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CHAPTER 1 GENERAL PROVISIONS

§1-1. DESIGNATION AND CITATION OF LAND DEVELOPMENT CODE.

The ordinances embraced in the following chapters and sections shall constitute and be designated as the “City of Bonita Springs, Florida, Land Development Code,” and also may be cited as the “City of Bonita Springs Land Development Code.”

§1-2. RULES OF CONSTRUCTION.

A. In the construction of this Land Development Code, and of all ordinances, the rules set out in this section shall be observed, unless inconsistent with the manifest intent of the City Council. The rules of construction in this section do not apply to any section of this Land Development Code that contains any express provisions excluding their application, or where the subject matter or context of such section may be repugnant thereto.

B. *Generally.*

1. All general provisions, terms, phrases and expressions contained in this Land Development Code will be liberally construed in order that the true intent and meaning of the City Council may be fully carried out.
2. Terms used in this Land Development Code, unless otherwise specifically provided, have the meanings prescribed by the statutes of the State of Florida for the same terms.
3. In the event of any difference in meaning or implication between the text of this Land Development Code and any caption, illustration, summary table or illustrative table, the text shall control.
4. Any words used in the present tense shall include the future; and any words in the singular number shall include the plural, and vice versa, unless the context clearly indicates the contrary; and words of the masculine gender shall be construed to include the feminine gender and vice versa.
5. Unless the context clearly indicates the contrary, where a regulation involves two

or more items, conditions, provisions or events connected by the conjunction “and,” “or” or “either . . . or,” the conjunction shall be interpreted as follows:

- a. “And” indicates that all the connected terms, conditions, provisions or events shall apply.
 - b. “Or” indicates that the connected terms, conditions, provisions or events may apply singly but not in any combination.
 - c. “Either . . . or” indicates that the connected terms, items, conditions, provisions or events shall apply singly but not in combination.
6. The words “shall” or “must” are mandatory. The words “should” or “may” are permissive.
 7. The word “includes” shall not limit a term to the specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.
 8. The provisions of this Land Development Code shall be liberally construed so as to effectively carry out its purpose in the interest of the public health, safety, and welfare.
 9. This Land Development Code constitutes the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare. Where any provisions of this Land Development Code conflict such that one provision causes greater restrictions to be imposed than another provision, the provision imposing the greater restriction or regulation will control.

§1-3. CATCHLINES OF SECTIONS; HISTORY NOTES, CROSS REFERENCES AND STATE LAW REFERENCES; AND REFERENCES TO CHAPTERS, SECTIONS OR ARTICLES.

- A. The catchlines of the several sections of this Land Development Code printed in boldface

type are intended as mere catchwords to indicate the contents of the section and are not titles of such sections, or of any part of the section, nor, unless expressly so provided, shall they be so deemed when any such section, including the catchline, is amended or reenacted.

- B. The history or source notes appearing in parentheses after sections in this Land Development Code are not intended to have any legal effect, but are merely intended to indicate the source of matter contained in the section. Cross references and state law references which appear after sections or subsections of this Land Development Code or which otherwise appear in footnote form are provided for the convenience of the user of this Land Development Code and have no legal effect.
- C. All references to chapters, articles, or sections are to chapters, articles, and sections of this Land Development Code unless otherwise specified.

§1-4. EFFECT OF REPEAL OF ORDINANCES.

- A. The repeal or amendment of an ordinance will not revive any ordinance or part thereof that was not in force before or at the time the ordinance repealed or amended took effect.
- B. The repeal or amendment of any ordinance will not affect any punishment or penalty incurred before the repeal took effect, or any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the ordinance repealed or amended.
- C. Notwithstanding a more recent ordinance's express repeal of a pre-existing ordinance, the reenactment of any previously existing provisions, including any amendments, through the use of similar or identical provisions in the repealing ordinance will continue the reenacted provisions in full force and effect from their original effective date. Only those provisions of the previously existing ordinance that are not reenacted will be considered void and without further effect. Any new provisions of the repealing ordinance will operate as amendments to the reenacted, previously existing text and

become effective as part of the repealing ordinance.

§1-5. GENERAL PENALTY; CONTINUING VIOLATIONS.

