

**Gasparilla Island  
Conservation  
District Act of  
1980 and Amendments**

## CHAPTER 80-473

### House Bill No. 1514

An act relating to Gasparilla Island, including Boca Grande Isles and Gasparilla Golf Course Island, Three Sisters Island, Hoagen's Key, and Loomis Island, located in Charlotte County and Lee County; making legislative findings of fact that said islands are fragile barrier islands of particular natural beauty containing abundant plant, marine, animal and bird life; providing for the creation of the Gasparilla Island Conservation District; establishing the district boundaries as the above named islands, including all adjacent submerged lands, tidal lands, overflow lands and tidal ponds; restricting the density of dwelling units to not more than 5 per acre; restricting the commercial, industrial or multi-family use of land to those lands zoned for such uses prior to the effective date of this act; providing height limitations on all buildings and structures erected within the district; prohibiting exterior advertising signs; providing an exception for certain on-site signs; providing that this act shall not repeal applicable local government comprehensive land use plans, state and local zoning, air and water pollution and conservation and sign regulations; providing an exemption; providing that this act shall prevail where it is more restrictive than such regulations; providing that any real property owner in the district may enforce the provisions of this act by legal proceeding; providing that this act shall be recorded in the public records of Lee and Charlotte Counties; providing for a referendum; providing an effective date.

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

Section 1. Findings of fact. — The Legislature of the State of Florida hereby finds that Gasparilla Island, including Boca Grande Isles and Gasparilla Golf Course Island, Three Sisters Island, Hoagen's Key and Loomis Island, lying within Charlotte County and Lee County, including all adjacent submerged lands, tidal lands, overflow lands and tidal ponds, are fragile barrier islands as defined in the Presidential Directive on barrier islands dated May 23, 1977, and are areas of particular natural beauty containing abundant plant, marine, animal and bird life. The conservation of the natural beauty, plant, marine, animal and bird life of the islands is in the best interest of the residents and property owners of the islands and the citizens of Lee and Charlotte Counties and the State of Florida. The manner and extent to which development of the islands is permitted to occur will have a substantial effect on the ecology and natural beauty of the islands. In order to preserve and conserve the fragile ecosystems and natural characteristics of the islands, it is necessary to restrict by this act land uses and the height and density of structures and to prevent the proliferation of exterior advertising signs on the island. The purpose of this act is to permit limited development of the islands while preserving the natural beauty and plant, marine, animal and bird life.

Section 2. Short title. — This act shall be known and cited as the Gasparilla Island Conservation District Act.

Section 3. District creation and boundaries. — There is hereby created a special conservation district, for the uses and purposes set forth herein, known as the Gasparilla Island Conservation District. The boundaries of the district are determined as follows: all of Gasparilla Island, including Boca Grande Isles and Gasparilla Golf Course Island, Three Sisters Island, Hoagen's Key, and Loomis Island, situated in Lee County and Charlotte County, including all adjacent submerged lands, tidal lands, overflow lands, and tidal ponds.

Section 4. Restrictions on density, height, land uses and advertisement.—

(1) No building or other structure shall be erected or altered within the district so that the peak of the roof is more than 38 feet above the average grade of the lot or parcel on which the building or structure is located, or is more than 42 feet above mean sea level, whichever is lower.

(2) The density of any development which includes dwelling units, whether or not it includes commercial rental dwelling units, shall not exceed 5 dwelling units per acre. In computing such density, only land above mean sea level, contiguous and under single ownership may be utilized. Parcels which are bisected by a publicly dedicated road, including state and county roads, shall not be considered contiguous for the purpose of computing density hereunder.

(3) A single family dwelling may be constructed on lands zoned for such use, including lots which were platted and recorded prior to the effective date of this act or lands rezoned for single family use after the effective date of this act. Notwithstanding, the use of nonconforming lots shall be governed by local zoning regulations.

