's investment-backed expectations.

d. The City Manager, or his designee, shall make a recommendation within thirty (30) days of receipt of a complete application, and schedule within twenty (20) days for the next available City Council meeting, for City Council to determine whether to grant or deny such an application.

SECTION FIVE: GEOGRAPHICAL APPLICATION.

This temporary moratorium shall apply throughout the corporate boundaries of the City of Bonita Springs.

SECTION SIX: CONFLICTS.

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 shall apply.

SECTION SEVEN: SEVERABILITY.

If any part, section, subsection, or other portion of this Ordinance or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reasons, such part, section, subsection, or other portion of the prescribed application thereof, shall be severable, and the remaining provisions of this Ordinance, and all applications thereof not having been declared void, unconstitutional, or invalid, shall remain in full force and effect. The City declares that no invalid or prescribed provision or application was an inducement to the enactment of this Ordinance, and that it would have enacted this Ordinance regardless of the invalid or prescribed provision application.

SECTION EIGHT: SCRIVENER'S ERRORS.

Typographical errors which do not effect the intent may be corrected by the City Manager, or the City Manager's designee, without need or public hearing, by filing a corrected copy of this Ordinance with the City Clerk.

SECTION NINE: EFFECTIVE DATE.

The effective date of this Ordinance shall be thirty (30) days from its adoption date, pursuant to Section 29(c) of the City Charter which requires thirty (30) days after its adoption or at any later date as specified in the ordinance.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 20th day of December, 2017.

AUTHENTICATION:

Mayor

City Clerk

APPROVED AS TO FORM: _____
City Attorney

Vote:

DeWitt	Absent	Quaremba	Aye
Forbes	Absent	Simmons	Aye
Gibson	Aye	Slachta	Absent
O'Flinn	Aye		

Date filed with City Clerk: 12/27/17