- A. In this section, the phrase "violation of this Land Development Code" means any of the following:
 - 1. Doing an act that is prohibited or made or declared unlawful, an offense or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.
 - 2. Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.
 - 3. Failure to perform an act if the failure is declared a misdemeanor or an offense or unlawful by ordinance or by rule or regulation authorized by ordinance.
- B. In this section, the phrase "violation of this Land Development Code" does not include the failure of a City officer or City employee to perform an official duty unless it is provided that failure to perform the duty is to be punished as provided in this section.
- C. Except as otherwise provided, a person convicted of a violation of this Land Development Code will be punished by a fine not exceeding \$500.00 per offense, by imprisonment in the county jail for a term not exceeding Sixty (60) days, or by both such fine and imprisonment. With respect to violations of this Land Development Code that are continuous with respect to time, each day the violation continues constitutes a separate offense in the absence of provisions to the contrary.
- D. Any violation of this Land Development Code that arose from provisions that are subsequently repealed and reenacted will continue to be a violation of this Code and any penalties imposed for those violations will continue to exist unless the subsequent amendment or repeal of the violated provisions clearly intends to make previous violations legal and expressly voids any penalties imposed for those violations.
- E. The imposition of a penalty does not prevent revocation or suspension of a license, permit

or franchise, the imposition of civil penalties, or other administrative actions.

- F. Violations of this Land Development Code may be abated by injunctive or other equitable or civil relief, and no bond nor proof of intent or scienter shall be required. The imposition of a penalty does not prevent equitable relief.

§1-6. ENFORCEMENT OF LAND DEVELOPMENT CODE.

Enforcement of the provisions of the Land Development Code is the responsibility of the City Manager or designee most closely associated and familiar with the particular provision in question unless otherwise provided by this Land Development Code.

§1-7. SEVERABILITY OF PARTS OF LAND DEVELOPMENT CODE.

It is declared to be the intent of the City Council that, if any section, subsection, sentence, clause, phrase, or portion of this Land Development Code or any ordinance is for any reason held or declared to be unconstitutional, inoperative, or void, such holding or invalidity shall not affect the remaining portions of this Land Development Code or any ordinance. It shall be construed to have been the legislative intent to pass this Land Development Code or such ordinance without such unconstitutional, invalid, or inoperative part therein, and the remainder of this Land Development Code or such ordinance after the exclusion of such part or parts shall be deemed and held to be valid as if such part or parts had not been included in this Land Development Code or ordinance. If this Land Development Code, or any ordinance, or any provision thereof is held inapplicable to any person, group of persons, property, or kind of property, or circumstances or set of circumstances, such holding shall not affect the applicability of this Land Development Code to any other person, property, or circumstance.

§1-8. PROVISIONS CONSIDERED CONTINUATION OF EXISTING ORDINANCES.

The provisions of this Land Development Code, insofar as they are substantially the same as legislation previously adopted by the City relating to the same subject matter, shall be construed as

restatements and continuations thereof and not as new enactments.

§1-9. EFFECT OF LAND DEVELOPMENT CODE ON PRIOR OFFENSES, PENALTIES, AND RIGHTS.

- A. Nothing in this Land Development Code or the ordinance adopting this Land Development Code shall affect any offense or act committed or done, any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Land Development Code.
- B. The adoption of this Land Development Code shall not be interpreted as authorizing any use or the continuance of any use of a structure or premises in violation of any ordinance of the City in effect on the date of adoption of this Land Development Code.

§1-10. ORDINANCES NOT AFFECTED BY LAND DEVELOPMENT CODE.

- A. Nothing in this Land Development Code or the ordinance adopting this Land Development Code, unless otherwise provided in this Land Development Code or such ordinance, shall affect any ordinance or portion of an ordinance:
1. Promising or guaranteeing the payment of money for the City, or authorizing the issuance of any bonds of the City or any evidence of the City's indebtedness, or any contract or obligation assumed by the City.
 2. Granting any right or franchise or conveying any oil, gas, or mineral rights.
 3. Dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way.
 4. Making any appropriation.
 5. Levying or imposing taxes or fees not codified in this Land Development Code.
 6. Amending any local law, i.e., special act which has been converted to an ordinance.