(4) No land within the district shall be used for commercial, industrial or multi-family purposes except land that was zoned for such uses prior to the effective date of this act. Nothing contained in this Act shall preclude maintenance of fuel supply facilities at existing ports or off-loading facilities.

(5) No exterior advertising sign shall be erected or displayed within the district except on-site signs which relate in subject matter to the premises on which they are located. Exterior advertising signs which are banners, beacons, neon, rotating, flashing or animated are prohibited.

(6) This section shall not render legally existing structures and/or signs unlawful.

Section 5. Rules of construction. —

(1) This act shall not be construed as limiting the application of or repealing any local comprehensive land use plan or law or rule dealing with the subject of zoning, conservation, or air and water pollution standards or advertising (signs); but if any of the standards specified by this act are more restrictive than those specified in such other plan, law or rule, the standards specified by this act shall prevail.

(2) That southern portion of Gasparilla Island consisting of approximately 42 acres and used generally as a port operation, more specifically described as a tract or parcel of land lying in Sections 23 and 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida, which tract or parcel is described as follows:

Beginning at the intersection of the approximate Mean High Tide Line of Charlotte Harbor with the south line of the north half (N ½) of the south half (S ½) of Government Lot 3 said Section 26, being also the south line of lands owned by Florida Power & Light Company as described in deed recorded in Deed Book 273 at page 236 of the public records of said Lee County, Florida, run S 89° 21' W along said south line to the southwest corner of said lands described in said deed; thence run N 00° 39' W, perpendicular to

said south line, for 513.46 feet to an intersection with the south line of a County Road as described in County Commission Minute Book 8 at page 298; thence run S 89° 43' 20" E along said south line and an easterly prolongation thereof for 587.88 feet to the southwest corner of lands described in deed recorded in Official Record Book 1346 at page 1236 of said public records; thence run N 00° 16' 40" E along the west line of said lands for 165 feet to the south line of lands of the Seaboard Coast Line Railroad (formerly Charlotte Harbor & Northern Railway) as described in deed recorded in Deed Book 129 at page 346 of said public records; thence run N 89° 43' 20" W along said south line for 1450 feet more or less to the approximate Mean High Tide Line of the Gulf of Mexico; thence run northerly along said Line for 350 feet more or less to an intersection with a line bearing N 89° 58' W and passing through Monument "B" as described in said Railroad deed; thence run S 89° 58' E along said line, being a northerly line of said lands described in said deed, for 510 feet more or less to said Monument "B"; thence run N 00° 08' W along a west line of said lands for 1200 feet to Monument "A", as described in said deed; thence run N 89° 52' E along a north line of said lands for 597.4 feet; thence run N 46° 29' E for 145.35 feet to an intersection with a line 50 feet westerly from and parallel with the centerline of the main track of said Railroad; thence run northerly along said parallel line for 8122.5 feet to the north line of said Section 23, being the south line of First Street as shown on the Revised Plat of Boca Grande recorded in Plat Book 7 at pages 1 and 1A of said public records; thence run easterly along said south line of First Street for 103 feet to an intersection with a line 50 feet easterly from and parallel with said centerline of said main track; then southerly along said parallel line for 5545 feet; thence easterly for 30 feet to an intersection with a line 80 feet easterly from and parallel with said centerline; thence southerly along said parallel line for 2677.5 feet to an intersection with a line bearing N 89° 52' E and passing through said Monument "A"; thence run N 89° 52' E along said line, being also a north line of said Railroad lands, for 285 feet more or less to the approximate Mean High Tide Line of Charlotte Harbor; thence run southerly along said Line for 2250 feet more or less to the Point of Beginning. TOGETHER WITH the existing right-of-way for the Seaboard Coast Line Railroad (formerly Charlotte Harbor & Northern Railway) running northerly from the hereinabove described south line of First Street to the north shore of said Gasparilla Island in Charlotte County, Florida, shall be exempt from the provisions of this act until July 1, 1981.

(3) If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 6. Any owner of real property within the district may enjoin the violation of this act and/or enforce the provisions of this act by instituting civil proceedings filed in a court of competent jurisdiction. In order to enforce the provisions of this act and/or to enjoin a violation of same, a real property owner need not allege or prove that the violation of this act will adversely affect the property rights of said real property owner to any greater extent or different degree than said violation will affect any other real property owner within the district. A real property owner who is successful in his/her efforts to enforce this act through civil proceedings shall be awarded a reasonable attorney's fee

and court costs which shall be assessed as a judgment against the person or persons determined by the court to have violated this act. No action by any county commission shall be required as a condition precedent to enforcement of this act pursuant to this section.

Section 7. Recording of the act. — The Secretary of State shall cause a certified copy of this act to be recorded with the Clerk of the Circuit Court of Lee County and the Clerk of the Circuit Court of Charlotte County, in the Official Records of each county within 30 days following approval of this act by vote of the electors. The cost of recording shall be paid out of the general funds of the county wherein the act is recorded.

Section 8. Notice of intention to seek enactment of this act by the Florida Legislature has been published as required by s. 11.02, Florida Statutes, and s. 10, Art. III of the Florida Constitution. An affidavit of proof of such publication, together with a true copy of such notice, was duly attached to this act when the bill therefor was introduced in the Legislature. Such notice and affidavit are sufficient in form and substance; they have accompanied the bill throughout the Legislature; and they shall be filed and preserved with the bill in the Department of State.

Section 9. This act, except for sections 7, 8 and this section which shall take effect upon becoming a law, shall take effect upon approval by a majority vote of the qualified persons voting in a referendum election which shall be called and held by the Boards of County Commissioners of Lee County and Charlotte County in the proposed Gasparilla Island Conservation District on the date of the next general election (on or about November 4, 1980). Any person who is an elector of Lee County or Charlotte County and is a resident of the proposed district is eligible to vote in such referendum election; however, no person shall be eligible to vote more than one ballot. The supervisors of elections of each county jointly shall prepare a list containing the names of persons who are eligible to vote in such referendum election. There shall be at least 30 days' notice of the election as provided by s. 100.342, Florida Statutes. The procedures prescribed by general law for absentee ballots shall control. The election required by this section shall be paid for by the Board of County Commissioners of Lee County and the Board of County Commissioners of Charlotte County, and the expenditure of funds for this purpose is a proper county expense.

Became a law without the Governor's approval.

Filed in Office Secretary of State July 7, 1980.

1st AMENDMENT  
CHAPTER 83 - 385, LAWS OF FLORIDA  
EFFECTIVE DATE - OCTOBER 1, 1983

ENROLLED  
1983 Legislature

HB 0980, 1st Engrossed

An act relating to Gasparilla Island, including Boca Grande Isles and Gasparilla Golf Course Island, Three Sisters Island, Hogans Key, and Loomis Island, located in Charlotte County and Lee County; amending s. 4, chapter 80-473, Laws of Florida; defining the term "dwelling unit"; restricting the density of dwelling units; providing criteria for computing density; providing for construction of single-family dwellings on substandard lots under certain circumstances; restricting the commercial, industrial, or multi-family use of land to those lands zoned for such uses prior to the effective date of chapter 80-473, Laws of Florida; prohibiting local governmental bodies and agencies from granting variances or exceptions to the act; providing an effective date.

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

Section 1. Section 4 of chapter 80-473, Laws of Florida is amended to read:

Section 4. Restrictions on density, height, land uses and advertisement. —

(1) "Dwelling unit" means a room or group of rooms designed, used, or intended as a single habitable unit which provides permanent, semi-permanent, or transient living and sleeping facilities, whether or not it contains cooking or kitchen facilities. "Dwelling unit" includes, but is not limited to, single family residences, a residence within a 2-family or multi-family structure, and hotels, motels, and other commercial rental units.