7. Providing for local services or improvements and assessing taxes or other charges therefore.
 8. Dedicating, accepting, or vacating any plat or subdivision.
 9. Rezoning specific property.
 10. Which is temporary, although general in effect.
 11. Which is special, although permanent in effect.
 12. The purpose of which has been accomplished.
 13. Which is included in the City of Bonita Springs Florida Code of Ordinances.
- B. The ordinances designated in subsection (A) of this section are recognized as continuing in full force and effect to the same extent as if set out at length in this Land Development Code.

**§1-11. THE CITY OF BONITA SPRINGS
COMPREHENSIVE PLAN
CONTROLS WHERE CONFLICT WITH
LAND DEVELOPMENT CODE
EXISTS.**

All development, as that term is defined in Florida Statutes §380.04, in the incorporated portion of the City must be consistent with the City of Bonita Springs Comprehensive Plan. Where there are apparent conflicts between the City of Bonita Springs Comprehensive Plan and any adopted rule, regulation, or ordinance, the City of Bonita Springs Comprehensive Plan shall prevail.

§1-12. EDITOR'S NOTES.

References and editor's notes following certain sections of the Land Development Code are inserted as an aid and guide to the reader, and are not controlling or meant to have any legal effect.

**§1-13. AMENDMENTS TO LAND
DEVELOPMENT CODE.**

- A. All ordinances passed subsequent to this Land Development Code which amend, repeal, or in any way affect this Land Development Code

may be numbered in accordance with the numbering system of this Land Development Code and printed for inclusion in the Land Development Code, or, in the case of repealed chapters, sections and subsections or any part thereof repealed by subsequent ordinances, such repealed portions may be excluded from this Land Development Code by omission from reprinted pages affected thereby, and such subsequent ordinances, as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Land Development Code and subsequent ordinances numbered or omitted are readopted as a new Land Development Code by the City Council

- B. Amendments to any of the provisions of this Land Development Code may be made by amending such provisions by specific reference to the section or subsection number of this Land Development Code in the following language: "That section _____ of the City of Bonita Springs Land Development Code is hereby amended to read as follows" The new provisions shall then be set out in full as desired.
- C. If a new section or subsection not heretofore existing in the Land Development Code is to be added, the following language may be used: "That the City of Bonita Springs Land Development Code, is hereby amended by adding a section to be numbered _____, which section or subsection shall read as follows:" The new section shall then be set out in full as desired.
- D. Repeal of any of the provisions of this Land Development Code may be effected by repealing such provisions by specific reference to the section or subsection number of this Land Development Code in the following language: "That section _____ of the City of Bonita Springs Land Development Code is hereby repealed in its entirety."
- E. Every ordinance introduced which proposes to amend or repeal any portion of this Land Development Code shall show, by proper reference, the chapter, article and section proposed to be amended; or, if it proposes to add to this Land Development Code a new

chapter, article, or section, it shall indicate, with reference to the arrangement of this Land Development Code, the proper number of such chapter, article or section.

§1-14. SUPPLEMENTATION OF LAND DEVELOPMENT CODE.

- A. By contract or by City personnel, supplements to this Land Development Code shall be prepared and printed whenever authorized or directed by the City Council. A supplement to the Land Development Code shall include all substantive permanent and general parts of ordinances passed by the City Council during the period covered by the supplement and all changes made thereby in the Land Development Code. The pages of a supplement shall be so numbered that they will fit properly into the Land Development Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Land Development Code will be current through the date of the adoption of the latest ordinance included in the supplement.
- B. In preparing a supplement to this Land Development Code, all portions of the Land Development Code which have been repealed shall be excluded from the Land Development Code by the omission thereof from reprinted pages.
- C. When preparing a supplement to this Land Development Code, the codifier, meaning the person, agency or organization authorized to prepare the supplement, may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:
 - 1. Organize the ordinance material into appropriate subdivisions;
 - 2. Provide appropriate catchlines, headings and titles for sections, and other subdivisions of the Land Development Code printed in the supplement, and make changes in catchlines, heading, and titles;
 - 3. Assign appropriate numbers to sections and other subdivisions to be inserted in

the Land Development Code and, where necessary to accommodate new material, change existing section, or other subdivision numbers;

- 4. Change the words “this ordinance” or words of the same meaning to “this chapter,” “this article,” “this division,” etc., as the case may be, or to “sections ___ through ___.” The inserted section numbers will indicate the sections of the Land Development Code which embody the substantive sections of the ordinance incorporated into the Land Development Code; and
- 5. Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Land Development Code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Land Development Code.