~~(2) (4)~~ No building or other structure shall be erected or altered within the district so that the peak of the roof is more than 38 feet above the average grade of the lot or parcel on which the building or structure is located, or is more than 42 feet above mean sea level, whichever is lower.

~~(3) (2)~~ No parcel of land within the district shall be utilized so that the density of dwelling units per acre (including commercial rental dwelling units) exceeds five dwelling units per acre, except the dwelling unit construction allowed under subsection (5) and except dwelling units in existence on the effective date of chapter 80-473, Laws of Florida. If such existing dwelling units compute at a higher density than five units per acre, no additional dwelling units shall be added. The right to repair or rebuild any such nonconforming existing dwelling units having a higher density utilization than allowed hereunder, shall be governed by the local government zoning regulation. ~~The density of any development which includes dwelling units, whether or not it includes commercial rental dwelling units, shall not exceed 5 dwelling units per acre. In computing such density, only land above mean sea level, contiguous and under single ownership may be utilized. Parcels which are bisected by a publicly dedicated road, including state and county roads, shall not be considered contiguous for the purpose of computing density hereunder.~~

(4) (3) In computing the density of dwelling units, only land above mean sea level, contiguous and under single ownership, may be used. Only the number of dwelling units represented by a full fraction of five shall be permitted, and, if the land is less than one acre, the density shall be reduced proportionately. Parcels that are bisected by publicly dedicated walkways or roads, including state and county roads, shall not be considered

~~contiguous for the purpose of computing density hereunder. A single-family dwelling may be constructed on lands zoned for such use, including lots which were platted and recorded prior to the effective date of this act or lands rezoned for single-family use after the effective date of this act. Notwithstanding, the use of nonconforming lots shall be governed by local zoning regulations.~~

(5) (4) One single-family dwelling may be constructed upon either a single substandard lot or a grouping of such lots under one ownership, which lot or lots are a part of a subdivision that was officially platted and recorded prior to the effective date of chapter 80-473, Laws of Florida, provided such construction is allowed under the local government zoning regulations. If a transfer of ownership of two or more of said substandard lots that are contiguous occurs (other than by inheritance or will) subsequent to the effective date of this 1983 act, the density and other limitations and restrictions of this act shall apply. No land within the district shall be used for commercial, industrial, or multi-family purposes except land that was zoned for such uses prior to the effective date of this act. Nothing contained in this Act shall preclude maintenance of fuel supply facilities or existing ports or off-loading facilities.

(6) No land within the district shall be used for commercial, industrial, multi-family or duplex purposes, except land that was zoned for such use prior to the effective date of chapter 80-473, Laws of Florida; provided, however, that, in any event, any dwelling units constructed subsequent to the effective date of chapter 80-473, Laws of Florida, shall not exceed a density of five dwelling units per acre. The only zoning change permissible within the district, subsequent to the effective date of chapter 80-473, Laws of Florida, is a zoning change to a single-family residential classification. Nothing contained in this act shall preclude maintenance of fuel supply facilities at existing ports or off-loading facilities.

(7) No local governmental body or agency shall have the authority to grant variances or exceptions to the height, density, or sign requirements, or to any other provision or requirement of this act.

(8) (5) No exterior advertising sign shall be erected or displayed within the district except on-site signs which relate in subject matter to the premises on which they are located. Exterior advertising signs which are banners, beacons, neon, rotating, flashing or animated are prohibited.

(9) (6) This section shall not render legally existing structures or ~~and~~ signs unlawful.

Section 2. This act shall take effect October 1, 1983.

## 2nd AMENDMENT

ENROLLED  
38-1224-86

A bill to be entitled

An act relating to Gasparilla Island, including Boca Grande Isles and the Gasparilla Golf Course Island, Three Sisters Island, Hogans Key, and Loomis Island, located in Charlotte County and Lee County; amending Section 4 of Chapter 80-473, Laws of Florida, as amended; defining the term nonconforming use; defining the criteria for traditional use; allowing the right to rebuild or repair nonconforming existing structures under certain circumstances; providing time limitation for issuance of permits for rebuilding or repair of such structures; establishing the Gasparilla Inn Historic Resort Area; providing boundaries; providing for traditional use within the area; providing density and height standards; providing exemptions to the act within the area boundaries; providing an effective date.

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

Section 1. Subsection (7) of section 4 of chapter 80-473, Laws of Florida, as amended by chapter 83-385, Laws of Florida, is amended, and subsection (10) is added to said section, to read:

Section 4. Restrictions on density, height, land uses and advertisement. —

(7) No local governmental body or agency shall have the authority to grant variances or exceptions to the height, density or sign requirements, or to any other provisions or requirement of this act. Notwithstanding the provisions of this section, the Lee County Board of County Commissioners or the Charlotte County Board of County Commissioners, in their respective counties, may grant the right to repair, renovate, or rebuild any nonconforming existing dwelling unit or structure occupied for use as of the effective date of chapter 80-473, Laws of Florida, upon a finding of the Board of County Commissioners in the respective county that the traditional use of such structures has served the public and community benefit. However, no such reconstruction, rebuilding, or renovation of such nonconforming structure shall be allowed to a density or building height or use greater than that authorized under the provisions of this act or the present nonconformity, whichever is greater. As used in this subsection:

(a) “Nonconforming building or structure” is a building or structure, the size, dimension, or location of which was in existence prior to the effective date of chapter 80-473, Laws of Florida, but which fails, by reason of the adoption of this act and existing county building and zoning regulations, to conform to the present requirements of zoning regulations.

(b) “Traditional use” may include, but is not limited to the longevity of use, contribution of the use to the community and historic integrity of the community, and uniqueness of the use in context with the adjoining land uses.

(c) When the nonconforming use of a structure is discontinued or abandoned for 12 consecutive months after being damaged or destroyed and no permits for reconstruction, renovation, or repair have been applied for within that period, the Board of County Commissioners may not grant permission for use of the structure except in conformance with the provisions of this act and applicable county codes, regulations, or ordinances.



(10) The Gasparilla Inn Historic Resort Area. —

(a) Creation and boundaries. — There is hereby created, because of its special and irreplaceable historic significance and community importance, the Gasparilla Inn Historic Resort Area. The territory of the area consists of the following described parcels of land:

1. A parcel of land lying easterly of Boca Grande Bayou in Government Lot 1 and in the east half (E-½) of the southeast quarter (SE-¼), Section 14, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

From the southeast corner of the intersection of Palm Avenue and Seventh Street as shown on Revised Plat of Boca Grande recorded in Plat Book 7 at page 1, Lee County Records run N 89° 23' 55" E along the south line of said Seventh Street as shown on said plat and an easterly prolongation thereof for 1250 feet; thence run S 30° 36' 05" E for 100 feet to the Point of Beginning. From said Point of Beginning run N 30° 36' 05" W for 800 feet; thence run S 59° 23' 55" W for 220 feet more or less to the waters of Boca Grande Bayou; thence run southeasterly along said waters for 850 feet more or less to an intersection with the line bearing S 59° 23' 55" W and passing through the Point of Beginning; thence run N 59° 23' 55" E along said line for 140 feet more or less to the Point of Beginning. Containing 3.2 acres more or less.

Bearings hereinabove mentioned are based on assuming the south line of Seventh Street to bear N 89° 23' 55" E.

2. A parcel of land lying in Government Lots 3 and 4, Section 14, township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

Beginning at the northwest corner of the intersection of Gilchrist Avenue (120 feet wide) and Fourth Street (60 feet wide) as shown on Revised Plat of Boca Grande recorded in Plat Book 7 at page 1, Lee County Records run northerly along the westerly line of said Gilchrist Avenue and a northerly prolongation thereof for 510 feet to the north line of Fifth Street as shown on said plat; thence run easterly along said north line for 374.01 feet to the westerly line of Gasparilla Road (60 feet wide) as shown on said plat; thence run northerly along said westerly line for 599.04 feet to the south line of Seventh Street (50 feet wide) as shown on said plat; thence run westerly along said south line and a westerly prolongation thereof for 608 feet more or less to the Mean High Water Line of the Gulf of Mexico; thence run southerly along said Line for 1110 feet more or less to an intersection with a westerly prolongation of the north line of said Fourth Street; thence run easterly along said prolongation and said north line for 350 feet more or less to the Point of Beginning.

EXCEPTING THEREFROM that part of Fifth Street (110 feet wide) as shown on said Revised Plat of Boca Grande lying within the herein above described parcel.

Containing 12.4 acres more or less net of said Fifth Street right-of-way.

3. A parcel of land lying in Government Lots 1, 3 and 4 and in the east half (E-½) of the southeast quarter (SE-¼), Section 14, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

Beginning at the northeast corner of the intersection of East Avenue (40.2 feet wide) and Fifth Street (60 feet wide) as shown on Revised Plat of Boca Grande recorded in Plat Book 7 at page 1, Lee County Records run easterly along the north line of said Fifth Street and an easterly prolongation thereof for 1340 feet more or less to the waters of Boca Grande Bayou; thence run northwesterly along said waters for 640 feet more or less to an intersection with the south line of Seventh Street (50 feet wide) as shown on said plat; thence run westerly along said south line for 340 feet more or less to an intersection with the southerly prolongation of the east line of Lots 23 and 26, Block 57 said Revised Plat of Boca Grande; thence run northerly along said prolongation and said east line for 248 feet more or less to said waters of Boca Grande Bayou on the south line of Eighth Street (491.55 feet wide) as shown on said plat; thence run westerly along said south line and the north line of said Block 57 for 575 feet more or less to the northwest corner of the east half (E-½) of Lot 4 said Block 57; thence run southerly along the west line of said east half (E-½) of Lot 4 for 124 feet more or less to the southwest corner of said east half (E-½); thence run easterly for 25 feet more or less to the northwest corner of Lot 3 said Block 57; thence run southerly along the west line of said Lot 3 and a southerly prolongation thereof for 174 feet more or less to said south line of Seventh Street; thence run westerly along said south line for 310 feet more or less to an intersection with the east line of said East Avenue as shown on said plat; thence run southerly along said east line for 599 feet more or less to the Point of Beginning.

EXCEPTING THEREFROM those parts of the rights-of-way for Palm Avenue (58.27 feet wide) and Seventh Street as shown on said Revised Plat of Boca Grande lying within the hereinabove described parcel. Containing 19.7 acres more or less net of said road rights-of-way.

(b) Standards for construction. — The historic resort area is found to have traditional uses which are of a public benefit for the operation and maintenance of a resort inn complex and all amenities and facilities associated with such uses, including, but not limited to, tennis courts, swimming pools, recreational complex, golf shop, employee housing, and such auxiliary buildings and facilities as necessary for the operation and maintenance of such a complex, and shall be able to maintain such use, notwithstanding the other restrictions of this act as to residential density, except as provided in this subsection.

(c) Restrictions. — The residential density restrictions of this act do not apply within the boundaries of the historic resort area if such residential density does not exceed 80 resort room accommodations, 109 employee dwelling units, and 56 other residential dwelling units. All other land uses, building standards or restrictions, or activities within the historic resort area are governed by the provisions of this act and by the Lee County Comprehensive Plan where not in conflict with this act. However, the Lee County Board of County Commissioners, in application of its zoning, parking, setback, and other land use ordinances, rules or regulations, shall take into consideration the special and historic significance and traditional land uses of the historic resort area and the area's location on a sensitive barrier island.

Section 2. This act shall take effect upon becoming a law.